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Pit-bull owner sentenced in attack

In absence of city ban on breed, judge orders community service

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Article Text:

The owner of a pit bull that attacked a Denver pastor and left him with 70 bites and two broken legs will receive no jail time but must do 400 hours of community service under a sentence imposed yesterday.

Denver County Judge Art Fine said that will mean that cook David A. Martinez, 25, will spend the next 50 weekends carrying out the sentence.

Fine rejected the 30-day jail term requested by Assistant City Attorney Tom Moe.

The judge said that because Martinez hasn't previously been in trouble and holds a steady job, jail would be inappropriate.

Fine also said the failure of city council to impose a total ban on pit bulls influenced his decision.

"If the city council wasn't willing to ban pit bulls, I'm not going to make an example of Mr. Martinez. For better or worse, pit bulls can be legally owned in Denver."

The judge, however, did not minimize the seriousness of the May 8 attack on the Rev. Wilbur Billingsley.

It was the fourth time in three years that Martinez's pit bull, Tate, had attacked someone.

The dog was shot and killed by neighbor Norman Cable, who came to Billingsley's rescue.

"There is certainly reason to impose a substantial punishment on the defendant because there were three instances that would have prompted many people" to get rid of the dog, said the judge.

Here, said Fine, the previous incidents were either "overlooked, ignored or wished away."

A new city law, approved after the Billingsley attack, allows pit bulls now owned by Denver residents to remain in the city.

There also are insurance and leash requirements in the law. The law came after several years of increasing concern about the dogs.

The previous three incidents involving Martinez's pit bull, Tate, included attacks on a woman in January 1986, on a city public works employee in June 1987 and on an 8-year-old boy in May 1988.

The mother of the 8-year-old said her son spent three weeks in the hospital after Tate bit him on the hand.

In asking for the 30-day jail term, Moe said that Martinez should have done something about his dog after the child was injured.

But Moe said it never entered Martinez's mind that Tate might attack again.

The city felt Martinez should have seriously considered that possibility, said the prosecutor.

He said the pastor had to endure five minutes of continuous biting.

Martinez said he was "terribly sorry for what happened."

"I loved the dog too much. I never thought of getting rid of him. I thought I did everything humanely possible to keep him from doing something like this."

Martinez pleaded guilty to violating the city's dog bite, dangerous dog, and dog licensing and vaccination ordinances.