

1989

# Janet Sherwood v. Sharlene Williams and Glenda Cerbs aka Glenda Krebs : Brief of Appellant

Utah Court of Appeals

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W. Andrew McCullough; McCullough, Jones and Ivins; Attorneys for Appellant.

Sharlene Williams, Glenda Krebs; Attorney Pro Se.

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BRIEF

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DOCKET NO. 89-0600 IN THE UTAH COURT OF APPEALS

STATE OF UTAH

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JANET SHERWOOD,

Plaintiff and Appellant,

vs.

SHARLENE WILLIAMS and GLENDA  
CREBS aka GLENDA KREBS,

Defendants and Respondents. :

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Court of Appeals No.  
890600-CA

Priority Number 14b.

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BRIEF OF APPELLANT

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Appeal from Order Dismissing Certain Causes of Action  
Fourth District Court for Utah County

Honorable Allen B. Sorensen  
Judge Pro Tem

DEPOSITED BY THE  
STATE OF UTAH  
AUG 20 1990

W. Andrew McCullough  
MCCULLOUGH, JONES & IVINS  
930 South State Street, #10  
Orem, Utah 84058

Attorneys for Appellant

Sharlene Williams  
Attorney Pro Se  
1404 Camp Williams Lane  
Bluffdale, Utah 84065

Glenda Krebs  
Attorney Pro Se  
355 East 4140 South, #176  
Salt Lake City, Utah 84107

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COURT OF APPEALS

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IN THE UTAH COURT OF APPEALS

STATE OF UTAH

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JANET SHERWOOD,

Plaintiff and Appellant,

vs.

SHARLENE WILLIAMS and GLENDA  
CREBS aka GLENDA KREBS,

Defendants and Respondents.

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Court of Appeals No.  
890600-CA

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BRIEF OF APPELLANT

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JURISDICTIONAL STATEMENT

This is a personal injury action brought in the District Court. Pursuant to Section 78-2-2(3)(j) U.C.A., appellate jurisdiction is in the Utah Supreme Court. The Utah Supreme Court has, pursuant to Section 78-2-2(4) transferred this case to the Court of Appeals.

STATEMENT OF ISSUES

The issues presented in this appeal are as follows:

(a) Did Plaintiff present to the District Court a valid cause of action against each defendant herein for intentional infliction of emotional distress; and what is the status of such a claim, when the Court below refused to rule on it?

(b) Did Plaintiff present to the District Court a valid

cause of action against each defendant herein for false imprisonment?

(c) Did Plaintiff present to the District Court a valid cause of action against Defendant Sharlene Williams for assault and battery?

#### STATUTORY AND RULE PROVISIONS

##### Rule 54(b) U.R.C.P.

When more than one claim for relief is presented in an action, whether as a claim, counterclaim, crossclaim, or third party claim, and/or when multiple parties are involved, the Court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an expressed determination by the Court that there is no just reason for delay and upon an expressed direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

##### Rule 59 U.R.C.P. - New trials; amendments of judgment.

(a) Grounds. Subject to the provisions of Rule 61, a new trial may be granted to all or any of the parties and on all or part of the issues, for any of the following causes; provided, however, that on a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment:

(1) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion by which either party was prevented from having a fair trial.

(2) Misconduct of the jury; and whenever any one or more of the jurors have been induced to assent

to any general or special verdict, or to a finding on any question submitted to them by the court, by resort to a determination by chance or as a result of bribery, such misconduct may be proved by the affidavit of any one of the jurors.

(3) Accident or surprise, which ordinary prudence could not have guarded against.

(4) Newly discovered evidence, material for the party making the application, which he could not, with reasonable diligence, have discovered and produced at the trial.

(5) Excessive or inadequate damages, appearing to have been given under the influence of passion or prejudice.

(6) Insufficiency of the evidence to justify the verdict or other decision, or that it is against law.

(7) Error in law.

(b) Time for motion. A motion for a new trial shall be served not later than ten days after the entry of the judgment.

(c) Affidavits; time for filing. When the application for a new trial is made under Subdivision (a)(1), (2), (3), or (4), it shall be supported by affidavit. Whenever a motion for a new trial is based upon affidavits they shall be served with the motion. The opposing party has ten days after such service within which to serve opposing affidavits. The time within which the affidavits or opposing affidavits shall be served may be extended for an additional period not exceeding twenty days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

(d) On initiative of court. Not later than ten days after entry of judgment the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party, and in the order shall specify the grounds therefor.

(e) Motion to alter or amend a judgment. A motion to alter or amend the judgment shall be served not later than ten days after entry of the judgment.

#### STATEMENT OF CASE

This is a personal injury action in which Plaintiff brought suit against Defendants for assault and battery, false



imprisonment, and intentional infliction of emotional distress. Trial was held on April 6, 1989, before Hon. Allen B. Sorensen, a Senior Judge of the Fourth District, sitting without a jury. Judgment was granted against Defendant Glenda Krebs in the amount of \$1,500.00 for general damages and \$500.00 for punitive damages on Plaintiff's claim of assault and battery. The causes of action against Defendant Williams for assault and battery and false imprisonment were dismissed, as was the cause of action against Defendant Krebs for false imprisonment. Plaintiff's cause of action against each defendant for intentional infliction of emotional distress was not ruled upon in any manner by the Court. Immediately after the memorandum decision was rendered by the Court, on April 7, 1989, Plaintiff brought a motion to amend judgment pursuant to Rule 59 U.R.C.P., bringing the Court's attention to the fact that no ruling had been made on one of the causes of action against each defendant, and that the Court's ruling was against the clear weight of the evidence in its dismissals of the other causes of action as recited above. Plaintiff contends here that the judgment in the District Court was against the clear weight of the evidence, and was contrary to law.

The action arises from an incident on May 24, 1988. On that day, the plaintiff went to work at a restaurant in American Fork, Utah, known as "Fixin's". On that day, she met George Steven

Krebs, known to her as "Steven", who had been a customer once or twice before. The two of them had a conversation, and he asked her on a date. Prior to the discussion for the date, he had told her that he was divorced (R.131,194). Plaintiff and Mr. Krebs went to Sizzler Restaurant, and then back to his apartment to watch a videotape of "The Ghost and Mr. Chicken". They arrived back at the house approximately 10:00 p.m. (R.196), and shortly thereafter, Mr. Krebs received a phone call from his estranged wife, from whom he was not actually divorced. His wife did tell him on the telephone that she was going to apply for welfare assistance and file for divorce. Mr. Krebs told his wife that he had a friend over to watch television, and the conversation terminated (R.106,132).

A half hour or so later, a car pulled up, and Mr. Krebs realized that his wife was present, so he took Plaintiff into a back bedroom, to keep her out of the way (R.134,196) and told her to stay there, and keep the light off.

Defendant Krebs knocked on the door, yelled, "Steve, let me in" (R.107,197), and when refused entry, went around to the back door, used her key, and went in. Mr. and Mrs. Krebs confronted each other in the kitchen, and a scuffle ensued (R.108,137) during which Defendant Krebs called for her mother to come in and assist her (R.108,118). Defendant Krebs pushed past her husband and went towards the bedroom where Plaintiff had been pushed into

hiding by Mr. Krebs (R.109,119,138,198).

As Defendant Krebs entered the room, she immediately lunged for Plaintiff (and kicked her) (R.109,199-200). She grabbed Plaintiff by the hair, continuing to kick at her, scream obscenities, strike her, and scratch at her (R.110,124,139-140,200-207). Mr. Krebs attempted to stop his wife from attacking his friend, and was in turn attacked by Defendant Williams, who came into the room with a knife, first stating that she wanted to "stab the bitch", then confronting Mr. Krebs, stating, "you make another step, and I'll stab you along with her" (R.121-122,141-142,202). Mr. Krebs ran next door (the Court upheld an objection to a question as to whether Mr. Krebs left the room out of fear of the knife -- R.143) and called the police.

Tonya Chipman, the neighbor whose phone was used to call the police, recognized the name of Janet Sherwood, as a girl she had gone to school with, and went over to the Krebs' home to see what was going on (R.180). She knocked on the door, and came into contact with Defendant Williams, who answered the door (R.181-182). Mrs. Williams was carrying a knife, of a blade about three to four inches long, with a sharp point and a serrated edge (R.186). Because of the threatening manner in which Defendant held the knife (R.187), Mrs. Chipman backed off the porch. She continued to ask Mrs. Williams to let Janet out of the house,

and heard Janet in the background screaming, "Please let me out of here" (R.187-188). In return, she was told by Mrs. Williams that if she came any closer, she would "get the same thing that Janet was going to get", and that Janet was going to get killed (R.188). Shortly afterwards, Orem police officers arrived on the scene.

When Officer Merrill Finlayson arrived at the scene shortly after 10:40 p.m., he saw Steven Krebs and Defendant Williams on the lawn pushing each other (R.150). He, having been advised that "there was a woman in the house that's being assaulted" (R.152), entered the house. Upon entering the northeast bedroom, he saw "two women, one standing above the other one holding the hair of Janet Sherwood" (R.152). Plaintiff was "cowering down in the corner" and "Mrs. Krebs was holding onto her hair, pulling her hair" (R.153). The officer had some difficulty separating the two women, as Defendant Krebs initially refused to let go of Plaintiff's hair, and kept screaming that she wasn't going to let her husband's "whore" into her house (R.154).

The parties were finally separated, statements were taken, and Plaintiff was taken home by another officer.

