

1 VISTA, CALIFORNIA; MONDAY, APRIL 4, 2011, 10:06 A.M.

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3 THE COURT: WE'RE BACK ON THE RECORD FROM LAST
4 WEDNESDAY ON THE TRI-CITY RESTRAINING ORDER CASES.

5 I SPENT A LOT OF TIME THIS WEEKEND WRITING OUT
6 WHAT I THOUGHT, SO I THINK I'M GOING TO DO -- I COULD DO
7 THIS IN A DIFFERENT WAY, BUT I'M JUST GOING TO READ THIS.
8 AND IT WILL TAKE ABOUT EIGHT OR TEN MINUTES TO READ IT,
9 BUT I THINK BECAUSE OF THE AMOUNT OF TIME THAT WAS SPENT
10 ON THE CASE AND THE PUBLIC INTEREST IN THE CASE, IF I --
11 RATHER THAN JUST TELL YOU WHAT I THINK IN A CONCLUSION,
12 I'D LIKE TO READ THIS.

13 ORIGINALLY ON THESE CASES THERE WERE EIGHT
14 REQUESTS FOR RESTRAINING ORDERS. TWO OF THE PEOPLE
15 WITHDREW THEIR REQUESTS, THAT IS STEIN AND YU, SO NOW
16 THERE ARE SIX.

17 FIRST IN MAKING THE DECISION, I HAD TO REVIEW THE
18 LAW. THE LAW IS IN CALIFORNIA CIVIL CODE, PROCEDURE SECTION
19 527.8.

20 THE PETITIONERS IN ORDER TO HAVE A PETITION OR AN
21 ORDER SIGNED MUST SHOW THAT MRS. STERLING ENGAGED IN
22 "UNLAWFUL VIOLENCE" OR A "CREDIBLE THREAT OF VIOLENCE"
23 TOWARDS THEM.

24 UNLAWFUL VIOLENCE IS DEFINED AS ASSAULT OR BATTERY
25 IN VIOLATION OF PENAL CODE SECTIONS 240 OR 242. TO BE
26 GUILTY OF AN ASSAULT, THE DEFENDANT MUST WILLFULLY, WHICH
27 MEANS ON PURPOSE, DO AN ACT THAT SHE WAS AWARE WOULD RESULT
28 IN TOUCHING ANOTHER PERSON IN A HARMFUL OR OFFENSIVE MANNER.

1 TO BE GUILTY OF A BATTERY, THE DEFENDANT, OR RESPONDENT,
2 TECHNICALLY, MUST WILLFULLY OR ON PURPOSE TOUCH ANOTHER
3 PERSON IN A HARMFUL OR OFFENSIVE MANNER. THE POSSIBLE
4 DEFENSES TO BOTH CRIMES INCLUDE ACCIDENTAL OR INADVERTENT
5 CONTACT AND CONTACT AS A RESULT OF SELF-DEFENSE.

6 THE TERM "CREDIBLE THREAT OF VIOLENCE" IS
7 DEFINED AS A KNOWING AND WILLFUL STATEMENT OR COURSE OF
8 CONDUCT THAT COULD PLACE A REASONABLE PERSON IN FEAR OF
9 HIS SAFETY AND THAT SERVES NO LEGITIMATE PURPOSE.

10 "COURSE OF CONDUCT" IS DEFINED AS A PATTERN OF CONDUCT
11 OVER OR DURING ANY PERIOD OF TIME OR ANY AMOUNT OF TIME.

12 THEREFORE, THE QUESTION BEFORE THE COURT IS
13 WHETHER OR NOT STERLING VIOLATED PENAL CODE SECTION 240
14 OR 242 AND/OR WHETHER SHE MADE STATEMENTS OR ENGAGED IN A
15 COURSE OF CONDUCT THAT WOULD CAUSE A REASONABLE PERSON TO
16 BE IN FEAR FOR HIS SAFETY. THE TERM "FEAR FOR HIS
17 SAFETY" IS NOT DEFINED IN ANY CODE, PARTICULARLY IN THE
18 CODE OF CIVIL PROCEDURE. THE CASE LAW DISCUSSES IT. A
19 BROAD DEFINITION IS THAT A PERSON MUST FEAR SOMETHING
20 MEANINGFUL OR SIGNIFICANT AS OPPOSED TO SOMETHING TRIVIAL
21 OR UNIMPORTANT.

