



# WATCH Post

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## CHRONOLOGY OF AN OFFENDER

### Leonard Clifton Gallion repeatedly beat the system--and his victims

By Rebecca Kutty

Leonard Clifton Gallion is no stranger to the law. His criminal history in Hennepin County, at 14 years, is older than WATCH, with 22 charged cases split almost evenly between driving violations and assaults. The strangers or acquaintances Gallion assaulted over the years suffered scary, but isolated, episodes in which they were hit over the head with a duffel bag, struck with the butt of a shotgun, or chased with a sledge hammer and crowbar, to take a few examples. But those in long-term relationships with Gallion endured far more brutal and terrifyingly regular beatings. For his girlfriends, in particular, victim A,<sup>1</sup> whose victimization is well documented by the charged and uncharged criminal cases included in this chronology, they were life altering.

Most of the domestic abuse cases that follow were dismissed or not even charged. Why? It's most likely because Gallion knew how to beat the system. He assaulted A on parts of her body, such as the back of her head, where bruises are less visible, and attempted to smother her, which again leaves no easily discernible marks. He often was

<sup>1</sup> Victims are identified with sequential letters with the same letter signifying the same victim.

“gone on arrival” when the police came to the scene, escaping immediate arrest and waiting out the half-day that police can arrest a suspect for probable cause in misdemeanor domestic abuse cases. When he was arrested, he easily posted the \$1,200 bail required in most misdemeanor domestic assault cases and, at least in one reported and uncharged case, returned to inflict a vicious beating on A. In a cruel twist, a day after one such assault for which Gallion was arrested, he successfully petitioned the courts for a temporary harassment restraining order against A, which subsequently was granted for one year. Under such tenuous circumstances, it should not be surprising that A was often reluctant to cooperate with the prosecution.

The only time Gallion was convicted of a domestic assault-related crime, he had already served and been given credit for 22 days at the workhouse; the remaining 68 days of his sentence were stayed under certain conditions, including no contact with the victim, no same or similar charges, and no weapons violations (oddly enough, domestic abuse counseling was never ordered, nor was probation given the discretion to do so). As with too many domestic abusers, the period of actual incarceration was too short to allow his victim to recover from her life with him, in this case being prostituted,

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## WHAT'S NEW

WATCH says “good-bye” and “good luck” to Priya Outar, court monitoring coordinator, who left to pursue a law degree at the University of Iowa. We're thrilled that Priya will take with her an understanding of how the system can be improved and how people can come together to make it work better for victims of domestic violence and sexual assault.

WATCH bids a fond farewell to Dee Long, whose board service began in 1999 and ended in April 2005. As a former member of the Minnesota House of Representatives, Dee brought an important public policy perspective to the board and contributed greatly to WATCH's development. Her quick wit was always appreciated at board meetings, as well. Dee continues to be involved with several nonprofits and works with Minnesotans for an Energy-Efficient Economy. Thank you, Dee! ☐

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***The mission of WATCH is to make the justice system more effective and responsive in handling cases of violence, particularly against women and children, and to create a more informed and involved public.***

## What does it take?

By Marna Anderson

In early December 2004, Minneapolis police responded to a 911 domestic abuse call. When they arrived, they found a woman in tears sitting on the floor, looking dazed. She was talking so softly it was difficult to hear her. According to the complaint, several children were present, and they told the officers that their stepfather had been arguing with their mother and had grabbed her neck from behind and strangled her. Two of the children said that they had tried to “awake” her after she lost consciousness. Their stepfather had fled the home.

The victim was taken to the hospital, where medical staff observed, documented, and photographed a red mark along the side of her neck consistent with being strangled.

A few days later, the victim went to the Hennepin County Family Justice Center and petitioned for a civil order for protection (OFP). Her husband had requested an order as well. He told Referee Linda Gallant, who was hearing the case, “When she smacked me, I grabbed her, just out of reflex, with my right hand, and I spun her around where I had her in a hold... almost like a hugging mode... She pretends to fall down, or whatever and I laid her down—actually, when she made a groaning noise.”

The victim had a different account of what happened: “He grabbed me from behind, not with his hands, with his forearm, and choked me, until I had no air in my body at all. I couldn’t breathe period. I wasn’t gasping for air because I couldn’t get any air. All I

remember is me scratching his arm to get it off my neck. And I passed out.”

Both requests for the OFPs were denied by Referee Gallant, who said, “The medical records verify that she went to the hospital, which he doesn’t dispute. They verify that she had some marks on her neck, which he doesn’t dispute... this is a case about credibility... I’m not going to give either party an order for protection... You were having some, probably in retrospect, silly arguments, which most of us get into sometimes... Each party’s version has the other one starting it. Neither party was any more credible than the other.”

In the meantime, the Hennepin County Attorney’s Office reviewed the police report and charged the defendant with felony 3<sup>rd</sup> degree assault for inflicting “substantial bodily harm.” He was also charged with interference with a 911 call and endangerment of a child, both gross misdemeanors.

In the jury trial, the prosecutor, Deb Russell, played the recording of the 911 call made by the victim’s 12 year-old daughter, telling the operator that her mother was not speaking. The girl was hiding in a basement closet while making the call. Russell had the doctor who had seen the victim when she was brought to the hospital testify. He said her injuries were consistent with strangulation.