#### SUMMARY OF ARGUMENTS

Appellant raises three issues for decision by this Court. First, Appellant alleges that she has set forth a good and viable cause of action against each defendant for intentional infliction

of emotional distress. The Court has refused to rule at all on that cause of action, despite a post-trial motion by Plaintiff to amend the judgment to include such a ruling. By doing so, the Court has effectively dismissed Plaintiff's third cause of action. Plaintiff contends that the Court should exercise its power to remand this cause of action to the District Court with specific instructions to find a cause of action and to determine damages.

Appellant, in her second cause of action, contended that each defendant herein was guilty of false imprisonment. The Court, without setting forth findings of fact, dismissed that cause of action as to each defendant. Since this is an obviously valid cause of action, the dismissal should be reversed, and the matter should once again be remanded to the District Court with instructions to find a cause of action and to determine damages.

Finally, Appellant received a judgment below for assault against Defendant Krebs only, and her identical cause of action against Defendant Williams was dismissed. Once again, this dismissal was erroneous on the part of the District Court. That dismissal should be reversed and the matter should be remanded to the District Court with instructions to find a valid cause of action and to determine damages.

#### ARGUMENT

##### I. THIS COURT SHOULD DETERMINE THAT A CAUSE OF ACTION

EXISTS ON PLAINTIFF'S THIRD CAUSE OF ACTION ALLEGING THAT DEFENDANTS INTENTIONALLY CAUSED PLAINTIFF EMOTIONAL DISTRESS AND SUFFERING; AND SHOULD REMAND WITH INSTRUCTIONS TO DETERMINE DAMAGES AGAINST EACH DEFENDANT.

Plaintiff, as her third cause of action in the complaint filed below, alleged that the two defendants herein, by assaulting her, by falsely imprisoning her, and by threatening further violence and harrassment upon her, intentionally inflicted emotional distress upon her, for which she was entitled to reasonable damages. In her trial brief, Plaintiff set forth the cause of action, relying on the doctrines enunciated in the important Utah case of Samms v. Eccles, 358 P.2d 344 (Utah 1961). That case set forth the legal basis for such a claim, and has been widely quoted by Courts in other states as authority for similar causes of action. The Court, in recognizing the tort of intentional infliction of emotional distress, stated:

. . . the best considered view recognizes an action for severe emotional distress, though not accompanied by bodily impact or physical injury, where the defendant intentionally engaged in some conduct toward the plaintiff (a) with the purpose of inflicting emotional distress, or, (b) where any reasonable person would have known that such would result; and his actions are of such a nature as to be considered outrageous and intolerable in that they offend against the generally accepted standards of decency and morality. This test seems to be a more realistic safeguard against false claims than to insist upon finding some other attendant tort which may be of minor character. 358 P.2d at 347.

While Defendant Williams may not have been strictly guilty of the tort of assault, she clearly inflicted additional and

intense emotional distress on Plaintiff by waving a knife around, threatening to "kill the bitch" and preventing help from getting to her. This was all done in a concerted effort to increase the fear, and to increase the physical injuries, to Plaintiff, in an apparent attempt to assist her daughter in seeking revenge on Plaintiff and on Steven Krebs for some imagined wrong. As the Utah Supreme Court stated in Pentecost v. Harward, 699 P.2d 696 (Utah 1985):

One who intentionally causes severe emotional distress to another through extreme and outrageous conduct is liable to that person for any resulting damages. 699 P.2d at 700.

There can be little doubt that each of the defendants, acting in concert, intentionally inflicted emotional distress upon Plaintiff. The testimony to that effect, as set forth in the introductory section to this brief, is vivid, uncontradicted, and largely supported by the testimony of the tortfeasors themselves. Defendant Krebs not only assaulted and battered Plaintiff, she also held her prisoner against her will, and subjected her to additional distress by continuing to call her a "whore", continuing to threaten her with additional and serious bodily harm, and continuing to subject her to generally outrageous treatment. Defendant Williams actively participated by waving a knife around, threatening to "kill the bitch", and actively thwarting attempts by Steven Krebs and a neighbor, Tonya Chipman, to come to the aid of Plaintiff, and protect her from

the assault and abuse. In fact, in its Memorandum Decision made after trial, the Court stated thusly:

Although the record might support a prima facie cause of action against Defendant Williams for aggravated assault upon witnesses Krebs and Chipman, it does not support such a charge on the part of Plaintiff. Defendant Williams's motion to dismiss as to her is granted (R.47).

Plaintiff submits that the Court below made a serious error in severing the alleged assault on Steven Krebs and on Tonya Chipman by Defendant Williams, and not considering it as part of the whole attack and infliction of distress upon Plaintiff.

At this point, we must deal with a serious problem. While the District Court affirmatively dismissed the causes of action as to Defendant Williams for assault, and as to both defendants for false imprisonment, the Court made no mention of this third cause of action in its ruling. Prior to drafting the final order, Counsel for Plaintiff attempted to bring this impossible situation to the attention of the District Court by means of a motion, pursuant to Rule 59 U.R.C.P., to amend the judgment. This motion was based, in part, on Plaintiff's allegation of "an error in law in the failure of the Court to render a verdict on Count 3 of Plaintiff's complaint." The Court, having considered the motion without oral argument, entered a one sentence denial of all portions of that motion (R.77). A final judgment was then prepared affirmatively showing that the Court had refused to rule



on this cause of action. It is from that judgment that this appeal is rendered.

Rule 54(b) U.R.C.P., as set forth earlier, states that a judgment which does not deal with all issues is not final. In this action, a majority of the claims have been disposed of, but the District Court has refused steadfastly to ever consider the claims against each defendant for intentional infliction of emotional distress. At first glance, it would appear that this appeal is simply premature. Appellant points out, however, that every effort has been made in the District Court to obtain a final ruling on her third cause of action from which an appeal could be brought. It is simply beyond the ability of Plaintiff to do anything further. Precedent for handling this situation can be found in the case of Pate v. Marathon Steel Co., 692 P.2d 765 (Utah 1984), where the Court found that it was necessary for the District Court to certify certain issues for appeal when other issues remained to be decided. Failure to do so, the Court said, resulted in a nonfinal order not subject to final appeal. The Court, however, chose to treat the appeal as an interlocutory one, and to give the lower Court guidance on how to handle certain issues on the inevitable remand. Plaintiff asks the Court to do the same here. It is obvious that this case will need to be remanded, on the other points in this appeal, as well as the instant one. Unless this Court sets forth what the lower

Court has failed to do, and what it must do, Plaintiff is in a position where she cannot obtain the judgment that is due her. She simply has no other means to pursue her cause of action.

In the recent case of Stevens v. Stevens, 754 P.2d 952 (Utah App. 1988), the Court found that the trial Court had failed to make specific findings of fact regarding items of marital property and debt, had failed to assign values to property it had distributed, and had failed to make specific findings as to the ability of a husband to pay alimony and child support, as well as the wife's earning ability and financial condition. The Court, quoting earlier decisions, set forth the following guidelines:

The Utah Supreme Court has clearly held that the trial Court must make findings on all material issues. These findings "should be sufficiently detailed and include enough subsidiary facts to disclose the steps by which the ultimate conclusions on each factual issue was reached." (Citations omitted). 754 P.2d at 958.

The Court then found that a failure to meet those standards required a remand to the trial Court, and stated:

We therefore vacate those portions of the judgment pertaining to alimony and child support and remand this case to the District Court for specific findings that support new judgment and decree provisions addressing both these issues. 754 P.2d at 959.

Plaintiff asks the Court to remand this case for further consideration of the trial Court. Plaintiff maintains, however, that the necessity of remand should not interfere with the duty of this Court to decide questions of law. At the trial, the Court, of its own volition, continually questioned Plaintiff's

presentation of evidence, as to its relevancy. When Defendants entered into the home, there was at first a scuffle in the kitchen, resulting in Defendants pushing past Steven Krebs towards Plaintiff, in the bedroom. When Plaintiff tried to set the stage for the activity in the bedroom, the Court stated:

That might be interesting, but what does it show me as to the cause of action that you've brought against Williams and Krebs? (R.138).

When Steven Krebs testified that Defendant Williams had displayed a knife to him, stating, "You make another step, and I'll stab you along with her" (R.141), the Court sustained an objection (R.143) when Plaintiff's Counsel tried to ask Mr. Krebs whether he felt he had been in physical danger from the knife. When Mrs. Chipman, the next door neighbor, testified that she had attempted to go to the home where Plaintiff was being held prisoner, to give her any assistance possible, she testified she was confronted with the knife-wielding Mrs. Williams at the front door. While the Court allowed questioning along this line to proceed (R.184-189), Counsel was continually interrupted by statements from the Court questioning the relevance (see R.184,185,186). In fact, the Court at one point stated, after an exchange on relevance:

I must leave at 5:00 p.m. for personal matters. And I'm interested in moving this case forward. And I've decided that the only way I can do it is to let each counsel wander all over the pasture, and then I'll try to sort out what is relevant and what is not. (R.185).

The testimony that was described by the Court as wandering "all over the pasture" was that Defendant Williams confronted Tonya Chipman, at the front door, with a sharp knife, made threatening gestures with it, and threatened to kill both Plaintiff and Mrs. Chipman (R.186-188). The point is that this testimony was extremely relevant to show the concerted action of both defendants to assault, falsely imprison, and inflict emotional distress on Plaintiff, and to prevent anyone else from interfering with that action. It appears to be clear that the Court was more concerned about a personal matter to be taken care of after Court, than it was in the testimony presented before it. It also appears that the trial Court has missed the important legal issues presented by Plaintiff's second and third causes of action. If the Court should remand this case to the District Court for further consideration without instructions as to the propriety of Plaintiff's third cause of action, justice will simply not be served. This Court can and should find that, as a matter of law, both defendants, working in concert, intentionally inflicted emotional distress on Plaintiff. Remand after specific instruction on those issues would lead to a judgment consistent with the law and avoid unnecessary further appeals.