22 THERE ARE DIFFERENT TYPES OF RESTRAINING ORDERS.
23 THEY HAVE DIFFERENT STANDARDS OF PROOF. SOME TYPES REQUIRE
24 ONLY A PREPONDERANCE OF THE EVIDENCE. THE TYPE OF
25 RESTRAINING ORDER REQUESTED IN THIS CASE, A WORKPLACE
26 RESTRAINING ORDER, REQUIRES PROOF BY CLEAR AND CONVINCING
27 EVIDENCE, WHICH IS A SIGNIFICANTLY HIGHER BURDEN OF PROOF
28 THAN BY A PREPONDERANCE OF THE EVIDENCE. IN A WORKPLACE

1 VIOLENCE CASE, IF THE PETITIONER PROVES HIS CASE ONLY BY A
2 PREPONDERANCE OF THE EVIDENCE, HE IS NOT ENTITLED TO A
3 RESTRAINING ORDER.

4 ALL THE PETITIONERS' CASES WERE CONSOLIDATED
5 FOR TRIAL. HOWEVER, EACH CASE WILL BE DECIDED SEPARATELY
6 AND EACH HAS SLIGHTLY DIFFERENT ISSUES.

7 IT IS IMPORTANT TO NOTE THAT FOR THE PURPOSE OF
8 THIS HEARING THE COURT ASSUMED THE VALIDITY OF THE
9 "EXCLUSION ORDERS" OR SANCTIONS BY THE BOARD. WHETHER OR
10 NOT THEY ARE ACTUALLY VALID IS NOT SOMETHING THAT I WAS -- I
11 NEED TO DECIDE, AND THAT ISSUE MAY BE DECIDED IN THE FUTURE
12 AT ANOTHER TYPE OF HEARING.

13 THE COURT IS NOT CHARGED WITH MAKING LEGAL
14 FINDINGS RELATING TO ANY POLITICAL DECISION OF STERLING OR
15 THE BOARD OR THE ATTORNEYS OR THE ADMINISTRATION.

16 IT IS NOT THE COURT'S JOB TO FIGURE OUT WHAT
17 HAPPENED. IT IS THE COURT'S JOB TO DETERMINE IF THE
18 PETITIONERS PROVED THEIR CASE BY A CLEAR AND CONVINCING
19 MARGIN.

20 AND I NOW WANT TO SUMMARIZE WHAT I THINK THE
21 PETITIONERS' ARGUMENTS WERE.

22 MS. STERLING HAS A POOR QUALITY RELATIONSHIP WITH
23 MOST BOARD MEMBERS, THE HOSPITAL C.E.O., AND THE
24 ATTORNEYS -- AT LEAST SOME OF THE ATTORNEYS.

25 EACH PETITIONER HAS ISSUES WITH STERLING THAT
26 PREDATE THE 2-24-11 BOARD MEETING. BEFORE THAT MEETING,
27 NONE OF THE PETITIONERS COULD HAVE RETAINED -- COULD HAVE
28 OBTAINED A RESTRAINING ORDER. I SAID THAT BEFORE. I AM

1 CONFIDENT THAT THAT'S TRUE.

2 EACH PETITIONER ARGUES THAT THE EVENTS OF
3 2-24-11, THAT IS, FEBRUARY 24TH, 2011, COMBINED WITH THE
4 PREVIOUS ACTS, PROVIDES SUFFICIENT PROOF THAT AN ORDER
5 SHOULD BE ISSUED. PETITIONERS' ARGUMENTS REST ON THEIR
6 INTERPRETATION OF THE PREVIOUS ACTS AND THEIR
7 INTERPRETATION OF THE FEBRUARY 24TH EVENTS AS AN ATTACK
8 OR BATTERY ON RICK CROOKS. THE NEXT STEP IN THE ARGUMENT
9 IS THAT THE "ATTACK" ON CROOKS IS CLEAR AND CONVINCING
10 EVIDENCE THAT THEY SHOULD BE AND ARE AFRAID OF STERLING
11 AND THAT THEIR FEAR IS REASONABLE.