And, the prosecutor had the three children, ages 12, 13 and 14, who were in the home when the assault occurred take the stand. One witnessed the assault. Another saw the victim lying on the floor unconscious. When one of the children asked the

defendant what had happened, he responded, “Your mother hit me so I choked her.”

It seemed like an open and shut case. Eyewitnesses. Medical records. 911 call recording.

The jury found the defendant not guilty.

The victim was first refused protection by the courts in the civil hearing and then again in criminal court, despite the evidence.

WATCH had monitors in the courtroom throughout the trial. The day the defendant took the stand, the WATCH monitor said that although he believed the victim, he had a hard time believing that the defendant was capable of the crime. The defendant looked like a good family man. He talked about taking in the victim’s children and caring for them. He talked about how hard he works. And he cried about how badly he felt about “what happened.”

Extensive research on intimate partner violence has repeatedly shown that batterers function normally in social settings and within their work environments. At the criminal trial, how the defendant acted and looked was apparently more compelling and credible than all the evidence, and all the testimony—the doctor’s testimony, the victim’s testimony, and the children’s accounts of the assault.

When the referee denied the order for protection, she said it was a case about credibility. She focused on “who started it” rather than the more important fact of where it ended up—

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In the last edition of the *WATCH Post*, we reported on the 20-year criminal history of Charles Edward Kennedy, who has victimized at least 13 women and children. Since then, Kennedy has been re-arrested on two gross misdemeanor domestic assault charges and a misdemeanor disorderly conduct charge stemming from a May 14 incident.

Kennedy was at his stepfather's home with his girlfriend T.M., who was also living there, his sister, his sister's friend, and his stepbrother. A disagreement occurred and T.M. left the living room to go into the bathroom. At the revocation hearing resulting from the new charges, Kennedy's stepfather testified that Kennedy followed T.M. from the bathroom into a bedroom, where he grabbed her by the hair and pulled her around. Kennedy's stepbrother called the police and Kennedy was arrested. Following his arrest, T.M. left Kennedy's stepfather a note asking him not to testify at the revocation hearing, stating, "Please, if you could, don't show up to court tomorrow. If you go to court he is going straight to jail again."

At the revocation hearing, T.M. (now Kennedy's ex-girlfriend) testified that nothing happened in the bedroom and that she did not want Kennedy to be sent to prison. As Kennedy reentered the courtroom after a recess, WATCH monitors observed Kennedy laughing and dancing.

Judge Lucy Wieland ruled that evidence of disorderly conduct existed, but not domestic assault. She revoked 90 days of Kennedy's sentence with credit for 31 days served and no work release. Kennedy will be released on July 13 and placed on active supervision until November 29, 2007. He must follow all recommendations of probation, including no same or similar offenses, random urinalysis, chemical dependency treatment and after-care, and attendance at support groups. Citing lack of evidence of domestic assault from the revocation hearing, the county attorney's office dropped the gross misdemeanor charges. ☐

## Volunteer appreciation

WATCH held its annual volunteer appreciation party in May at the home of WATCH founder Susan Lenfestey. It was rainy outside, but beautiful inside as WATCH honored its dedicated and hardworking group of court monitors. Special congratulations to Michael Murtaugh, who received the WATCH Volunteer of the Year award. Michael has volunteered at WATCH for the past two years, and in accepting the award, spoke about his desire to create a more fair and balanced criminal justice system. Also on hand was Judge Kathryn Quaintance, who emphasized the need for a public presence in the courtroom and the astounding contribution WATCH has made towards creating a more informed public. Thanks to Susan for opening her home to the many volunteers, both old and new, who were able to join us. ☐

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an ambulance ride to the hospital. "Silly arguments that all of us have sometimes" don't end up in the emergency room. Acts of domestic violence do. The public and all members of the justice system need to recognize the difference, regardless of how the defendant looks and talks, and whether or not he cries. ☐

## Strangulation legislation

As we reported in the last issue of the *WATCH Post*, the Minnesota legislature recently passed a bill making domestic strangulation a felony punishable by up to three years in prison and a fine of \$5,000. This bill is important because it raises the public's awareness of the lethality of strangulation, assists in the investigation of domestic strangulations, and makes it more likely that strangulation cases will be charged as felonies rather than misdemeanors. ☐

## Welcome new volunteers

WATCH extends a warm welcome to the 14 new court monitors and three summer interns who completed training in June. Special thanks to WATCH board member and Qwest senior attorney Joan Peterson and to Dorian Eder from the Battered Women's Legal Advocacy Project for their excellent presentations. Thanks as well to Jon Swenson and Virginia Tisdale Miller for serving on the volunteer panel. ☐

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isolated from family and friends, and made chemically dependent. After numerous probation violations,<sup>2</sup> Gallion is now serving prison time in St. Cloud for another case, and A is finally, according to court documents, in a “Safe Place.”