II. THE DISTRICT COURT ERRED IN DISMISSING PLAINTIFF'S COMPLAINT, FOR NO CAUSE OF ACTION, ON HER CLAIM OF FALSE IMPRISONMENT AGAINST DEFENDANTS.

The trial Court did find a cause of action against Defendant

Glenda Krebs for assaulting Plaintiff, and assessed damages therefor. The assault, however, was worsened and compounded by the forced and false imprisonment of Plaintiff while it occurred. Defendant Krebs admitted her intention to imprison Plaintiff clearly in her testimony. In answer to a question (R.110) as to whether she continued striking Plaintiff, she stated, "I could not. I was holding her hair the entire time with both hands." In her written statement to the police, made that night, and entered as Plaintiff's exhibit number five, Defendant Krebs indicated that, in reference to Plaintiff, "I held her hair so she couldn't run". At trial, she stated once again her clear intention to hold onto her hair, thus keeping her in the room "until the police came" (R.112). It has already been discussed at some length how Defendant Williams assisted her by holding off help, and turning aside the pleadings of Tonya Chipman to let her come out. As also indicated, Tonya Chipman testified that during her discussion, held at knifepoint, with Mrs. Williams at the door, she continued to hear Plaintiff yell, from the bedroom, "please get me out of here" (R.188).

Defendant Williams, in describing her part in the action, stated that she grabbed a knife, and "asked" Steven Krebs to leave the room where he was attempting to aid Plaintiff (R.121). She described what she saw, when Steven left the room as "Glenda was holding onto her hair and had her in a corner" (R.124). She

also testified that it was her daughter's declared intention to keep Plaintiff there until the police got there (R.124). It is as obvious and clear as anything can be, and completely uncontroverted, that she did everything she could to aid her daughter in so doing, by using the knife, or threatening to use the knife, on anyone who would interfere.

In the Utah Supreme Court case of Mildon v. Bybee, 375 P.2d 458 (Utah 1962), the Court outlined the tort of false imprisonment as follows:

We have no disagreement with the defendant's averment that the Plaintiff did not suffer any great inconvenience. Nevertheless, false imprisonment occurs whenever there is an unlawful detention or restraint of another against his will. The right to be free from restraint of one's person is one of the most fundamental and cherished of freedoms. It is the policy of the law to afford it the highest degree of protection possible consistent with the rights of others. 375 P.2d at 459.

Regarding the assessment of punitive damages in a false imprisonment case, the Utah Supreme Court has said:

Generally in personal injury cases the rule is that before the jury can award punitive or exemplary damages the party against whom the damages are to be awarded must have acted willfully and maliciously. However, it has long been the rule that in false imprisonment cases punitive damages may be awarded when the wrongful act is done recklessly or in open disregard of one's civil obligations in the rights of others.

This presumed malice or malice in law does not consist of personal hate or ill will of one person towards another but rather refers to that state of mind which is reckless of law and of the legal rights of the citizen in a person's conduct towards that citizen.

Therefore, in false imprisonment cases the defendant need not act with actual ill will or hatred toward the person being confined. In such case, malice in law will be implied from unjustifiable conduct which causes the injury complained of or from a wrongful act intentionally done without cause or excuse. Terry v. Zions Co-op Mercantile Institution, 605 P.2d 314 at 327.

Defendant Krebs has admitted to falsely imprisoning Plaintiff, and Defendant Williams has admitted to assisting her in doing so. The Court, with no findings of fact to justify itself, has simply denied the cause of action against both defendants. To do so is an error in law. At the very least, the Court should be instructed once again, as per Stevens v. Stevens, supra, that findings of fact must be made to justify such a decision. Obviously, seeing once again the lower Court's reluctance to apply the obvious law to the situation, guidelines can and should be provided to the District Court as to what legal conclusions it should come to once the relevant facts are set forth in its revised findings.

### III. ONE WHO MERELY AIDS AND ABETS A PERPETRATOR IN AN ASSAULT AND BATTERY IS CIVILLY LIABLE FOR THE DAMAGES DONE.

The issue of whether or not an individual who by any means aids or encourages an assault and battery is equally liable with the direct perpetrator does not appear to have been clearly decided in Utah. Several other jurisdictions, however, have ruled on the issue.

In 1979, the Court of Appeals of New Mexico, in

Rael v. Cadena, 604 P.2d 823 (N.M. App. 1979) held that civil liability for assault and battery is not limited to the direct perpetrator, but does extend to any person who by any means aids or encourages the act. In that case, Eddie Rael filed suit against Emilio Cadena and Manuel Cadena for assault and battery. It was the plaintiff's testimony that Emilio Cadena, after Manuel began to hit Plaintiff, yelled to Manuel in Spanish, "Kill him!" and "Hit him more!" The trial Court found Emilio jointly liable for the battery, and Emilio Cadena appealed the decision. In its decision, the Court of Appeals stated as follows:

It is clear, however, that in the United States, civil liability for assault and battery is not limited to the direct perpetrator, but extends to any person who by any means aids or encourages the act. Rael v. Cadena, N.M. App., 604 P.2d 823 (1979).

The Court referred to several Court cases in various jurisdictions, and also quoted from the Restatement (Second) of Torts Section 876 (1979):

According to the Restatement:

[f]or harm resulting to a third person from the tortious conduct of another, one is subject to liability if he

\* \* \* \* \*

(b) knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other so to conduct himself.

Restatement (Second) of Torts Section 876 (1979). 604 P.2d at 823.



More recently, in Williams v. Alyeska Pipeline Service Co., 650 P.2d 343 (Alaska 1982), the Supreme Court of Alaska held that one who acts in concert with others to plan or assist in commission of a tort is liable as a tortfeasor. In that case, the bus driver was assaulted and beaten by union members, and there was evidence showing that a union steward had gotten the union members together and incited them to assaulting the plaintiff. In its decision, the Court stated, "One who acts in concert with others to plan or assist in the commission of a tort is liable as a tortfeasor", 650 P.2d at 348. The Court then cited Prosser as follows:

The original meaning of a "joint tort" was that of vicarious liability for concerted action. All persons who acted in concert to commit a trespass, in pursuance of a common design, were held liable for the entire result. In such a case there was a common purpose, with mutual aid in carrying it out; in short, there was a joint enterprise, so that "all coming to do an unlawful act, and of one party, the act of one is the act of all of the same party being present." Each was therefore liable for the entire damage done, although one might have battered the plaintiff, while another imprisoned him, and a third stole his silver buttons. All might be joined as defendant in the same action at law, and since each was liable for all, the jury would not be permitted to apportion the damages. The rule goes back to the early days when the action of trespass was primarily a criminal action; and it has survived also in the criminal law. This principle, somewhat extended beyond its original scope, is still law. All those who, in pursuance of a common plan or design to commit a tortious act, actively take part in it, or further it by cooperation or request, or who lend aid or encouragement to the wrongdoer, or ratify and adopt his acts done for their benefit, are equally liable with him. W. Prosser, The Law of Tort, Section 46, at 291-92 (4th ed. 1971) (footnote omitted). 650 P.2d at

348.

In the present case, there is uncontroverted evidence that Defendant Williams was actively involved in the conspiracy to commit assault and battery on Plaintiff by preventing anybody from assisting Plaintiff, and by yelling words of encouragement to Defendant Krebs. Steven Krebs testified that "she said to Glenda to keep her in there" (R.140). Mr. Krebs also testified that Defendant Williams said, "Let's stab the bitch," and a few seconds later threatened Mr. Krebs himself, saying, "You make another step, and I'll stab you along with her" (R.141).

Tonya Chipman also testified that Defendant Williams prevented any assistance from being rendered to Plaintiff. She testified that Defendant Williams came to the door of the residence with a knife in her hand; upon being specifically questioned, Mrs. Chipman stated that she felt Defendant Williams was threatening her when she came to the door to ask about the plaintiff (R.186-187). Mrs. Chipman also testified that she went to the door and requested Mrs. Williams to please let Janet go, and in response, Defendant Williams asked Mrs. Chipman if she would like to come in and get the same thing that Janet was going to get. Defendant Williams then told Mrs. Chipman that she was going to kill Janet. In response to this, Mrs. Chipman backed farther off the front porch (R.187-189).

There is no question that Defendant Williams was involved in

the incident that occurred that evening. She drove with her daughter to the residence; she knew her daughter was going to at least see that Plaintiff was not allowed to leave until the police arrived, also knowing that Plaintiff had committed no breach of the peace to justify such detention. There is substantial testimony that she prevented at least two people from rendering aid to Plaintiff; and there is evidence that Defendant Williams yelled encouragement to her daughter while she held and assaulted Plaintiff.

Based on the cases cited above, and the general statements of law quoted from Prosser and the Restatement (Second) of Torts, it is clear that Defendant Williams was a party to everything that happened to Plaintiff. Defendant Williams must be found liable. Without her aid, the incident would have stopped much sooner, and the Court should hold Defendant Williams liable for her actions as a participant in the assault and battery, as well as the other causes of action previously discussed. The District Court committed reversible error in dismissing this cause of action against Defendant Williams.