12 THE BOARD AND THE C.E.O. HAVE TAKEN MANY
13 ACTIONS AGAINST MS. STERLING. THIS INCLUDES SANCTIONS,
14 LOSS OF MEDICAL AND INSURANCE BENEFITS, EXCLUSION FROM
15 BOARD MEETINGS, A LAWSUIT, REFERRING CRIMINAL CHARGES TO
16 THE DISTRICT ATTORNEY'S OFFICE, AND THESE RESTRAINING
17 ORDERS. THE TAXPAYERS HAVE FUNDED THE BOARD IN ALL THESE
18 ACTIONS. AND I NOTE AS A SIDE NOTE THAT DURING THIS
19 TRIAL THERE WERE THREE LAWYERS HERE AT ALL TIMES FOR THE
20 HOSPITAL BOARD.

21 MS. STERLING IS APPARENTLY USING HER OWN
22 RESOURCES, AND OBVIOUSLY THESE PROCEEDINGS ARE VERY
23 EXPENSIVE TO ALL PARTIES.

24 DURING THE TRIAL I FOUND AND FIND AS A FINDING
25 THAT MS. STERLING MADE NO VERBAL THREATS TO ANYONE. SO
26 MS. STERLING MADE NO VERBAL THREATS TO ANY PETITIONER OR
27 TO ANYONE ELSE. SOME OF THE LANGUAGE SHE USED WAS
28 PERHAPS UNDESIRABLE OR OFFENSIVE, BUT THERE WERE NO

1 VERBAL THREATS EITHER DIRECT OR INDIRECT. THE LACK OF
2 VERBAL THREATS IS STRONG CIRCUMSTANTIAL EVIDENCE THAT THE
3 OTHER CONDUCT COMPLAINED ABOUT WAS NOT INTENDED AS A
4 THREAT OF PHYSICAL VIOLENCE.

5 MOST OF THE THINGS COMPLAINED ABOUT BY THE
6 PETITIONERS WERE TRIVIAL AND INCONSEQUENTIAL. EACH WILL
7 BE DISCUSSED IN MORE DETAIL AS I GO ON.

8 WHETHER OR NOT MS. STERLING COMMITTED A BATTERY
9 OR AN ASSAULT ON 2-24 WILL BE DISCUSSED WHEN I TALK ABOUT
10 MR. CROOKS' PETITION.

11 THERE'S ALSO A THEME IN THE PETITIONERS'
12 CASES -- IN ALL THEIR CASES. AND THE THEME IS THE
13 ALLEGATION OF ESCALATING AGGRESSIVE CONDUCT. THERE WERE
14 ALLEGATIONS THAT MS. STERLING IS "COMPLETELY UNHINGED,"
15 INCREASINGLY HOSTILE, UNPREDICTABLE, AND THAT SHE LOST
16 CONTROL IN CLOSED SESSIONS.

17 THE COURT BELIEVES THAT VIRTUALLY NO EVIDENCE
18 OF THIS THEME, OR ANY OF THESE CLAIMS, WAS PRESENTED IN
19 THE TRIAL. VERY COMPETENT COUNSEL REPRESENTED THE
20 PETITIONERS. THE COURT BELIEVES THAT IF SUCH EVIDENCE
21 ACTUALLY DID EXIST IT WOULD HAVE BEEN PRESENTED IN THE
22 TRIAL.