### **Case 1: 2<sup>nd</sup> degree assault (felony), terroristic threats (felony)**

*4/1/97 Criminal complaint:* On 3/7/97, Gallion stormed into his brother’s house, pulled a gun from his pocket, discharged it into the ceiling, and threatened to kill everyone in the house. He pointed the gun at a woman and at two 10-year-old boys, victims B and C, who he claimed had “messed with” his son. He injured the boys by pushing their heads up against the refrigerator and wall and threatened to “shoot them” if they did not apologize to his son. Gallion discharged his gun twice more in another room. A warrant was issued for his arrest and bail was set at \$25,000.

*4/4/97 First appearance:* Gallion appeared before Judge Roland Amundson, who ordered bail to remain at \$25,000 with the following conditions of release: no contact with the victims and their home.

*4/10/97 Bail hearing:* Judge Franklin Knoll reduced bail to \$10,000 and imposed the additional release

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<sup>2</sup> The arrest and detention orders for probation violations in this chronology were generated by the system after a new case was charged. Hennepin County’s criminal justice database, SIP, lists no arrest and detention orders filed by his supervising probation officer. Given Gallion’s failure to remain law abiding, one wonders whether the other conditions of probation were followed.

conditions of twice weekly contact with the conditional release unit (once in person), no drugs or alcohol, and random urinalysis and breathalyzer tests. Gallion posted bail the next day.

*4/30/97 Probable cause pretrial:* Gallion pleaded not guilty before Judge Peter Albrecht and demanded a jury trial.

*1/2/98 Criminal complaint amended:* The terroristic threats count was amended to 2<sup>nd</sup> degree assault, and two other counts of felony terroristic threats were added.

*1/5/98-1/8/98 Jury trial:* After numerous continuances, a jury trial was held before Judge Peter Lindberg. Gallion was found guilty of the assault counts and not guilty of the terroristic threats counts. SIP also states that Gallion pleaded guilty to two counts of the lesser misdemeanor charge of 5<sup>th</sup> degree assault instead of the two 2<sup>nd</sup> degree assault counts.

*2/23/98 Outcome:* Judge Lindberg sentenced Gallion to 180 days at the workhouse with 90 days stayed for one year and work release if eligible for the two misdemeanor 5<sup>th</sup> degree assault counts. He was ordered not to engage in any same or similar assaults and to report to the workhouse the following day. SIP lists Murney Heaney as the prosecutor and Larry Rappaport as the defense attorney.

### **Case 2: 5<sup>th</sup> degree assault (misdemeanor), disorderly conduct (misdemeanor)**

*6/29/00 St. Louis Park police report:* Gallion went to a park after

receiving a phone call from his son, who was arguing with two other boys, victims D and E. He demanded to know “who was beating on his son” and was described by witnesses as “agitated and aggressive.” Gallion chased juvenile D to a nearby gas station, but tripped and fell, allowing D to escape. He then approached juvenile E and punched him in the face, injuring his mouth.

### **Case 3: 1<sup>st</sup> degree burglary (felony), 2<sup>nd</sup> degree assault (felony) (two counts)**

*8/25/00 Criminal complaint:* On 8/6/00, a woman reported to police that after repeatedly calling her home in the early morning hours demanding money he claimed she owed him, Gallion entered her home through an unlocked door and went to the basement where her juvenile son, victim F, and some friends were sleeping. He pointed a handgun at F, struck him in the head with it, and said, “I’m going to kill you all.” He struck another woman in the head with the gun before firing it into a wall behind a couch where a man was seated. F ran upstairs to wake his mother and her boyfriend, and the latter managed to chase Gallion out of the home. A warrant was issued for Gallion’s arrest with bail set at \$75,000 and the conditions of release no contact with the victims, their residences, or with witnesses, and no weapons violations.

*8/28/00 First appearance for Case 3:* Gallion appeared before Judge Knoll, who ordered bail to stand at \$75,000.

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**9/5/00 Bail hearing for Case 3:** Judge Philip Bush ordered bail to remain at \$75,000 with the conditions of release changed to no contact with the victims and no weapons violations.

**9/22/00 Release for Case 3:** Gallion posted bail and was released.

**9/25/00 Outcome for Case 2:** Gallion, who was never arrested for this case, appeared *pro se* before Judge Daniel Mabley and pleaded guilty to the assault charge. The disorderly conduct charge was dismissed on a motion of the prosecutor, Michael Colich. Gallion was sentenced to 30 days in the workhouse stayed for one year under the conditions of no new assault or assault-related charges.

**11/6/00 Probable cause pretrial for Case 3:** Gallion pleaded not guilty before Judge LaJune Lange and demanded a jury trial.

**1/23/01-1/25/01 Jury trial for Case 3:** After several continuances, jury selection occurred before Judge Knoll.

**1/26/01 Plea for Case 3:** Gallion pleaded guilty to both assault counts with the burglary charge to be dismissed at sentencing. He was ordered to have no contact with the victims and their residences pending sentencing.

**3/9/01 Outcome for Case 3:** Judge Knoll dismissed the burglary charge and stayed the sentence of 72 months in prison for the assault counts for 10 years under the following conditions: no contact with the victims, their families, or their homes, serve two years at the workhouse with no work

release the first year and credit for 31 days, complete anger management, no chemical use, undergo a chemical dependency assessment and complete treatment as recommended, follow the recommendations of probation, random breathalyzer and urinalysis, no use or possession of weapons, and remain law-abiding with no criminal activity or charges. He told Gallion that if he violated these conditions, he would go to prison, and gave him one week to report to the workhouse. SIP lists Marlene Senechal as the prosecutor and Rene Clemenson as the defense attorney.