#### CONCLUSION

The Court below erroneously dismissed Plaintiff's causes of action against Defendant Williams for assault and against both defendants for false imprisonment. No justification was shown by entering supporting findings of fact. These dismissals must be

vacated, and the District Court should be instructed to reinstate those causes of action and to determine damages. The District Court should also be given guidelines as to deciding Plaintiff's third cause of action, and that cause should also be remanded for the entry of appropriate findings and the determination of damages.

DATED this 1<sup>st</sup> day of November, 1989.

MCCULLOUGH, JONES & IVINS

Randy M. Lisk for  
W. Andrew McCullough  
Attorney for Appellant

#### CERTIFICATE OF SERVICE

I hereby certify that on the 1<sup>st</sup> day of November, 1989, I did mail four true and correct copies of the above and foregoing Brief of Appellant, postage prepaid, to Sharlene Williams, Attorney Pro Se, 1404 Camp Williams Lane, Bluffdale, Utah 84065; and to Glenda Krebs, Attorney Pro Se, 355 East 4140 South, Apartment 176, Salt Lake City, Utah 84107.

Randy M. Lisk

## ADDENDUM

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W. ANDREW MCCULLOUGH (A2170)  
MCCULLOUGH, JONES, & IVINS  
Attorneys for Plaintiff  
930 South State Street, Suite 10  
Orem, Utah 84058  
Telephone: (801) 224-2119

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY  
STATE OF UTAH

---0000000---

JANET SHERWOOD,  
Plaintiff,

COMPLAINT

SHARLENE WILLIAMS and  
GLEND A CREBS,  
  
Defendant.

Civil No. C 688-7676

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COMES NOW the Plaintiff, who complains of Defendant and for causes of action, alleges as follows:

1. The activities of Defendants which gave rise to this complaint took place in Utah County, State of Utah.

2. On or about May 24, 1988, Defendants, and each of them, assaulted and battered Plaintiff by kicking her, pulling her hair, threatening her with a knife and threatening her with other violence.

3. The actions of Defendants as aforesaid caused Plaintiff serious personal injury in an amount to be determined

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4 at trial.

5 4. The actions of Defendants as aforesaid caused  
6 Plaintiff pain and suffering for which she is entitled to  
7 compensation in an amount to be determined at trial.

8 5. The actions of Defendants were willful and malicious  
9 for which Plaintiff is entitled to punitive damages against  
10 Defendants in an amount to be determined at trial.

11 SECOND CAUSE OF ACTION

12 1. Plaintiff realleges paragraphs one through five of her  
13 first cause of action as though they were fully set forth  
14 herein.

15 2. Defendants, at the date and place aforesaid, willfully  
16 and falsely imprisoned Plaintiff, holding her against her will  
17 and causing her additional injury and damages in amounts to be  
18 proved at trial.

19 THIRD CAUSE OF ACTION

20 1. Plaintiff realleges paragraphs one through five of the  
21 first cause of action and one through two of the second cause of  
22 action as though fully set forth herein.

23 2. At the time and place aforesaid, Defendants, by virtue  
24 of the acts complained of above, and through threats of further  
25 violence and harassment, intentionally caused the infliction of  
26 emotional distress upon Plaintiff for which Plaintiff is  
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4 entitled to compensation from Defendants in an amount to be  
5 determined at trial.

6 WHEREFORE, Plaintiff prays judgment against Defendants,  
7 and each of them, as follows:

8 1. For compensatory damages in an amount to be determined  
9 at trial.

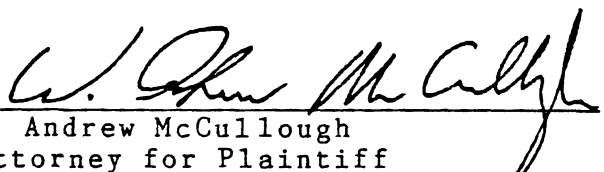
10 2. For damages for pain and suffering in an amount to be  
11 determined at trial.

12 3. For punitive damages in an amount to be determined at  
13 trial.

14 4. For such other and further relief as the Court deems  
15 equitable and proper in the premises.

16 DATED this 27<sup>th</sup> day of July, 1988.

17 MCCULLOUGH, JONES, & IVINS

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20 W. Andrew McCullough  
21 Attorney for Plaintiff  
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IN THE FOURTH JUDICIAL DISTRICT COURT

UTAH COUNTY, STATE OF UTAH

\*\*\*\*\*

JANET SHERWOOD,

Plaintiff,

vs.

SHARLENE WILLIAMS and GLENDA  
CREBS,

Defendants.

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Case Number CV 88 1616

MEMORANDUM DECISION

DATED: April 7, 1989

Although the record might support a prima facie cause of action against defendant Williams for aggravated assault upon witnesses Krebs and Chipman, it does not support such a charge on the part of plaintiff. Defendant Williams's motion to dismiss as to her is granted.

The court finds that defendant Krebs willfully and maliciously committed assault and battery upon plaintiff from which plaintiff suffered insignificant physical pain but substantial emotional distress. Plaintiff is awarded judgment against defendant Krebs in the amount of \$1,500.00 general damages and \$500.00 punitive damages.

The court finds no cause of action on Count 2 of the complaint.

Plaintiff's counsel should prepare findings of fact, conclusions of law and judgment, obtain defense counsel's endorsement "approved as to form" thereon, and submit the documents to the court.

cc: W. Andrew McCullough  
Stanley Smith

FILED  
Fourth Judicial District Court of  
Utah County, State of Utah  
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W. ANDREW MCCULLOUGH (A2170)  
MCCULLOUGH, JONES & IVINS  
Attorneys for Plaintiff  
930 South State Street, Suite 10  
Orem, Utah 84058  
Telephone: (801) 224-2119

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY  
STATE OF UTAH

---oooOooo---

|                              |   |                      |
|------------------------------|---|----------------------|
| JANET SHERWOOD,              | : |                      |
|                              | : | FINDINGS OF FACT AND |
| Plaintiff,                   | : | CONCLUSIONS OF LAW   |
|                              | : |                      |
| vs.                          | : |                      |
|                              | : |                      |
| SHARLENE WILLIAMS and GLENDA | : | Civil No. CV88-1616  |
| CREBS aka GLENDA KREBS,      | : |                      |
|                              | : |                      |
| Defendants.                  | : |                      |

---oooOooo---

This matter came on regularly for trial on the 6th day of April, 1989 before Hon. Allen B. Sorensen, Judge Pro Tem of the above-entitled Court. Plaintiff was present with her attorney, W. Andrew McCullough. Defendants were present with their attorney, Stanley Smith. The Court, having heard evidence on behalf of the parties, and being fully advised in the premises, now makes and enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The activities which gave rise to this cause of action took place in Utah County, State of Utah on or about May 24, 1988.
2. At the time and place aforesaid, Defendant Krebs

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4 willfully and maliciously assaulted and battered Plaintiff.

5 3. As approximate result of the assault and battery  
6 referred to above, Plaintiff suffered insignificant physical pain  
7 but substantial emotional distress.

8 4. It is reasonable that Plaintiff be awarded judgment  
9 against Defendant Krebs in the amount of \$1,500.00 for general  
10 damages.

11 5. Because of the willful and malicious nature of the  
12 conduct, it is reasonable that Plaintiff be awarded judgment  
13 against Defendant Krebs in the amount of \$500.00 for punitive  
14 damages.

15 6. The Court finds that Defendant Williams did not  
16 participate in the assault and battery committed by Defendant  
17 Krebs and therefore that it is reasonable that Plaintiff's  
18 complaint as to Defendant Williams be dismissed.

19 7. The Court finds that Plaintiff's second cause of  
20 action, alleging false imprisonment has not been substantiated  
21 and, therefore, it is reasonable that said second cause of action  
22 be dismissed.

23 8. The Court makes no findings of fact regarding  
24 Plaintiff's third cause of action, alleging intentional infliction  
25 of emotional distress.

#### 26 CONCLUSIONS OF LAW

27 1. Plaintiff should be awarded judgment against Defendant  
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Krebs in the amount of \$1,500.00 general damages for assault and battery upon Plaintiff by Defendant Krebs.

2. Plaintiff should be awarded judgment against Defendant Krebs in the amount of \$500.00 punitive damages as a result of the willful and malicious nature of the actions of Defendant Krebs in committing the assault and battery.

3. The complaint against Defendant Williams for assault and battery should be dismissed, no cause of action.

4. Plaintiff's second cause of action, alleging false imprisonment, should be dismissed as to both defendants, no cause of action.

5. The Court makes no conclusions regarding Plaintiff's third cause of action alleging intentional infliction of emotional distress.

DATED this 7 day of July, 1989.

BY THE COURT:

Allen B. Sorensen  
Allen B. Sorensen, Judge Pro Tem

CERTIFICATE OF SERVICE

I hereby certify that on the 16<sup>th</sup> day of June, 1989, I did send a true and correct copy of the above and foregoing findings of fact and conclusions of law, postage prepaid, to Sharlene Williams, Attorney Pro Se, 1404 Camp Williams Lane, Bluffdale, Utah 84065; and to Glenda Krebs, Attorney Pro Se, 355

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4 East 4140 South, Apartment 176, Salt Lake City, Utah 84107.