23 EACH PETITIONER'S CASE WILL NOW BE DISCUSSED
24 SEPARATELY. FIRST MATTHEW SOSKINS.

25 SOSKINS'S ONLY PHYSICAL CONTACT WITH STERLING WAS
26 THE ALLEGATION THAT SHE "GRABBED" HIS NAME TAG OR BADGE,
27 WHICH WAS HANGING FROM A STRING OR CHAIN AROUND HIS NECK TO
28 LOOK AT HIS NAME SO SHE WOULD KNOW WHO HE WAS. THIS IS MUCH

1 CLOSER TO A LEGAL TERM "INVITED CONTACT" THAN TO A BATTERY.
2 IT IS NOT AN ASSAULT. THE PURPOSE OF HAVING A NAME TAG IS
3 FOR OTHER PEOPLE TO BE ABLE TO READ YOUR NAME. SHE ALSO
4 TOLD HIM THAT HIS BOSS WAS A "DANGEROUS PERSON." HOWEVER,
5 SHE NEVER THREATENED HIM. SHE NEVER THREATENED HIS BOSS.
6 HIS ONLY CONTACT WITH HER WAS DURING BOARD MEETINGS. HE
7 SAYS SHE WAS LOUD, TOOK PHOTOS, AND USED OFFENSIVE LANGUAGE.

8 HE IS AFRAID SHE MIGHT HAVE A GUN AND MIGHT
9 HARM HIM BECAUSE SHE VIEWS HIM AS PART OF THE ORANGE
10 COUNTY CONSPIRACY.

11 THE COURT DOES NOT KNOW IF SOSKINS FEARS STERLING.
12 IT WAS NOT PROVED BY CLEAR AND CONVINCING EVIDENCE, HOWEVER.
13 THERE WAS NO ASSAULT. THERE WAS NO BATTERY. ALTHOUGH IT IS
14 POSSIBLE THAT MR. SOSKINS'S BELIEFS ARE CORRECT, THEY ARE
15 SPECULATION. THEY ARE NOT BASED ON FACTS PROVED IN THE
16 TRIAL. PETITIONER SOSKINS DID NOT PROVE THERE'S A CREDIBLE
17 THREAT OF VIOLENCE TO HIM FROM STERLING.

18 THE FACT THAT HE WITNESSED THE TWO EVENTS
19 INVOLVING STERLING AND SECURITY ON FEBRUARY 24TH DOES NOT
20 SUPPORT ANY THEORY UNDER WHICH HE IS ENTITLED TO A
21 RESTRAINING ORDER.

22 NEXT LARRY ANDERSON. THAT WOULD BE THE
23 HOSPITAL C.E.O.

24 AFTER THE MAY 23RD, 2010 "STEAKHOUSE" MEETING AT
25 WHICH ANDERSON WAS NOT PRESENT, HIS RELATIONSHIP WITH
26 STERLING WAS NOT GOOD. HE ALLEGES PRETTY MUCH THE SAME
27 THING. SHE USED OBSCENITIES. SHE'S VULGAR. SHE MAKES
28 DISPARAGING COMMENTS, AND HER HOSTILITY AND AGGRESSIVENESS

1 HAVE ESCALATED. SHE IS DISRUPTIVE AT BOARD MEETINGS. SHE
2 SAID SHE WOULD "SHAKE THINGS UP" AT ONE MEETING. HE IS
3 AFRAID BECAUSE OF HER "ATTACK" ON PETITIONER CROOKS.

4 THERE WAS ALSO A DOOR PULLING INCIDENT BETWEEN
5 ANDERSON AND STERLING ON 9-23-2010. IN THE COURT'S VIEW,
6 THIS WAS SUCH AN INCONSEQUENTIAL EVENT THAT IT REQUIRES
7 NO FURTHER DISCUSSION, IS NOT A BASIS FOR ANY ACTION BY
8 ANDERSON.