**12/17/01 Sentence modified for Case 3:** After serving less than one year, Gallion's sentence was modified by Judge Knoll based on a defense motion to allow two- to four-hour job-seeking furloughs and work release if his probation officer verified that Gallion had found a job.

**6/13/02 Release for Case 3:** Gallion was released from the workhouse.<sup>3</sup>

### **Case 4: 5<sup>th</sup> degree assault (misdemeanor)**

**10/8/02 Minneapolis police report:** Gallion, who was living with his brother, started a fight over the phone service.

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<sup>3</sup> This earlier release date most likely reflects credit for time served for this and other offenses before conviction as well as "good time," whereby a third of an offender's incarceration period is typically shaved off for good behavior. If Gallion had remained at the workhouse the full two years of his sentence, one charged and two uncharged 5<sup>th</sup> degree domestic assaults would have been avoided.

His brother was reading a book to his 11-year-old son, victim *G*, and refused to argue. Gallion threw his nephew's computer tower, damaging it, grabbed the book from the child, and pushed him against the bed. When his brother stood up to protect his son, Gallion left the house and drove off. ***This case was never charged.***

### **Case 5: 5<sup>th</sup> degree domestic assault (misdemeanor)**

**10/11/02 Minneapolis police report:** After his brother, victim *H*, kicked him out of the house, Gallion and his son assaulted him. Gallion scratched *H*'s right eye and forehead and had his son throw his uncle to the ground and kick him. The police noted that *H* was "very uncooperative." ***This case was never charged.***

### **Case 6: 5<sup>th</sup> degree domestic assault (misdemeanor)**

**1/12/03 Minneapolis police report:** Police responded to a domestic assault in progress at Gallion's and *A*'s apartment and met with *A*, who said she was "tired of the beatings." *A* refused medical treatment, but officers noted bruises on her wrists. Gallion's mother and 11-year-old son witnessed the assault. Gallion was arrested and bail was set at \$1,200.

**1/13/03 Outcome:** Judge Tanja Kozicky Manrique dismissed the charge on a motion of the prosecutor, Kathy Rygh. Gallion did not qualify for a public defender, and SIP lists no defense attorney.

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### **Case 7: 5<sup>th</sup> degree domestic assault (misdemeanor)**

*3/15/03 Minneapolis police report:* Gallion assaulted A at their apartment<sup>4</sup> and was arrested with bail set at \$1,200.

*3/17/03 Release:* Gallion posted bail and was released.

*3/31/03 Outcome:* Judge Mary Steenson Dufresne dismissed the charge on a motion of the prosecutor, Jennifer Saunders, for insufficient evidence. SIP lists Barb Kehrberg as the defense attorney.

### **Case 8: 5<sup>th</sup> degree domestic assault (misdemeanor)**

*4/24/03 Minneapolis police report:* Gallion kicked and hit A, who was visiting him at the apartment they formerly shared, leaving bruises on her legs and arms. He was arrested and bail was set at \$1,200.

*4/25/03 Arraignment:* Gallion pleaded not guilty before Judge Andrew Danielson and demanded a speedy trial. He posted bail and was released with the condition of no contact with A.

*4/25/03 Temporary harassment restraining order:* Gallion filed a petition for a civil harassment restraining order against A alleging that

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<sup>4</sup>The public information reports that WATCH obtained for uncharged cases often contained only sketchy descriptions of the assaults. Reports that are not available to the public presumably are much more detailed and descriptive.

she frequently became violent and threatening and damaged his property. He cited two instances when he claimed A falsely accused him of domestic abuse and had him arrested. In the first, on 3/3/03, for which there is no record, Gallion said A became angry with him when he refused to give her money. She called the police and reported that he had hit her. When they went to court, he said A admitted that she lied and the charges were dropped. In the second, on 4/24/03, Gallion said that he asked A to leave his home, but she refused. When she did go outside, he closed and locked the door. He said she yelled, banged on the door, and threatened to and eventually did call the police. Finally, he said that he has told A more than once that he wants nothing to do with her, but she continues to harass him. Judge Harvey Ginsberg issued a temporary harassment restraining order and set a hearing for 5/2/03.

*5/20/03 Harassment restraining order hearing outcome:* A failed to appear, but Gallion did appear before Referee Mary Lawson. Referee Lawson issued the order commanding A to avoid harassing Gallion and barring all contact with him.

*6/23/03 Arrest and detention order for Case 3:* An arrest and detention order was filed after Gallion was charged with **Case 8** and a new felony 1<sup>st</sup> degree aggravated robbery case. Gallion was in custody at the time.

*6/30/03 Outcome for Case 8:* Judge Regina Chu dismissed the charge on a motion of the prosecutor, Mic Jurgens. SIP lists Daniel Homstad as the defense attorney.

*9/8/03 Appearance on the arrest and detention order for Case 3:* Judge

Charles Porter, Jr., ordered that the probationary sentence not be revoked after Gallion pleaded guilty to a lesser charge of misdemeanor failure to return lost property in the robbery case and was sentenced to 48 days at the workhouse with credit for 48 days.