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W. ANDREW MCCULLOUGH (A2170)  
MCCULLOUGH, JONES & IVINS  
Attorneys for Plaintiff  
930 South State Street, Suite 10  
Orem, Utah 84058  
Telephone: (801) 224-2119

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY  
STATE OF UTAH

---ooo0ooo---

|                         |   |                     |
|-------------------------|---|---------------------|
| JANET SHERWOOD,         | : |                     |
|                         | : | MOTION TO AMEND     |
| Plaintiff,              | : | JUDGMENT            |
|                         | : |                     |
| vs.                     | : |                     |
|                         | : |                     |
| SHARLENE WILLIAMS, and  | : | Civil No. CV88-1616 |
| GLENDa CREBS aka GLENDa | : | (Judge Sorensen)    |
| KREBS,                  | : |                     |
|                         | : |                     |
| Defendants.             | : |                     |

---ooo0ooo---

COMES NOW the Plaintiff in the above-entitled action and moves the Court, pursuant to Rule 59(a)(6)(7) to amend the judgment herein. This motion is made on the grounds that the evidence is insufficient to justify the granting of Defendant Williams' motion to dismiss, and the finding of no cause of action on Count 2 of Plaintiff's complaint. Plaintiff also contends that those verdicts are against law. Additionally, Plaintiff alleges an error in law in the failure of the Court to render a verdict on Count 3 of Plaintiff's complaint. This motion is based upon the records and pleadings herein and upon the memorandum of points and authorities submitted herewith.

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DATED this 12<sup>th</sup> day of April, 1989.

MCCULLOUGH, JONES, & IVINS

Randy M. List for  
W. Andrew McCullough  
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 12<sup>th</sup> day of April, 1989, I did mail a true and correct copy of the above and foregoing motion to amend judgment, postage prepaid, to Stanley Smith, Attorney for Defendants, P.O. Box 310, American Fork, Utah 84003.

Shynette Baugh

IN THE FOURTH JUDICIAL DISTRICT COURT

UTAH COUNTY, STATE OF UTAH

FILED  
Fourth Judicial District Court  
of Utah County, State of Utah  
May 26, 1989  
CAROL A. SMITH, Clerk

DA Deputy

\*\*\*\*\*

JANET SHERWOOD, ) Case Number CV 88 1616

Plaintiff. )

vs. ) Dated May 26, 1989

SHARLENE WILLIAMS and GLENDA )  
CREBS, ) ALLEN B. SORENSEN

Defendant. )

\*\*\*\*\*

Plaintiff's Motion to Amend Judgment filed on 14th day  
of April, 1989 is denied.

Dated this 26th day of May, 1989.

BY THE COURT

Allen B. Sorensen  
ALLEN B. SORENSEN, JUDGE

cc: counsel



TESTIMONY OF DEFENDANT GLENDA KREBS

1           A       I had been -- we had -- I had been seeing  
2       a marriage counselor. I told him I suspected that  
3       my husband was cheating on me. He told me to get a  
4       detective. I couldn't afford it. So I wanted to see  
5       with my own eyes what I suspected. So I wanted to  
6       see.

7           Q       What did you observe when you --  
8                   First of all, what time of the night did  
9       you arrive at your home in American Fork?

10          A       It was somewhere after 10:00, 10:30.

11          Q       And what did you observe when you arrived?

12          A       When I pulled up, all the lights in the  
13       house were off. The only light I could see coming  
14       from the window was the T.V.

15                   The curtains were open two inches. I saw  
16       Steve set up off the couch.

17                   I approached the front door. He had the  
18       screen door locked so I could not unlock the door  
19       with my key. So I knocked, and he wouldn't let me  
20       in.

21                   I did not raise my voice. I just said,  
22       "Steve, let me in." He didn't respond, so I went to  
23       the back door and opened it and went in.

24          Q       You did not raise your voice?

25          A       I did not.

1           Q     You went in the back door, and that was  
2 open; is that correct?

3           A     I opened it with my key.

4           Q     All right.

5                     And what did you do then?

6           A     Steve came around the corner and imme-  
7 diately started trying to throw me out of the house.  
8 He --

9                     He threw me back against the door, and it  
10 closed again and it was locked. So I unlockekd the  
11 door and called to my mom.

12                    And Steve continued throwing me around  
13 the kitchen.

14                    And he was holding me by the arms shaking  
15 me when my mother came in. And --

16           Q     Where did that scuffle occur?

17           A     Right out the back door.

18                    THE COURT: Was this a scuffle with  
19 your husband?

20                    THE WITNESS: Yes.

21                    THE COURT: That's not relevant to  
22 this, is it?

23                    MR. McCULLOUGH: No, Your Honor.

24                    I'm moving it as quickly as I can.

25                    THE COURT: Please do.

1           Q        (By Mr. McCullough)   What occurred after  
2       that?

3                    Thank you.

4           A        My mother came in and told Steve to get  
5       his hands off of me, not to hurt me.

6                    And when he let go of me, I went into the  
7       apartment to look to see who he had with him.

8           Q        All right.

9                    What did you see?

10          A        Nothing.   The apartment was dark, and she  
11       was in the back bedroom on the bed.

12          Q        Did you go into the back bedroom where she  
13       was hiding?

14          A        Yes, I did.

15          Q        What occurred then?

16          A        She got up off the bed and went into the  
17       corner.

18                    I went over and I held her by the  
19       hair.

20                    At that time Steve came in.   He tried to  
21       get between us.

22                    I kicked and it hit her in the shin.   I  
23       was wearing my sandals, so it hurt my toe more than  
24       anything.

25                    Steve tried to get between us.   My mother

1       come up and she told Steve to leave the house, that  
2       she had called the police and the police would be  
3       coming. Just to leave the house.

4               I held her by the hair and told her she  
5       wasn't going anywhere until the police came.

6               I wanted a documented report that I had  
7       found him with somebody, so when I went to file for  
8       my divorce that I had proof that he was unfaithful to  
9       me.

10       Q       You told us about one kick. Is that the  
11       only blow you struck?

12       A       That's the only blow I struck.

13       Q       You did not kick her several times?

14       A       No; I did not.

15       Q       You didn't gouge her with your finger-  
16       nails?

17       A       No; I did not.

18               I could not. I was holding her hair the  
19       entire time with both hands.

20       Q       You didn't stike her several times with  
21       your fist?

22       A       No; I did not.

23               THE COURT: How old are you?

24       A       I'm 26.

25               THE COURT: How long were you mar-

1 ried?

2 THE WITNESS: Three years.

3 THE COURT: How long did you know  
4 your husband before you married him?

5 THE WITNESS: About six months.

6 THE COURT: Proceed.

7 Q (By Mr. McCullough) So the only attempt  
8 you made to injure her was to kick her once with your  
9 foot; is that correct?

10 A I was not even attempting to kick her. I  
11 was attempting to keep Steve from between us.

12 Q And your foot just happened to stike her  
13 because -- by mistake; is that correct?

14 A I could not have lifted my leg to kick  
15 her. I was almost right against her. There's no  
16 way I could have actually made a serious attempt to  
17 kick at her.

18 Q Did it appear to you, Mrs. Krebs, that  
19 Janet wanted to get out of that room?

20 A She never said once she wanted to leave.  
21 She never made an attempt. She never went for the  
22 door. She hid in the room.

23 Q But you had ahold of her so she couldn't  
24 do that; is that right?

25 A She didn't make an attempt to get away.

1           Q     Did you file a report on this instance  
2     with the police department that night?

3           A     I wrote a written statement, yes.

4           Q     Showing you Plaintiff's Exhibit Number 5,  
5     ask you if you can identify this.

6           A     Yes.     That's the statement that I gave  
7     them that night.

8           Q     All right.

9                     Referring to that statement just briefly,  
10    does it say in there something, Mrs. Krebs, to the  
11    effect that, "I held her hair so she couldn't  
12    run"?

13          A     Yes.

14          Q     Was that your intention in holding onto her  
15    hair that night?

16          A     I wanted to keep her there until the  
17    police came for a police report that she was in my  
18    home alone with my husband, and I don't think in  
19    honorable circumstances.

20          Q     And so you did, in fact, intend to stop  
21    her from leaving by holding onto her hair; is that cor-  
22    rect?

23          A     Yes.

24                     MR. McCULLOUGH: Thank you.

25                     Move for the admission of Exhibit Number 5,

TESTIMONY OF DEFENDANT SHARLENE WILLIAMS



1 not open. It was locked.

2 I hit on the door with both my fists and  
3 said, "Let me in. Steve, you let me in." And the  
4 door unlocked.

5 I went in. Steve and Glenda was shuffling  
6 around in the kitchen. He knocked --

7 Q Well, we'll --

8 Well, go ahead. He had knocked --

9 A He had knocked her so hard that the table  
10 was out of place.

11 THE COURT: Who had?

12 THE WITNESS: Steve, her husband.

13 Q (By Mr. McCullough) Did you see that  
14 occur?

15 A No; I didn't see it. I seen him still  
16 have a hold of her. And he continued to hold, and  
17 yank and push on her.

18 And I even grabbed a hold of his shirt for  
19 him to let go, and he wouldn't let go of her.

20 Q And that occurred in the kitchen?

21 A It did.

22 THE COURT: What relevance does any-  
23 thing between -- what does any relevance between --

24 MR. McCULLOUGH: Well, Your Honor,  
25 I'm about to --

1 THE COURT: -- Defendant Krebs --  
2 MR. McCULLOUGH: I'm about to ask the  
3 next question as to what occurred after that.  
4 THE COURT: Let's move forward. Pro-  
5 ceed.  
6 MR. McCULLOUGH: Thank you.  
7 THE COURT: I'm not hearing a divorce  
8 matter.  
9 MR. McCULLOUGH: I understand that.  
10 Q (By Mr. McCullough) After the scuffle in  
11 the kitchen -- which, as you can tell, the court  
12 doesn't care a great deal about -- what occurred  
13 then?  
14 A Glenda broke loose from Steve and went into  
15 the bedroom. Steve followed her.  
16 The lights was turned on. Glenda found  
17 another woman in the house. And Steve proceeded to  
18 still knock Glenda around.  
19 And Glenda screamed to me to go call the  
20 police. I didn't know the address or phone number,  
21 so I called 911.  
22 Q Let me ask you...when you say "knocked her  
23 around," what do you mean by that?  
24 A He was yanking, and pulling and pushing on  
25 her to try to keep her out of the bedroom.