9 THE COURT DOES NOT BELIEVE THERE WAS AN ATTACK
10 ON PETITIONER CROOKS. STERLING'S WORDS ARE WELL WITHIN
11 HER RIGHT TO SPEAK FREELY. PETITIONER ANDERSON PROVIDED
12 NO EVIDENCE TO THE COURT THAT WOULD SUPPORT A RESTRAINING
13 ORDER.

14 NEXT, ROSEMARIE RENO.

15 PETITIONER RENO'S CLAIMS ARE GENERALLY THE SAME
16 AS THE OTHER PETITIONERS. SHE ALLEGES STERLING USES LOUD
17 AND OFFENSIVE LANGUAGE. SHE IS DISRUPTIVE AT MEETINGS.
18 SHE IS HOSTILE. SHE WANTS OTHER BOARD MEMBERS TO VOTE IN
19 CERTAIN WAYS, AND SHE WANTS PARTICULAR COMMITTEE
20 ASSIGNMENTS. SHE IS LOUD AND OFFENSIVE AND AGGRESSIVE
21 WHEN MAKING THESE REQUESTS.

22 RENO CLAIMS STERLING TOUCHED, OR GRABBED, HER
23 ARM AT A CONFERENCE ON MAY 12, 2010. THERE IS NO OTHER
24 ALLEGATION OF PHYSICAL CONTACT. THERE WERE NO VERBAL OR
25 PHYSICAL THREATS.

26 RENO ALSO ALLEGED STERLING FOLLOWED, OR
27 ACCOMPANIED, HER TO HER CAR WHILE DISCUSSING BOARD
28 ISSUES. I DON'T HAVE THE DATE WRITTEN DOWN HERE, BUT I

1 KNOW THAT WAS RECENTLY.

2 STERLING -- OR RENO TOLD STERLING TO STOP AND
3 GO AWAY. STERLING PERSISTED. RENO GOT IN HER CAR.
4 STERLING LEFT. THIS IS DEFINITELY NOT STALKING.
5 STERLING WAS DISCUSSING BOARD BUSINESS AFTER A BOARD
6 MEETING. THE FACT THAT PETITIONER RENO DID NOT LIKE IT
7 DOES NOT SUPPORT A FEAR THAT STERLING WILL HARM HER IN
8 THE COURT'S OPINION.

9 RENO RELIES ON STERLING'S CONDUCT ON FEBRUARY
10 24TH, 2011 TO SUPPORT HER CLAIMS, AS DO ALL THE OTHER
11 PETITIONERS. THE ARGUMENT MUST BE THAT IF STERLING WILL
12 CONFRONT A SECURITY GUARD, THAT NO ONE IS SAFE. THE
13 COURT'S VIEW OF WHAT WAS PROVED RELATING TO THE 2-24
14 INCIDENT WILL BE DISCUSSED IN A MINUTE.

15 IT IS NOTED SIGNIFICANTLY THAT THE PETITIONER
16 RENO'S VERSION OF THE SECOND INCIDENT ON FEBRUARY 24TH,
17 2011 IS SO EXTREMELY DIFFERENT FROM EVERYONE ELSE'S
18 VERSION THAT IT COULD NOT POSSIBLY BE ACCURATE. HER
19 SUBJECTIVE CLAIM OF FEAR IS BASED ON A SET OF
20 CIRCUMSTANCES THAT SHE SAYS SHE WITNESSED BUT WHICH
21 CLEARLY DID NOT ACTUALLY OCCUR.

22 PETITIONER RENO DID NOT PROVE BY CLEAR AND
23 CONVINCING EVIDENCE THAT SHE IS ENTITLED TO A RESTRAINING
24 ORDER.

25 CHARLENE ANDERSON.

26 PETITIONER CHARLENE ANDERSON'S CLAIMS ARE
27 SIMILAR TO PETITIONER RENO'S. SHE ALLEGES LOUD,
28 OFFENSIVE LANGUAGE, HOSTILITY, INTIMIDATION AND FEAR OF