### **Case 9: 5<sup>th</sup> degree domestic assault (misdemeanor)**

*9/26/03 Minneapolis police report:* Gallion and A began to argue while standing on a street corner. Gallion started punching A in the back of the head with a closed fist and took off in his car after she fell to the ground. The police noted that A was “evasive” and that “only partial information could be retrieved at the time the report was made.” *This case was never charged.*

### **Case 10: 5<sup>th</sup> degree domestic assault (misdemeanor)**

*11/12/03 Minneapolis police report:*<sup>5</sup> Gallion went to his ex-girlfriend victim I's house uninvited, grabbed her, shook her, and pushed her against a wall. When he refused to leave, I tried calling 911, but Gallion hung up the phone. The 911 dispatcher called back and spoke with I. Upon hearing this conversation, Gallion left. Police told I to get an order for protection (OFP). *This case was never charged.*

*11/17/03 Temporary OFP:* I filed a petition for a civil OFP against Gallion

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<sup>5</sup> Details from I's subsequent petition for an OFP have also been incorporated here.

## THUMBS UP/THUMBS DOWN

👎 Thumbs down to Jitters, a Minneapolis bar, for sponsoring a “Best Bitch Slap” contest on June 23. The ad in the *City Pages* described the event as a “GLBT SINGLES PRIDE PARTY,” however PRIDE neither endorsed nor sponsored it. Using such a misogynist, derogatory term in the contest’s name was bad enough, but the idea behind the contest—making slapping seem trivial and funny—was even worse. It’s doubtful that the 30% of GLBT community members who have experienced domestic violence would find this “contest” funny, nor does WATCH.

👍 Thumbs up to the Hennepin County Family Violence Coordinating Council and its Civil Committee for providing important new information to OFP petitioners and respondents. Beginning this August, the monitored waiting rooms in the Family Justice Center will contain audio presentations (on compact disc) and written information explaining the OFP process. The information, drafted by Judge Tanja Kozicky Manrique, will be available in Spanish, Hmong, Laotian, Somali, and Oromo.

In addition, community organizations will have the opportunity to place brochures describing their services in information kiosks to be placed in the waiting rooms.

👍 Thumbs up to the United Kingdom’s Equal Opportunities Commission for leadership in addressing sexual harassment in the country’s armed forces. The commission found that one in five female Navy personnel, one in eight

Army personnel and nearly one in 10 Royal Air Force personnel have been subject to sexual harassment.

To fend off massive, unprecedented legal action under the Sex Discrimination Act, the Ministry of Defense has been forced to sign an agreement with the commission to take action on the issue, including insuring complaint procedures are fair and confidential, and providing sexual harassment education sessions for armed services personnel.

👎 Thumbs down to the U.S. Supreme Court for ruling that Jessica Gonzales cannot sue the town of Castle Rock, Colorado, for failing to enforce a protective order against her estranged husband, Simon Gonzales. Colorado’s mandatory arrest law requires police to use “every reasonable means” to enforce restraining orders like Jessica’s. When Simon kidnapped her three daughters from their yard at 5 p.m., she reported them missing to authorities. After learning that Simon had the girls, she called police back numerous times, but was repeatedly told to “call back later.” Shortly after 3 a.m., Simon pulled into the local police station and began firing a gun; police responded by firing back and killing him. Police found the three girls shot dead at Simon’s hands inside his vehicle.

Justice John Paul Stevens (joined by Justice Ruth Bader Ginsburg) argued in his dissent that, “the crucial point is that, under the statute, the police were required to provide enforcement; they lacked the discretion to do nothing.” While women are endlessly judged and held in suspicion for not doing enough to protect their children and themselves,

who will hold the state responsible for failing to do so? Not, it appears, the U.S. Supreme Court.

👎 Thumbs down to the Hennepin County judge who, when issuing a mutual order for protection, wrote in all seriousness, “Unfortunately, the parties have two minor children...” Wouldn’t it be more fitting to view domestic violence in the relationship as unfortunate rather than the children?

👍 Thumbs up to Association Demetra in Burgas, Bulgaria, and Watch NJ in Middlesex County, New Jersey. Both organization’s recently started court monitoring projects in their jurisdictions, using WATCH as the model. WATCH traveled to Bulgaria last year to assist in training monitors there, and a liaison from the New Jersey program has attended the WATCH training and is a volunteer here. Both organizations bring a public presence to the courts, using signature clipboards—red in Bulgaria and blue in New Jersey. We’re proud our work has contributed to new monitoring projects across the globe and congratulate this new wave of court monitors for their determination and courage. ☐

### Congratulations

On April 14, Jacquelyn Hauser, founding executive director of WATCH, received an award from the Ann Bancroft Foundation for her pioneering work using court monitoring to hold the criminal justice system accountable when responding to cases of violence against women and children. ☐

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based on the assault from 11/12/03 and repeated phone calls in which he threatened to “get his daughter,”<sup>6</sup> stating, “I’m not afraid to go back to prison. If I do, somebody will be gone.” Judge Francis Connolly issued a temporary OFP and set a hearing for 11/24/03.