1 Q To keep her out of the bedroom?

2 A Yah.

3 Q And -- okay.

4 What did you observe next?

5 A Then I ran back to the bedroom, and I  
6 told Glenda the police was on their way, and still  
7 asked Steve to leave.

8 And he would not. He was getting more vio-  
9 lent. So I went to the kitchen. I got a knife, and  
10 then I asked Steve to leave. He turned around and he  
11 left.

12 I went to the kitchen, put the knife down,  
13 went to the front door to look where Steve had  
14 gone.

15 But I had called 911 the second time in  
16 between. I can't remember what.

17 And I told them I didn't know the address,  
18 I was leaving the phone off the hook, please come  
19 because my son-in-law was beating up my daughter.

20 Q Now, what you actually saw, Mrs. Williams,  
21 was that he was trying to keep her out of the room  
22 where this other person was; is that right?

23 A Well, I don't really know. All I know is  
24 they was scuffling around.

25 He wasn't saying that anybody else was in

1 the room. He was just shoving, and pulling, and  
2 pushing and screaming.

3 Q What you equate in your mind trying to  
4 keep her out of the room, where someone else was was  
5 beating her up?

6 A Yes.

7 Q That's the same thing to you?

8 A Not beating her up.

9 He was knocking her around. There's a  
10 difference, yes.

11 Q You got a knife.

12 Now, what did you do with the knife?

13 A Yes, I did.

14 I asked Steve to leave. I did not point  
15 at him. I did not threaten Steve.

16 I said, "Steve, please leave the house.  
17 The police are coming." He said, "Okay. Okay."

18 He turned and went out the door, and I put  
19 the kitchen knife back on the kitchen sink.

20 Then I went to the front door to look  
21 out. That's when I seen Tonya and her husband stand  
22 about 10, 15 feet back from the porch.

23 THE COURT: Now, don't --

24 We try these lawsuits, ma'am, by question  
25 and answer.

1 THE WITNESS: All right.

2 THE COURT: Just answer the ques-  
3 tion and don't volunteer.

4 Counsel knows what he wants to get from  
5 you, and your counsel also knows what to do.

6 THE WITNESS: All right.

7 THE COURT: But we don't try these  
8 cases by narrative.

9 If you don't understand the question, tell  
10 me.

11 THE WITNESS: Okay.

12 THE COURT: If you understand it and  
13 don't know, say so. If you understand it and know,  
14 just answer and stop.

15 THE WITNESS: Okay.

16 Q (By Mr. McCullough) Did you threaten any-  
17 body at all with a knife that night, Mrs. Williams?

18 A No; I did not.

19 Q Describe the knife.

20 A It was a bread knife with teeth, you  
21 know. Jagged teeth.

22 Q How long a blade?

23 A I don't know. A bread knife. (Indicat-  
24 ing.)

25 THE COURT: A typical bread knife?

1 THE WITNESS: Yes.

2 Q (By Mr. McCullough) You never threatened  
3 anybody with it that night?

4 A No; I did not.

5 Q Did you ever threaten anybody with death,  
6 or dismemberment, or cutting up or anything like  
7 that?

8 A No, I did not.

9 Q When you asked Steve to leave the room,  
10 did you use the word "please" as your daughter remem-  
11 bers?

12 A I don't remember.

13 Q You never threatened the plaintiff in any  
14 manner that night?

15 A No, I did not.

16 Q Did you, in any manner, attempt to discour-  
17 age your daughter from kicking, hitting, pulling hair,  
18 or anything else?

19 A I asked -- when Glenda was pulling her  
20 hair, I said it wasn't her that she should be mad at,  
21 it should be Steve.

22 THE COURT: Did you say that at the  
23 time?

24 THE WITNESS: Yes, I did.

25 THE COURT: Because what I've heard

1 so far, you're absolutely correct on that. But I'm  
2 not listening to a fight between your daughter and her  
3 ex-husband.

4 THE WITNESS: I understand that.

5 Q (By Mr. McCullough) What did you observe  
6 while you were in the room between -- going on between  
7 Glenda and Janet Sherwood?

8 A Glenda was holding onto her hair and had  
9 her in a corner.

10 Q Did either of them seem upset?

11 A Glenda was upset, and the other lady wasn't  
12 saying anything.

13 Q Was she -- was Glenda --

14 When you say "upset," how did she show she  
15 was upset?

16 A She was saying that she was going to keep  
17 her there to prove that Steve was unfaithful. She  
18 wanted her to stay there until the police got there.

19 Q Was it a polite request, would you  
20 say?

21 A No.

22 Q It was not?

23 A No. In that situation, no.

24 THE COURT: I can imagine that.

25 Q (By Mr. McCullough) Did you hear her

TESTIMONY OF GEORGE STEVEN KREBS



1                   And what did she say?

2           A        She said, "Where is she?"

3           Q        And did she state who she was referring to

4           when she said, "she"?

5                   THE WITNESS:   Is it all right if I

6           use foul language, Your Honor?

7                   THE COURT:    Pardon?

8                   THE WITNESS:   I've got to use foul

9           language.

10          Q        (By Mr. McCullough)   I'm going to ask you

11          to state what she said --

12                  THE COURT:    Just a minute.    Just a

13          minute.   Now, stop.

14                  What was the question?

15                  Would you read it back?

16                  THE WITNESS:   Do I have to use foul

17          language?   I don't --

18                  THE COURT:    Oh, I think everybody in

19          here is --

20                  I've been in the military, so I've heard

21          everything.   And if there's anybody here with deli-

22          cate ears, they may leave now.   But just tell what

23          happened.

24          Q        (By Mr. McCullough)   What did she say?

25          A        She said, "Where is the little bitch?"

1 Q Did she say anything else?

2 A She said something about "How could you  
3 bring -- how could you bring someone into my  
4 house?"

5 Q All right.

6 Then what occurred?

7 A Then she went in the bedroom.

8 I got there ahead of her. And she said,  
9 "That's who you've been with?"

10 And she says, "Can't you tell by looking  
11 at her that she's dressed sleezy?"

12 And I told her, I says, "Just get  
13 out."

14 Q Did she say anything else at that time  
15 about your taste in women or anything like that?

16 A Yah. She said I had poor taste in  
17 women.

18 THE COURT: That might be interest-  
19 ing, but what does it show me as to the cause of  
20 action that you've brought against Williams and  
21 Krebs?

22 MR. McCULLOUGH: I think it will all  
23 tie together, Your Honor.

24 I really am trying to move it along.

25 THE COURT: All I want is to let you

1 know the trouble I'm having.

2 There is no objection before me, so that's  
3 why I haven't stopped you. But I just want you to  
4 understand what's bothering me about this, because  
5 time is going on.

6 Proceed.

7 MR. McCULLOUGH: Well, I think we'll  
8 finish well before 5:00, Your Honor. We're moving  
9 fine.

10 Q (By Mr. McCullough) What happened  
11 next?

12 A Glenda reached over and grabbed her  
13 hair.

14 Q Where was Janet at the time that Glenda  
15 reached over and grabbed her hair?

16 A In the corner.

17 Q Did she go there of her own volition?

18 A She backed into the corner.

19 Q All right.

20 Glenda pursued her and grabbed her  
21 hair?

22 A Yah.

23 Q What happened?

24 A She grabbed her hair and was trying to  
25 hit at her.

1 Q With her fist?

2 A Yah.

3 Q Did she succeed?

4 THE COURT If you know

5 THE WITNESS: What I remember,  
6 she had her by the hair. I was just trying. I  
7 didn't see, because I was facing Glenda at the  
8 time.

9 Q (By Mr. McCullough) What did you hear?

10 A What I heard her say was, "I'm going to  
11 kill you. I'm going to kill you. How can you sit here  
12 and be in the same room with my husband?"

13 And she started to kick out at her

14 Q How many times did you observe her kick-  
15 ing, if you know?

16 A Twice.

17 Q All right.

18 What occurred next?

19 A I guess her mother was in the kitchen  
20 calling somebody on the phone. And she said to Glenda  
21 to keep her in there.

22 And then Glenda says, "Mom, help. I'm  
23 having problems keeping her in here."

24 Q Okay.

25 Then what else did you see and hear?

1           A       Her mother come in with a knife.

2           Q       Describe the knife, please.

3           A       It was about that long. (Indicating.)

4           Q       Was it sharp pointed?

5           A       Yes.

6           Q       What kind of blade?

7           A       It was jagged on the bottom.

8           Q       All right.

9                   What did she do with it?

10          A       She said -- she says, "Let's stab the

11       bitch."

12          Q       Did you see her actually make any move to

13       stab the bitch?

14          A       She was probably about six to ten feet

15       away.

16                   And I tried to make a move and tell her to

17       calm down, and then she said -- she pointed it out at

18       me and said, "You make another step and I'll stab you

19       along with her."

20          Q       What did you do then?

21          A       I tried to tell her to drop the knife and

22       calm down.

23          Q       When you say "calm down," what would you

24       say her demeanor -- her behavior was at that time?