1 STERLING FOR WHAT SHE DID TO THE SECURITY GUARDS. SHE
2 WAS NEVER VERBALLY THREATENED BY STERLING.

3 SHE ALLEGES A "SHOULDER BUMP" INCIDENT OVER TWO
4 YEARS AGO IN A BOARD MEETING IN JANUARY OF 2009. STERLING
5 DENIES THAT INCIDENT. THE COURT BELIEVES THE ACTUAL FACTS
6 OF THAT INCIDENT WERE PROBABLY CLOSER TO PETITIONER
7 ANDERSON'S VERSION OF THE FACTS THAN STERLING'S VERSION OF
8 THE FACTS. HOWEVER, THIS IS AN OLD INCIDENT. AND AT LEAST
9 BECAUSE IT'S OLD AND FOR OTHER REASONS, IT DOES NOT BY
10 ITSELF JUSTIFY THE REQUESTED RELIEF.

11 PETITIONER CHARLENE ANDERSON'S MAIN CLAIM IS
12 THAT HER FEAR COMES FROM WITNESSING THE INCIDENTS ON
13 FEBRUARY 24TH.

14 IN THE COURT'S OPINION IT IS A MAJOR JUMP IN LOGIC
15 FOR A REASONABLE PERSON TO BELIEVE THEY ARE PERSONALLY IN
16 DANGER FROM WHAT THE COURT BELIEVES IS PROVED ABOUT THE
17 FEBRUARY 24TH INCIDENT.

18 THEREFORE, PETITIONER CHARLENE ANDERSON DID NOT
19 PROVE BY CLEAR AND CONVINCING EVIDENCE THAT SHE IS
20 ENTITLED TO A RESTRAINING ORDER.

21 GEORGE COULTER.

22 PETITIONER COULTER'S CLAIMS AGAIN ARE SIMILAR TO
23 ANDERSON'S AND RENO'S. HE WAS AT THE "STEAKHOUSE" MEETING.
24 HE LEFT BECAUSE STERLING WAS LOUD AND HOSTILE. AND I DON'T
25 HAVE ANY REASON TO DOUBT THAT. THE COURT BELIEVES HIS
26 TESTIMONY ABOUT STERLING BEING LOUD AND HOSTILE. AT A BOARD
27 MEETING AT ANOTHER TIME SHE WANTED TO DISCUSS HIS
28 PROFESSIONAL LICENSE STATUS WITH HIM. HE DIDN'T WANT TO

1 TALK ABOUT IT, SO HE ADVISED STERLING THAT HE DIDN'T WANT TO
2 TALK ABOUT IT. SHE CONTINUED TO FOLLOW HIM AROUND THE
3 BOARDROOM UNTIL HE WENT INTO THE MEN'S ROOM. SHE WAS TRYING
4 TO DISCUSS A BOARD RELATED MATTER WITH HIM DURING A BREAK IN
5 THE BOARD MEETING AND HE DID NOT LIKE IT. AND I DON'T SEE
6 THAT INCIDENT AS ANY GREATER THAN THAT.

7 AS WITH THE OTHER PETITIONERS, COULTER WAS
8 NEVER VERBALLY THREATENED. ALL OF HIS CONTACT WITH
9 STERLING RELATED TO BOARD MATTERS. SHE NEVER TOUCHED
10 HIM. HER HOSTILITY IS WHAT CONCERNS HIM.

11 THE COURT THINKS COULTER MAY ACTUALLY HAVE A
12 SUBJECTIVE FEAR OF STERLING. HOWEVER, THE REASONS GIVEN
13 FOR THAT FEAR ARE NOT SUFFICIENT FOR THE COURT TO FIND A
14 REASONABLE FEAR EXISTS BY CLEAR AND CONVINCING EVIDENCE.
15 THEREFORE, PETITIONER COULTER'S REQUEST FOR A RESTRAINING
16 ORDER IS DENIED.