*11/24/03 OFP hearing outcome: I* and Gallion appeared before Referee Susan Fallek-Rogers. Gallion denied the allegations in the petition, but agreed to the order barring any acts of domestic abuse against *I* as well as all contact.

### **Case 11: 5<sup>th</sup> degree domestic assault (misdemeanor), 5<sup>th</sup> degree assault-harm (misdemeanor), 5<sup>th</sup> degree assault-fear (misdemeanor), and disorderly conduct (misdemeanor)**

*11/9/04 Minneapolis police report:* Gallion punched *A* on her legs, leaving bruises, and hit her twice in the head with a beer bottle at their apartment. *A* refused medical treatment. Gallion was arrested and bail was set at \$1,200. The arresting officers noted that Gallion was listed in the domestic assault enhancement book at the Hennepin County Jail.

*11/10/04 Arraignment:* Gallion posted bail and was out of custody when he appeared before Judge Marilyn Brown Rosenbaum. Judge Rosenbaum continued the arraignment hearing to the afternoon for the arrest and detention order from **Case 3** to

be issued with the conditions of release no contact with *A*. Gallion failed to appear in the afternoon, forfeiting his \$1,200, and a bench warrant was issued for his arrest. Bail was ordered at \$5,999.

*11/15/04 Appearance on a bench warrant:* Gallion pleaded not guilty before Judge Rosenbaum and demanded a jury trial. The additional conditions of release were to make all court appearances and to remain law abiding.

*11/30/04 Plea:* Gallion pleaded guilty to the disorderly conduct charge before Judge Mabley, who dismissed the other charges on a motion of the prosecutor and ordered a pre-sentence investigation.

*12/14/04 Outcome:* Judge Diana Eagon sentenced Gallion to 90 days at the workhouse with credit for 22 days and 68 days stayed for one year under the following conditions: no contact with *A*, no non-prescribed chemical use with random urinalysis, no assault, interference with a 911 call, disorderly conduct, or same or similar charges, and no OFP or weapons violations.<sup>7</sup> SIP lists Kathy Rygh as the prosecutor and Rene Clemenson as the defense attorney. Judge Eagon also continued Gallion’s probation for **Case 3** after he admitted violating it, providing he serve 22 days at the workhouse with credit for 22 days.

### **Case 12: 5<sup>th</sup> degree domestic assault (misdemeanor)**

<sup>7</sup> Neither domestic abuse counseling nor the condition “follow the recommendations of probation,” which would allow the supervising probation officer to order domestic abuse counseling, was ordered.

*1/5/05 Minneapolis police report:* Gallion assaulted *A*, who refused medical treatment. ***This case was never charged.***

### **Case 13: 5<sup>th</sup> degree domestic assault (misdemeanor)**

*1/7/05 Minneapolis police report:* Gallion, who had just gotten out of jail for the 1/5/05 assault, saw *A* walking down the street. He dragged her across the ground by her coat and began banging the back of her head into the ground. He then pulled off her jacket and went back to their apartment. *A* told police that a no contact order was in place and that Gallion was on probation for previous assaults. Police could not find the no contact order on the computer.<sup>8</sup> *A* refused medical treatment, although police noted a small mark over her right eye. ***This case was never charged.***

### **Case 14: Violation of an order for protection-enhanced (felony)**

*1/23/05 Minneapolis police report:*<sup>9</sup> Gallion came to *A*’s apartment, from which *A* thought he had been excluded by an OFP,<sup>10</sup> around 1 a.m., accused her of cheating on him, grabbed her

<sup>8</sup> No contact order information is not available to officers on the street, essentially making these orders unenforceable.

<sup>9</sup> Details from the criminal complaint and *A*’s subsequent petition for an OFP have also been incorporated here, although each document varied somewhat in the facts and sequence of events.

<sup>10</sup> No record exists of this OFP. It could be that *A* was referring to a no contact order from Gallion’s sentence for **Case 11**.

<sup>6</sup> *I* and Gallion have two children together, according to the previous police report.

## CHRONOLOGY OF AN OFFENDER CONTINUED

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by the face, threw her to the ground, and tried to smother her with his hands. She said that he attempted this on a daily basis and had been arrested for it in the past. She was able to call the police, and Gallion ran out of the apartment. A barricaded the front door, but Gallion returned and kicked it in. A called 911, even though Gallion threatened to kill her if she did, and he ran out of the apartment. Gallion was arrested, and bail was set at \$30,000, which was later changed to \$75,000 with no contact with A.

*1/24/05 Arrest and detention orders:* Arrest and detention orders were filed for **Cases 3** and **11** after Gallion failed to obey the no contact order and was charged with **Case 14**.

*1/25/05 Temporary OFP:* A filed a petition for an OFP against Gallion based on the assault from 1/23/05. Judge Patricia Belois issued a temporary OFP and set a hearing for 2/1/05.

*1/26/05 First appearance for Case 14:* Gallion appeared before Judge Bruce Peterson and was appointed a public defender.

*2/1/05 OFP outcome:* Referee Judy Mack vacated A's temporary OFP against Gallion when both parties failed to appear for the hearing.

*2/17/05 Temporary OFP:* A filed another petition for an OFP against Gallion based on the assault from 1/23/05. Judge Belois issued a temporary OFP and set a hearing for 2/25/05.