25       Was she calm?

1           A       No.

2           Q       Describe -- describe her.

3           A       Well, I think maybe she thought I was  
4 hurting Glenda or something is why she run in the  
5 room like that.

6           Q       Okay.

7                   Can you show us, Mrs. Krebs, how she held  
8 the knife when she first of all said, "Let's stab the  
9 bitch," and then pointed it out at you. Can you show  
10 how -- with your hands how she held it?

11                   (Whereupon, the witness complied.)

12           Q       (By Mr. McCullough) Out in front of  
13 her?

14                   (The witness nodded his head.)

15           Q       All right.

16                   And then -- all right. What else did she  
17 do?

18           A       She was saying some things, and I don't  
19 quite remember what was said.

20                   THE COURT: Who is "she"?

21                   THE WITNESS: She said some things --

22                   THE COURT: Who is "she"?

23                   THE WITNESS: My mother-in-law.

24                   THE COURT: You've got three women  
25 involved in here. And when you say "she," I don't

1 know which one --

2 THE WITNESS: Sharlene.

3 Q (By Mr. McCullough) Okay. And --

4 A And then if I remember, the phone rang and  
5 she went to go answer the phone.

6 Q All right.

7 Were you then still in the room with Janet  
8 and Glenda?

9 A I then -- Glenda, I guess, tried to get a  
10 better hold of Janet to keep her in there.

11 And then I got out and ran next door to  
12 use the phone.

13 Q Did you at any time, Mr. Krebs, feel you  
14 were in physical danger?

15 MR. SMITH: Well, I object, Your  
16 Honor. I don't see what relevance that has.

17 THE COURT: That's not relevant.  
18 I'll sustain that objection.

19 MR. McCULLOUGH: I'll withdraw it.

20 Q (By Mr. McCullough) Did you observe any-  
21 thing that led you to believe Janet was in any physi-  
22 cal danger that night?

23 A Yah.

24 Q What?

25 A Just the actions that they displayed, and

TESTIMONY OF TONYA CHIPMAN



1 I did hand the phone to him at this  
2 time.

3 Q (By Mr. McCullough) What number did you  
4 dial?

5 A 911.

6 Q All right.

7 And you handed the phone to him?

8 A Uh-huh.

9 Q And then what did you do?

10 A I went out the front door.

11 Q All right.

12 Previous to that time had you become aware  
13 of the presense of Janet Sherwood next door?

14 A Yes, I had.

15 Q How?

16 A I went to high school with her.

17 Q Yes.

18 A And, um, during the course of the conver-  
19 sation I found out that that's who he went out with  
20 that night.

21 Q All right.

22 What did you do then when you went out-  
23 side?

24 A I went over next door to the Krebs'  
25 house. And I was really quite worried about the con-

1       dition in which I would find Janet.

2                   I went over and I knocked on the door.

3       And --

4                   MR. SMITH: Your Honor, I'm going to  
5       object. This is a narrative form again. I'm object-  
6       ing to that response.

7                   MR. McCULLOUGH: It's responsive to  
8       my question, Your Honor.

9                   THE COURT: She may answer.

10                  MR. McCULLOUGH: Thank you.

11                  THE WITNESS: I'll make it short.

12                  I went to the door. The mother, I  
13       assume --

14                  Q       (By Mr. McCullough) Let me ask you...the  
15       mother, you assume -- the person --

16                  You came into contact with somebody; is  
17       that right?

18                  A       Yes, I did.

19                  Q       Can you find that person in the courtroom  
20       today?

21                  A       Yes. She's in the blue dress.

22                  Q       That's the lady closest to the jury box  
23       at counsel table?

24                  A       Yes.

25                  MR. McCULLOUGH: The record may then

1 show she's referring to Defendant Williams, Your  
2 Honor.

3 THE COURT: It does.

4 MR. McCULLOUGH: All right.

5 And what occurred when you saw Mrs. Wil-  
6 liams?

7 MR. SMITH: Your Honor, I object.  
8 There's no relevance to this line of questioning.

9 May I voir dire the witness very briefly,  
10 Your Honor?

11 THE COURT: You may.

12

13 VOIR DIRE EXAMINATION

14

15 BY MR. SMITH:

16 Q Mrs. Chipman, did you ever see the plain-  
17 tiff in this case, Miss Sherwood, in the house?

18 A Yes. I saw her go in the house that  
19 evening.

20 Q You've just testified that you went over  
21 to the house.

22 Did you see her in the house on that occa-  
23 sion?

24 A When I went to the house, no. I saw her  
25 arrive at the house.

1 Q Just answer my question.

2 You didn't see her in the house at that  
3 time. You didn't even go in the house --

4 MR. McCULLOUGH: Your Honor, I'm  
5 going to object. He's badgering the witness.

6 THE COURT: Now, just a minute.  
7 Now, just a minute.

8 This is a court of law. And that kind of  
9 behavior on counsels' part is not tolerable.

10 This young lady is a genius, and she can  
11 only take down one person talking at a time.

12 MR. SMITH: All right, Your Honor.  
13 I'll ask her more slowly.

14 Q (By Mr. Smith) Did you go into the house  
15 on that occasion?

16 A She would not let me.

17 Q Just answer my question --

18 THE COURT: Well, she just answered  
19 it.

20 THE WITNESS: She would not let  
21 me.

22 THE COURT: She's answered it. She's  
23 answered it.

24 Q (By Mr. Smith) So you did not see the  
25 defendant, Mrs. Krebs, at that time either; is that

1 correct?

2 A That's correct.

3 MR. SMITH: That's all, Your  
4 Honor.

5 THE COURT: Proceed.

6  
7 DIRECT EXAMINATION (cont.)

8  
9 BY MR. McCULLOUGH:

10 Q But you did observe the defendant, Mrs.  
11 Williams, correct?

12 A Yes, I did.

13 Q Would you tell us what you observed,  
14 please.

15 MR. SMITH: Your Honor, I'm going to  
16 object. There's no relevance to this line of ques-  
17 tioning.

18 She has testified she did not go in the  
19 house, she did not see any -- she didn't even see Mrs.  
20 Krebs. She didn't see the plaintiff.

21 THE COURT: Gentlemen, if this were a  
22 jury trial you may be sure that a lot of evidence  
23 that's been offered here would not be admitted on the  
24 court's own motion.

25 But I want to move this forward, so I think

1 I can sort out the question of relevance or non-  
2 relevance, Mr. Smith.

3 MR. SMITH: Your Honor --

4 THE COURT: I hope I still can. I've  
5 been --

6 MR. SMITH: I know you can. I have  
7 no doubt about that.

8 The point is that this is the very thing  
9 that drags the trial on. It has no relevance.

10 MR. McCULLOUGH: Well, and I can  
11 point out the --

12 THE COURT: I will decide that. But  
13 I...I'm interested in moving this case forward.

14 I must leave at 5:00 p.m. for personal  
15 matters. And I'm interested in moving this case for-  
16 ward. And I've decided that the only way I can do it  
17 is to let each counsel wander all over the pasture,  
18 and then I'll try to sort out what is relevant and what  
19 is not.

20 I'll overrule the objection. Proceed, Mr.  
21 McCullough.

22 MR. McCULLOUGH: Thank you.

23 Q (By Mr. McCullough) Let me ask -- before  
24 you describe that -- for what purpose had you gone  
25 over to the Krebs' household that evening?

1           A       I was worried about the condition of  
2 Janet.

3           Q       And you went to check on her?

4           A       Yes, I did.

5           Q       What did you see then when you saw Mrs.  
6 Williams?

7           A       She came to the door with a knife.

8           Q       Describe the knife, please.

9           A       To the best of my knowledge, it was just  
10 a household knife, one that you would use -- maybe a  
11 fillet-type knife, to the best of my knowledge.

12          Q       How long was the blade, as best you can  
13 remember?

14          A       Approximately maybe three inches, four  
15 inches.

16          Q       Was it a sharp tip?

17          A       Yes, it was.

18          Q       Did you see teeth or any other jagged edge  
19 or anything on it?

20          A       Not that I can remember.

21                   THE COURT:   What do you claim for  
22 this, Mr. McCullough?

23                   MR. McCULLOUGH:   Your Honor, the --  
24 what I claim specifically is intentional infliction of  
25 emotional distress and a conspiracy in the assault.

1                   And what I'm suggesting, Your Honor, is  
2   that what Mrs. Williams' heart in the whole thing  
3   was, to hold at bay anyone who might help Janet Sher-  
4   wood out.   And that's exactly what she's about to  
5   testify to.

6                   THE COURT: Well, proceed.

7                   MR. McCULLOUGH: Thank you.

8           Q        (By Mr. McCullough) Describe for us -- and  
9   use your hands if you need to -- how she held the  
10  knife.

11          A        When she came to the door this is how she  
12  held the knife. (Indicating.)

13          Q        Did you feel that was a threatening ges-  
14  ture?

15          A        Yes, I did. I backed off the porch and  
16  still continued to ask if she could please release  
17  Janet.

18          Q        All right.

19                   Would you describe the conversation that  
20  occurred between you and Mrs. Williams at that  
21  time?

22          A        At the time when I went over, I knocked on  
23  the door and asked if she could please release  
24  Janet. I wanted her to come out.

25          Q        When you say "release," did you hear any-



1 thing prior to asking that question?

2 A I heard Janet in the background.

3 Q What did you hear?

4 A "Please let me out of here."

5 I called for her. And when I called for  
6 her, she didn't answer. But before I started to call,  
7 I heard a plea for, "Please help me."

