

Former Law Professor Asks Supreme Court to Protect Stalking Victims against Employment Discrimination

Washington, D.C. [October 13, 2011] – Today, local civil rights attorney, Dawn V. Martin, filed a Petition for Supreme Court review of the D.C. Circuit's decision in *Martin v. Howard University*. Ms. Martin is asking the Supreme Court to hold, as a matter of law, that Title VII of the Civil Rights Act of 1964 and/or D.C. Human Rights Law protects a woman from being stalked in her workplace and from being terminated for reporting it. The *National Organization for Women* (NOW) is filing an *Amicus Curiae* Brief in support of Ms. Martin's Petition. Additional women's groups seeking to join the *Amicus Brief* should contact NOW and/or Ms. Martin.

When Ms. Martin was a Law Professor at Howard University, she was stalked by a delusional, homeless, serial campus stalker, Leonard Harrison. Harrison was searching for the physical embodiment of his "fantasy" wife -- a *fictional female character* in a book, written by the renowned, late Professor, Derrick Bell. Howard did not ban the stalker from Law School building, despite advice from the D.C. Metropolitan Police Department to do so and its own established Campus Police banning procedures. Instead, Howard refused to renew Prof. Martin's teaching contract. Martin sued, alleging sexual harassment/hostile work environment and retaliation. In 1999, the U.S. District for D.C. set precedent in *Martin*, holding that an employer can be held liable for the sexual harassment of an employee by a non-employee, if it knew or should have known of the harassment and failed to take reasonable steps to stop it. *Martin v. Howard University*, 1999 U.S. Dist. LEXIS 19516, 1999 WL 1295339 (D.C.D.C. 1999)

In 2006, a jury agreed with Martin that Harrison's harassment *did* create a "hostile work environment" for her and that that Howard did *not* take reasonable steps to end it; however, the jury asked for a clearer legal definition of "sexual harassment." The judge refused to provide it. Confused about the legal definition and Title VII coverage, the jurors concluded that Harrison's harassment of Prof. Martin was *not* based on her sex or sexual in nature. This meant that she was *not* "protected" by Title VII. Martin is appealing District Court Judge Hogan's October 8, 2010 decision refusing to vacate the jury's verdict. Martin is relying primarily on the Supreme Court's January 26, 2009 decision in *Crawford v. Metropolitan Government of Nashville and Davidson County, Tenn.* 129 S. Ct. 846, 853 (2009), for her argument that the interpretation of "protected activity" is a question of law for the Court – not a question of fact for the jury. Martin is also relying D.C. Human Rights Act cases that hold that the question of whether the plaintiff participated in "protected activity" is a legal question for the Courts, not a factual question for the jury. *See McFarland v. George Washington University*, 935 A.2d 337, 356 (D.C. App. 2007); *Carter-Obayuna v. Howard University*, 764 A.2d 779, 790-791 (D.C. App. 2001).

78% of stalking victims are women. 54% of female *murder victims* reported their stalkers to the police before being killed by them. “Many stalking victims are afraid to let their employers know that they are being stalked,” Martin said, “They are afraid of being *fired*. No woman should have to choose between her job and her safety.” In a 2009 documentary about the case, Kim Gandy, then, the President of NOW, explained why NOW took the lead in the *Amicus Brief* filed in an earlier appeal in this case. Gandy said: “We’ve had situations like this, where women, stalked in the workplace, were fired, or let go, because they were stalked.” See <http://www.youtube.com/watch?v=MxyzwRGYIgA>. Current NOW President, Terry O’Neill, wrote: “We believe the Supreme Court's recent decision in *Crawford v. Nashville* supports the principle that it is up to the courts, not a jury, to say whether particular behavior is protected or prohibited by Title VII.” Martin and NOW are also urging an amendment to Title VII that would expressly protect victims of stalking and domestic violence against employment discrimination and retaliation for reporting stalking in the workplace. For more details see, e.g., www.dvmartinlaw.com/MartinvHowardU; <http://www.womensenews.org/story/crime-policylegislation/110110/stalking-victim-presses-employment-protection>; <http://vimeo.com/18706532>; *Good Morning America* <http://abcnews.go.com/GMA/erin-andrews-leads-stalking-round-table/story?id=11322694> (Martin interviewed by journalist Erin Andrews, also stalked by a stranger while working.)