*2/25/05 OFP outcome:* A, represented by Kimberly Weinacht,

and Gallion appeared before Referee Mark Labine. Gallion denied the allegations in the petition, but agreed to the order barring any acts of domestic abuse against A and all contact.

*3/1/05 Probable cause pretrial for Case 14:* Gallion pleaded not guilty before Judge Beryl Nord and demanded a speedy jury trial.

*4/25/05 Criminal complaint amended for Case 14:* The enhanced violation of an OFP charge was amended to felony false imprisonment, and a felony terroristic threats charge was added.

*4/27/05 Outcome for Case 14:* Judge Kevin Burke dismissed the charges. SIP lists Beverly Benson as the prosecutor and Rene Clemenson as the defense attorney.

*4/27/05 Revocation hearing for Case 11:* Judge Burke revoked Gallion's probation and sentenced him to 68 days with credit for 68 days.

*4/28/05 & 5/2/05 Revocation hearing for Case 3:* Judge Burke heard testimony and asked the parties to return for his ruling.

*5/18/05 Revocation hearing outcome for Case 3:* Judge Burke revoked Gallion's probation and ordered his sentence of 72 months in prison to be executed with credit for 674 days and no work release.

The system can and must do more to stop violent offenders like Gallion. Domestic abuse suspects who are "gone on arrival" must be vigorously

pursued by police and arrested within the 12 hours allowed. Squad cars must be equipped with cameras to record domestic abuse victims' injuries at the time of the assault as well as several days later, when bruises are more noticeable. Training in detecting and recording the more subtle signs of suffocation (and strangulation) must also be required for these first responders. Police on the street must have access to databases with no contact information, and violations of no contact orders must not be overlooked. Prosecutions must proceed even when a victim is not willing or able to cooperate, and dismissing or reducing charges should be strenuously avoided. Successful completion of domestic abuse counseling should always be a part of the sentence. Finally, probation oversight should be keen and judges' consequences severe if an offender is charged, not just convicted, of any subsequent domestic assaults.

*Thank you to the Minneapolis Police Department Records Division for their assistance in gathering information for this chronology.* ☐

**Henry James Richardson**

Richardson was charged with felony 2<sup>nd</sup> degree assault, felony terroristic threats, and felony prohibited person in possession of a firearm for an armed assault on his wife and 12-year-old stepdaughter. At the time, Richardson was on probation for a 2001 felony 3<sup>rd</sup> degree assault and a 2003 felony DWI. Despite 16 years of criminal offenses, including countless misdemeanors and four felonies involving drugs, alcohol, or domestic violence, Richardson has never received significant time in prison. Despite Richardson's guilty plea, claims that he has changed his life, and his persistent requests for probation rather than prison, Judge Jack Nordby sentenced him to 60 months in prison. Elizabeth Cutter was the prosecutor (filling in for Krista Bettinger), and Elizabeth Hughes was the defense attorney.

**Wade James Bove**

Bove was charged with a felony for depriving his wife of parental rights by taking their son to Jamaica from September 2003 until May 2004, when he was arrested. Bove remained in custody until late November 2004, as he was unable to make bail. On November 23, he was conditionally released to properly prepare for the trial, which he was handling *pro se*. At the trial's conclusion, the jury found him guilty. Judge John Holahan delayed imposing his sentence for three years, placing him on probation instead. His probationary conditions include no contact with his wife or son and 180 days in the workhouse with 180 days credit. Charles Salter was the prosecutor.

*continued on page 11*

New court monitors frequently ask what sort of things they should be watching for at court proceedings. In a busy courtroom with a packed gallery and a full calendar to monitor it can be difficult to focus on just one piece of the process. Through our training program we help monitors understand the criminal justice process as well as the nuances of the court system so that they can provide accurate and insightful information on the appearances they observe. Below we have provided an overview of the things we ask volunteers to take note of when monitoring the criminal justice system.

Generally speaking, WATCH monitors both the process and substance of court proceedings. For example, in monitoring the process of courtroom proceedings we note actual and scheduled start times, conduct, and audibility of proceedings. These factors weigh heavily on the public's ability to have meaningful access to the justice system. They also contribute or take away from public trust in the proceedings. The following questions address these process issues:

Does the appearance start on time? If not, does the judge explain why it is late?

How do the participants conduct themselves in the courtroom, both during and in between hearings?

Can you hear and understand what the judge and attorneys are saying?

Does the judge explain what is about to transpire?

Are discussions held, or decisions made, in chambers that should be public?

If you are waiting in the courtroom, does anyone question who you are or what you're waiting for?

Are children in the courtroom? If so, how are their needs addressed?

Is the victim left sitting for long periods of time with the defendant in the courtroom?

Is there a victim advocate present?

Are interpreters needed? If so, are they readily available?

Is a sentencing held in the middle of another calendar, e.g. felony arraignment or drug court? If so, what is the effect?

In monitoring the substance of the court proceedings we pay particular attention to offender accountability and public and victim safety. The following questions pertain to these issues of substance:

Does the judge release the defendant into the community between the time of his conviction or plea and the time that he is to be sentenced?

How much time has passed since the last courtroom appearance in this case?

Does the judge hear or refer to victim impact statements at sentencing? Does the judge acknowledge the victim's pain and/or thank her/him for coming forward?