8 Q All right.

9 Did you hear anything else from inside?

10 A Not that I can recall.

11 Q All right.

12 So you went to the door, you confronted  
13 Mrs. Williams.

14 And again, the conversation, please?

15 A She came to the door with a knife. I  
16 asked her please to let Janet go.

17 At that time she held the knife and told  
18 me -- or asked me -- if I would like to come in and  
19 get the same thing that Janet was going to get.

20 Q Did she refer specifically to what Janet  
21 was going to get?

22 A Yes, she did.

23 Q What was that?

24 A She told me she was going to kill her.

25 Q Do you feel, then, that when she said "the

TESTIMONY OF PLAINTIFF JANET SHERWOOD

1           A       She said, "Steven, I know you're in  
2       there. Open this god damned door or I'm going to  
3       break it down and kill you."

4           Q       Were you able to tell whether it was the  
5       front door or the back door that was being referred  
6       to?

7           A       I figured it was the front door.

8           Q       Did you hear anything other than the  
9       words?

10          A       I heard pounding on the door before  
11       that.

12          Q       All right.

13                   And then what occurred?

14          A       Um, then they came in. And I was sitting  
15       on the bed, and she went down the hall --

16          Q       Who was "she"?

17          A       Mrs. Krebs.

18          Q       That's the woman in the middle at counsel  
19       table?

20          A       Yes, it is.

21          Q       And go ahead.

22          A       And she went to the bedroom that was  
23       across from me, which I -- when she turned the light  
24       on, I saw it must have been their bedroom.

25                   And then she turned around and flipped on

1 the light in the room that I was in and lunged for  
2 me.

3 And Mr. Krebs grabbed her and threw her  
4 onto the floor, and the mother started beating up on  
5 him, to leave her alone, not to get her, to protect  
6 his little whore.

7 Q All right.

8 Let me back up just a little bit.

9 When she came into the room, she turned on  
10 the light and lunged.

11 Was it all basically one motion?

12 A Pretty close.

13 Q All right.

14 And where were you in the room at this  
15 time?

16 A I was sitting on the edge of the bed.

17 Q And what did you do when she lunged at  
18 you?

19 A I jumped up.

20 And Steven stood in front of me, and he  
21 backed me into the corner. And she was reaching for  
22 me the whole time trying to get a hold of my  
23 hair.

24 Q When you say he backed you into a cor-  
25 ner, was he pushing you, was he -- what was your impres-

1 sion he was trying to accomplish at the time?

2 A I was standing behind him hoping he would  
3 give me a little protection.

4 Q All right.

5 And while this was going on, what, if  
6 anything, did Mrs. Krebs say?

7 A She said, "You fucking bitch. You little  
8 whore. How can you be in here?"

9 Q Did she say anything else?

10 A She said, "I'm going to kill you."

11 Q Did that statement put you in fear of  
12 bodily injury?

13 A Yes, it did.

14 Q Anything else she did at that time to put  
15 you in fear of bodily injury?

16 A She was kicking at me, and she knee'd me  
17 in the side, and --

18 Q Now, you say, "knee'd you and kicked at  
19 you."

20 Was she able to get around Mr. Krebs  
21 then, or --

22 A Yes, she was.

23 Q All right.

24 Describe what you remember about -- we  
25 have a picture at this point of you kind of in the

1 corner and him between the two of you.

2 What occurred?

3 A She had gotten hold of my hair and he was  
4 pushing her away, and I was just kind of going with  
5 them.

6 Q Because your hair was going with them; is  
7 that correct?

8 A Yes.

9 Q And at this time what was she -- she had  
10 one or both hands on your hair?

11 A She had one.

12 Q Do you remember what she was doing with  
13 her other hand?

14 A She was trying to get me with the other  
15 hand.

16 Q Show us, if you would with your hands,  
17 what motions she may have been making.

18 A Um, she had a fist at one point and was  
19 hitting at me. And she had scratched me. I had  
20 scratch marks on my neck.

21 Q Did she -- when you say she made a fist and  
22 hit at you, did she actually strike you with her  
23 fist?

24 A Once or twice.

25 Q Do you remember on what parts of the

1 body?

2 A On my abdomen.

3 Q Any other parts that you remember?

4 A No.

5 Q What about use of her feet?

6 A She kicked me in the shins.

7 Q How many times?

8 A Just a couple.

9 Q How long did she retain hold of your  
10 hair, as best you can remember? It probably seems  
11 like --

12 A Forever.

13 Q -- longer than it was.

14 Is that about the best you can tell us?

15 A Um, I don't -- I didn't have a watch.  
16 There was no clock in the room. I have no idea how  
17 long. Until the police arrived. I know that  
18 much.

19 Q All right.

20 What else occurred then after she came at  
21 you, grabbed your hair, struck and kicked at you?

22 A Mrs. Williams came into the room with the  
23 knife and escorted Mr. Krebs out of the room.

24 Q Did she say anything that you remember with  
25 the knife?

1           A       No, I don't.

2           Q       When she had the knife in the hand?

3           A       Mrs. Krebs was screaming at me the whole  
4 time, telling me she was going to kill me, telling me  
5 she knew karate and she could kill me.

6                   THE COURT: That was Mrs. Krebs?

7                   THE WITNESS: Uh-huh.

8           Q       (By Mr. McCullough) So because of that,  
9 you didn't pay a lot of attention to Mrs. Williams --

10          A       No. I was concentrating too hard on stay-  
11 ing alive.

12          Q       When you say, "concentrating too hard on  
13 staying alive," did you have reason -- did you at that  
14 time fear for your life?

15          A       Yes, I did.

16          Q       Why?

17          A       Because her mother had the knife and she  
18 was -- just the threat.

19          Q       Okay.

20                   Specifically, what threats were these?

21          A       That, "I'm going to kill you."

22          Q       Which one said that?

23          A       Mrs. Krebs. She was constantly saying  
24 it.

25          Q       Would you say --



1                   Constantly. Can you give us any kind of a  
2 rough idea how many times she may have said it?

3           A       Probably 20 times.

4           Q       And you felt that she really meant it?

5           A       Yes, I did. The look on her face, she  
6 meant it.

7           Q       Didn't seem to you to be a polite way of  
8 just asking you to stick around until the police  
9 arrived?

10          A       (No audio response.)

11          Q       Answer "yes" or "no" please.

12          A       No.

13          Q       What else did she do?

14          A       Um --

15                   THE COURT: When you say "she" --

16                   MR. McCULLOUGH: I'm talking about  
17 Mrs. Krebs.

18                   THE WITNESS: What else did she do  
19 as to what?

20          Q       (By Mr. McCullough) What else did she do  
21 other than kick at you, scratch you, hit you and grab  
22 your hair?

23          A       She had asked me if -- why I was there, if  
24 they had gotten a --

25                   Or she has asked me if, um, why I was

1       there.   And I says, "Well, he had told me he had got-  
2       ten a divorce."   And she said, "Well, don't you ask  
3       for divorce papers?"   And I told her, "No, I  
4       didn't."

5               Q       All right.

6                       Anything else that occurred between you  
7       two?

8               A       When she -- after a while she had both  
9       hands in my hair, and she was twisting my hair.   And  
10      I could hear it ripping, and so I got a hold of her  
11      wrist.

12                      And she told me, "Let go of my wrist or  
13      I'm going to kill you."

14                      And I told her, "I'll let go of your wrist  
15      when you let go of my hair."

16               Q       And this went on for --

17               A       Until the police arrived.

18                      And she told me that she was holding me there  
19      until the police arrived so that she could press  
20      charges against me.

21               Q       Did she state what she was going to press  
22      charges for?

23               A       Something of being in her house.

24               Q       Did she call you any other names other than  
25      what you've testified to already?

1           A       Just a whore, and a bitch and a slut.  
2                   Oh, she called me the neighborhood whore,  
3 because Tonya was out calling my name, and --  
4           Q       What did she say about that?  
5           A       She said --  
6                   Her mother came in and said, "No. Now her  
7 friend is out there looking for her."  
8                   And I said, "I don't know who you're talk-  
9 ing about."  
10                  And she said, she says, "Yes, you do. Your  
11 little friend." And I said, "That must be his neigh-  
12 bor. I went to school with her for one year."  
13                  Mrs. Krebs then said, "What are you? The  
14 neighborhood whore?"  
15           Q       I gather, Janet, that this conversation  
16 was not a cool, calm conversation such as you and I are  
17 having right now?  
18           A       No; it was not.  
19           Q       Was there screaming?  
20           A       On her part, yes. I didn't do much talk-  
21 ing. I just wanted to get out.  
22           Q       Did you ask her to let you go?  
23           A       Yes, I did.  
24           Q       What did you say?  
25           A       I said, "Please let me go."

1 Q And what was her reply?

2 A And she said, "No. I'm holding you here  
3 until the police come so I can press charges."

4 Q Did you attempt to get out of the room?

5 A I did nothing.

6 Q Now, when the police came, what do you  
7 remember was occurring at the time the police  
8 came?

9 A Sergeant Finlayson came in and he --

10 Q What -- where were you specifically in  
11 reference to Mrs. Krebs at the time he came in?

12 A I was in the corner, the northeast corner  
13 of that bedroom. And my head --

14 The way she had my hair, my head was  
15 turned and so my knees were bent, because I couldn't  
16 lift my head.

17 And Officer -- Sergeant Finlayson came in  
18 and he asked her to release me.

19 Q Prior to the time -- before the time the  
20 police came in...

21 Now, you testified that Mrs. Williams  
22 came in once with a knife and escorted Steven out.

23 Do you remember whether she came in another  
24 time or anything?

25 A I remember her coming in and out. I don't