

NEWS RELEASE

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National Crime Victim Bar Association Applauds \$2.25 Million Verdict in Favor of Domestic Violence Victim

Employer's Failure to Heed Protective Order Results in Kidnapping and Rape

Washington, DC – The National Crime Victim Bar Association (NCVBA) today applauded the \$2.25 million verdict awarded by a federal jury this week to a Maryland security guard who was terrorized at her workplace by her shotgun-wielding former boyfriend after her supervisor violated a court-issued protective order and intentionally assigned her to a location where the assailant would have access to her. The NCVBA says this case underscores the need for employers to develop and strictly adhere to policies related to employees who obtain domestic violence protective orders.

The verdict, posted today in federal district court in Greenbelt, Maryland, awarded \$2 million in compensatory damages and \$250,000 in punitive damages to Dominique Gantt against her former employer, Security USA, Inc., in a case in which legal issues of liability in this case were argued before the U.S. Court of Appeals for the Fourth Circuit and the Supreme Court of the United States before presentation to a jury.

In 1996, Gantt was working for Security USA, Inc., a federal contractor providing security for an Internal Revenue Service facility in Lanham, MD. After suffering repeated physical abuse, she obtained a restraining order against her former boyfriend, Gary Sheppard, and provided Security USA Project Manager Earl Wood with a copy of the order. All supervisory personnel were informed, in turn, that Gantt was to be assigned only to secure interior posts (i.e., not outside at a guard booth where Sheppard could more easily get to her). Gantt's direct supervisor, Angela Claggett, who was friends with Sheppard, insisted on trying to facilitate dialogue between Gantt and Sheppard, telling Sheppard, "you should talk to him." On three different occasions, Claggett transferred phone calls from Sheppard to Gantt knowing that communication between the two was prohibited by the order of protection.

On December 7, 1996, Claggett assigned Gantt, despite her protests, to an exterior post guarding the entrance to an underground garage. Within fifteen minutes, a phone call from Sheppard was transferred to Gantt's workstation from Claggett's extension. Gantt pleaded with Claggett to be moved inside to safety but was told to remain at her post. Within 30 minutes, Sheppard arrived with a shotgun and kidnapped Gantt. Other security guards witnessed the abduction and asked Claggett to call the police. Claggett waited approximately ten minutes before calling the police, telling the other guards, "We don't need to call the police. He's not going to hurt her; he only wants to talk to her." The perpetrator held her captive for six hours, driving through Maryland, Delaware, and the District of Columbia. He raped and terrorized her, and threatened to kill her with his shotgun. Sheppard is now serving 20 years in jail.

According to Gantt's attorney, Dawn V. Martin, the employer went even further than simply ignoring the protective order. "Ms. Gantt's supervisor, Sgt. Claggett, intentionally used her job as leverage to force Ms. Gantt to talk to and even face Gary Sheppard, the very man who was ordered to stay away from Ms. Gantt and her workplace," said Martin, a member of the National Crime Victim Bar Association.

Gantt filed suit against Security USA alleging a variety of theories of recovery for the physical and emotional injuries she suffered as a result of her abduction. In January 2001, a federal judge in Greenbelt dismissed her common-law negligence-based claims, for which workers' compensation provides the exclusive remedy. That immunity, known as the exclusive remedy rule, does not apply if the employer deliberately intended to injure the worker.

In 2004, a divided three-judge panel of the 4th U.S. Circuit Court of Appeals concluded that Claggett's intentional acts were an exception to the Maryland Workers' Compensation Act thus allowing Security USA to be held liable. However, the Court of Appeals limited that liability to the emotional distress suffered by the victim while she was waiting in fear at the guard booth. The court ruled that the abduction and rape did not fall under the "intent to injure" exception of the Act, since, the court determined, Claggett did not specifically intend for Gantt to be kidnapped and raped.

Gantt appealed to the Supreme Court of the United States to reverse the Fourth Circuit's ruling which so narrowly limited the employer's liability. The National Crime Victim Bar Association and several other victim advocacy organizations filed an Amicus Curiae (friend of the court) brief in support of Gantt's petition for review, but the Supreme Court declined to hear the case, and Martin was forced to go to trial on the sole issue of the fear suffered by Gantt before the attack.

Due to the trial court's interpretation of the Fourth Circuit's opinion, the jury never heard about the rape and abduction. The Judge ruled that the abduction began when Sheppard grabbed Gantt, and allowed testimony only on events that occurred up to that point. "The jury heard about Sheppard running up the driveway to the security post wielding a shotgun," said Martin. "They heard how Dominique was left alone there cowering and pleading for her life. That was enough for the jury to conclude that she had suffered severe emotional distress intentionally inflicted by her supervisor, and which continues today in the form of nightmares, panic attacks, and fear of Sheppard."

Martin sees the verdict as a victory not only for her client, but for all victims of domestic violence. According to Martin, “Every battered woman trying to escape domestic violence must protect herself, not just at home, but also in her workplace. If employers ignore protective orders and batterers have access to these women at their place of employment, they will be unable to protect themselves from injury or even death.”

Jeff Dion, deputy director of the NCVBA, says it is common for stalkers and batterers to show up at the workplaces of their victims and commit acts of violence. “Employers have been held liable in tort for failing to protect employees from acts of domestic violence that occur on their premises; particularly when they’re on notice of the threat,” said Dion.

The American Institute on Domestic Violence reports that employers lose between \$3 and \$5 billion every year in absenteeism, lower productivity, higher turnover and health and safety costs associated with battered workers. “The increased liability exposure represented by this case is just one more expense that employers will bear if they fail to acknowledge the impact that domestic violence can have on their bottom line,” said Dion.

Editor’s Note:

Civil Justice for Victims of Crime, a first-of-a-kind resource designed to help victims understand the civil justice system, can be downloaded at www.ncvc.org/vb/main.aspx?dbID=DB_VictimsInfo126