Does the judge allow the defendant's friends and family members to speak at sentencing?

*continued on page 11*

## VOLUNTEER NOTES

✍ The respondent in one order for protection (OFP) case lives in Anoka County and had not been served with a notice to appear for the hearing. The petitioner was not sure how to get a hold of him. The judge commented on how the lack of communication between counties is often a problem.

✍ A woman came in seeking a dismissal of her OFP. The judge granted the dismissal and said, “Hope he doesn’t kill you tomorrow.”

✍ According to the city attorney, the most one can make to qualify for a public defender is \$6.50/ hour if working full time. About a third of the defendants in domestic violence court today didn’t qualify, though I can’t imagine they could afford to hire attorneys on their limited salaries.

✍ The judge in family court today did not explain the OFP terms or the consequences of violating them.

✍ The judge at the OFP hearing ruled that the incidents described in the petition did not meet the criteria for domestic assault. I find it odd that being told, “You deserve to be shot in the head” and a child having repeated facial bruising did not qualify as domestic abuse. Isn’t it better to err on the side of protection?

✍ There was a loud ringing sound—possibly from the lights or something electronic—in domestic violence court today. The noise was so loud I had to cover my ears, but no one did anything about it. Also, the lawyers did not turn on their microphones, so I could hardly hear anything over the noise.

✍ At his sentencing for domestic assault, which took place in drug court, the defendant stated, “I’ve learned my lesson two or three times now. I just gotta learn how to control my temper.” I’m not sure if the victim was present, but it was noisy and chaotic—a horrible environment for sentencing a repeat abuser!

✍ In felony arraignment court, a 19-year-old in custody was leaning through the glass partition throughout his hearing trying to get the phone number of a woman in the courtroom. ☐

## SUMMARIES CONT’D.

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### Javaughnta Lee Robinson

Robinson pleaded guilty to felony 1<sup>st</sup> degree criminal sexual conduct for raping his wife in January 2005. The assault, which occurred shortly after the birth of the couple’s third child, involved forced sexual penetration and left the victim with bruises and cuts. Judge Beryl Nord noted in her downward dispositional departure from sentencing guidelines the victim’s strong preference that the defendant not be sent to prison. She ordered a stay of imposition of 144 months if Robinson successfully completes five years of probation. Robinson was given 180 days in the workhouse and probationary conditions that include sex offender treatment, registration as a sex offender, no alcohol/drugs, and no contact with his children or the victim. Successful completion of these conditions will drop the charge to a misdemeanor. Elizabeth Cutter was the prosecutor and Elizabeth Fowlds was the defense attorney. ☐

## MONITORS CONT’D.

*continued from page 10*

Does the judge make a strong statement to the defendant at sentencing?

Does the judge explain the reasons for decisions?

Does the judge refer to information about the pre-sentence investigation and the defendant’s criminal history?

What are the consequences for a defendant who has violated the conditions of probation?

In addition to the above information, WATCH asks volunteers to note anything that strikes them as unusual or out of line such as:

Treatment of defendants, witnesses, and victims by attorneys, judges, parole officers, advocates, and deputies.

The actions of jury members and how they are handled.

Discriminatory statements or actions that occur during court proceedings.

If someone approaches a court monitor, what comments or questions are directed to WATCH?

It is our goal that by monitoring both the substance and process of the criminal justice system we contribute to it being fully accessible to the public, holding perpetrators of violence accountable, and providing safety for crime victims. ☐

## WATCH

608 Second Ave South #465  
Minneapolis, MN 55402  
(612) 341-2747  
E-MAIL: [watch@watchmn.org](mailto:watch@watchmn.org)  
WEB: [www.watchmn.org](http://www.watchmn.org)

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## GOLD WATCH

On April 28, WATCH honored University of Minnesota professor Beverly Balos with its 2005 Sheila Wellstone Gold WATCH award. Professor Balos participated in drafting Minnesota's Domestic Abuse Act, one of the first such statutes in the country. Her extensive academic and community work are centered on analyzing and developing effective legal remedies for addressing violence against women.

Presenting the award, WATCH executive director Marna Anderson said, "Bev's community involvement and legal expertise have led to greater

legal protections for victims of domestic violence in civil and criminal courts. She never loses sight of her goal—to create a legal system that works for battered women, a legal system that is focused on safety for women and children and freedom from domestic violence."

The Sheila Wellstone Gold WATCH award is given annually to recognize leadership on behalf of women and children who are victims of sexual assault, domestic abuse, or child abuse. ☐

## VOLUNTEERS NEEDED

WATCH is recruiting interns and volunteers for the next training, scheduled for Tuesday, September 27, and Thursday, September 29, from 6 to 9 p.m. Volunteer court monitors commit to monitoring one daytime shift per month at the Hennepin County courts. Morning shifts are from 8:30-12pm and afternoon shifts are 1:30-4:30pm.

Visit the WATCH website at [www.watchmn.org/volunteer](http://www.watchmn.org/volunteer) for more information or to fill out a volunteer/intern application.

Openings are limited and fill up quickly, so please send your application in early if you are interested. ☐

Thank you to Rebecca Kutty for editing and Val Lies for layout of *WATCH Post*.