17 PETITIONER CROOKS.

18 PETITIONER CROOKS PROVIDED THE MOST CREDIBLE
19 TESTIMONY OF ANY MAJOR WITNESS IN THE TRIAL. HIS CONTACT
20 WITH STERLING WAS BEFORE AND AFTER THE PUBLIC MEETING ON
21 FEBRUARY 24TH.

22 THE BOARD HAD PREVIOUSLY SANCTIONED STERLING.
23 ALTHOUGH I BELIEVE THAT THE TERM IN THE TRIAL WAS CENSURED,
24 NOT SANCTIONED. SHE WAS NOT ALLOWED IN THE MEETING ROOM
25 DURING, AND I EMPHASIZE "DURING" BOARD MEETINGS. IN
26 HINDSIGHT, THE CENSURE, OR SANCTION MAY HAVE BEEN POORLY
27 DRAFTED. THERE WAS NOTHING IN THE SANCTION OR CENSURE TO
28 PROHIBIT STERLING FROM BEING IN THE BOARDROOM BEFORE OR

1 AFTER THE MEETINGS.

2 THE FIRST INCIDENT. FIVE MINUTES BEFORE THE
3 MEETING STERLING ENTERED THE ROOM. SECURITY GUARDS,
4 INCLUDING CROOKS, BLOCKED HER ADVANCE INTO THE ROOM. SHE
5 TRIED TO WALK AROUND THEM, BUT THEY MOVED AND CONTINUED
6 TO BLOCK HER ADVANCE. AT MOST, STERLING BUMPED INTO
7 CROOKS. IT WAS NOT HARD ENOUGH TO MOVE HIM. THERE WAS
8 ABSOLUTELY NO INJURY.

9 THE ATTORNEYS DID NOT RAISE OR ARGUE A LEGAL POINT
10 THAT THE COURT BELIEVES IS IMPORTANT, SO I WILL NOW RAISE
11 THAT.

12 WHAT LEGAL RIGHT DID THE GUARDS HAVE TO BLOCK
13 STERLING'S ADVANCE INTO THE BOARDROOM BEFORE THE MEETING?
14 AT BEST, IF SHE ENTERED DURING THE MEETING, IT COULD BE
15 ARGUED THAT IT WAS ONE OF THE MANY TYPES OF CRIMINAL
16 TRESPASS. I DIDN'T WANT TO BE MORE TECHNICAL ABOUT THAT,
17 BUT THERE'S -- SO I'LL LEAVE IT AT THAT.

18 A CRIMINAL TRESPASS MIGHT GIVE THE GUARDS THE
19 LEGAL RIGHT TO PHYSICALLY PREVENT HER FROM ENTERING.
20 HOWEVER, IF SHE ENTERED BEFORE THE MEETING, THERE COULD
21 BE NO CRIMINAL TRESPASS, AND THE GUARDS WOULD HAVE NO
22 LEGAL RIGHT TO BLOCK HER ADVANCE. IN FACT, THE GUARDS
23 MAY BE THE ONES WHO COMMITTED THE ASSAULT OR BATTERY. AN
24 ARGUMENT MIGHT BE MADE THAT "DURING" THE MEETING INCLUDES
25 A SHORT TIME BEFORE AND AFTER THE MEETINGS. I DON'T
26 REALLY KNOW. IT WAS NOT PROVED BY CLEAR AND CONVINCING
27 EVIDENCE TO ME THAT STERLING DID NOT HAVE A RIGHT TO
28 ENTER THE BOARDROOM BEFORE THE MEETING.

1 AT THE VERY WORST FOR STERLING SHE COMMITTED A
2 BATTERY ON PETITIONER CROOKS. AT THE VERY BEST FOR
3 STERLING, CROOKS COMMITTED A BATTERY ON HER. NEITHER PERSON
4 WOULD BE CHARGED OR CONVICTED BY ANY PROSECUTING AGENCY IN A
5 CRIMINAL CASE. THIS COURT CANNOT FIND BY A PREPONDERANCE OF
6 THE EVIDENCE THAT STERLING COMMITTED EITHER AN ASSAULT OR A
7 BATTERY. HER INTENTION WAS CLEARLY TO GET AROUND THE GUARDS
8 AGAIN BEFORE THE MEETING, NOT TO COME INTO CONTACT WITH
9 THEM.

