

FIRST AMENDMENT PROJECT

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COURT QUASHES SEARCH WARRANT, ORDERS UCPD TO RETURN VETERAN JOURNALIST'S NEWS PHOTOGRAPHS

– Photographer Was Newsgathering During UC Berkeley Chancellor House Protest

– Search Warrants Against Journalistic Work Product Expressly Barred By California Law

– UC Sought to Use Images to Investigate and Discipline Students

Oakland – On Friday, June 18, an Alameda County Superior Court judge quashed an illegal search warrant issued for the unpublished news photographs of veteran journalist David Morse. The court also ordered the return of all of Morse's photographs, including any copies made by the University. The court also ordered the University to declare under oath what agencies received copies of the photographs, if any.

Morse is a 42-year-old journalist who has covered hundreds of demonstrations and other events since 2002. He was arrested and his camera searched in connection with a protest he was covering at UC Berkeley on December 11, 2009. The charges were dropped at Morse's first court appearance, but not before a search warrant had issued for his unpublished photographs. It is a violation of the Penal Code to secure a search warrant for any items covered by the California journalist's shield law.

Although the UCPD police report more than once referenced Morse's repeated assertions that he was a journalist, officers omitted this crucial fact in the sworn affidavit they filed with the court in support of the search warrant. Thus the judge who issued the search warrant had no indication that Morse was reporting for a news organization at the protest.

The Alameda County District Attorney did not oppose Morse's motion and indicated that no criminal investigation is pending. The University opposed the motion, arguing that it had an interest in using the photographs to investigate students for disciplinary purposes. The University also argued that it could continue using copies of Morse's photographs even if the warrant was deemed illegal.

The court rejected these and the University's other contentions. Because the court ruled the warrant illegal and ordered the return of all copies of Morse's photographs, the University will be unable to continue its forced deputization of a respected veteran of the journalistic community.

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