10 THE COURT NOTES CRAIG LAWYER DID NOT TESTIFY.
11 VARIOUS PETITIONERS INFERRED THAT STERLING SOMEHOW CAUSED
12 HIS ARM TO BLEED. THERE IS ABSOLUTELY NO EVIDENCE IN THIS
13 TRIAL TO SUPPORT THAT CLAIM.

14 SECOND INCIDENT.

15 AFTER THE FIRST INCIDENT STERLING WENT TO ROOM 7
16 TO ATTEND A MEETING FROM A REMOTE LOCATION. DURING THE
17 MEETING HER COMMUNICATION EQUIPMENT DID NOT WORK PROPERLY.
18 IT WORKED PROPERLY SOME OF THE TIME, BUT NOT THE OTHER
19 TIMES. AT THE END OF THE PUBLIC MEETING AND BEFORE THE
20 BEGINNING OF THE CLOSED SESSION, HER TELEVISION MONITOR
21 WHICH SHE USED FOR THE PURPOSE OF SETTING THE MEETING WAS
22 REMOVED FROM ROOM 7. STERLING WENT TO THE BOARDROOM DOOR
23 AND CALLED OUT FOR RENO AND KAREN AS WAS APPARENTLY REQUIRED
24 BY BOARD RULES IN ORDER TO SOLVE THE TELEVISION PROBLEM SO
25 THAT SHE WOULD HAVE A TELEVISION DURING THE CLOSED SESSION.

26 AT SOME POINT, ACCORDING TO PETITIONER CROOKS,
27 WHO GAVE THE MOST CREDIBLE ACCOUNT OF THE EVENT, STERLING
28 STOOD BEHIND HIM, REACHED OVER HIS SHOULDER AND TOOK A

1 PHOTO. SHE TOUCHED HIM ENOUGH THAT HE BECAME AWARE OF
2 HER PRESENCE AND INSTINCTIVELY PUSHED BACKWARDS AND
3 TURNED AROUND. THIS TURNING ACTION CAUSED STERLING'S
4 WEIGHT TO BE ON HIS BACK WHILE IT WAS TWISTED. THIS
5 RESULTED IN A MINOR MUSCLE STRAIN.

6 THE COURT DOES NOT BELIEVE THERE IS PROOF BY
7 CLEAR AND CONVINCING AMOUNT THAT AN ASSAULT OR BATTERY
8 TOOK PLACE. STERLING'S GOAL WAS NOT TO TOUCH CROOKS BUT
9 TO CONVERSE WITH RENO OR WITH KAREN ABOUT THE T.V. AND TO
10 TAKE A PHOTO. MORE LIKELY THAN NOT, THE TOUCHING WAS NOT
11 EVEN INTENTIONAL BUT MORE LIKELY CARELESS.

12 STERLING'S CONDUCT OBVIOUSLY COULD HAVE BEEN
13 MUCH BETTER. THE COURT DOES NOT BELIEVE THAT
14 MS. STERLING'S VERSION OF THE EVENTS OF INCIDENT TWO WERE
15 ACCURATE. REALLY THE ONLY ONE I FOUND OF REALLY A LOT OF
16 CREDIBILITY OF THAT INCIDENT TWO WAS MR. CROOKS.
17 HOWEVER, THE COURT DOES NOT BELIEVE BY CLEAR AND
18 CONVINCING EVIDENCE THAT HER CONDUCT WAS A THREAT TO ANY
19 OF THE OTHER PETITIONERS.

20 PETITIONER CROOKS ALSO TESTIFIED HE IS NOT
21 AFRAID OF STERLING. HE SAID HE WAS CONCERNED. BECAUSE
22 OF HIS HONEST TESTIMONY, THAT IS, THAT HE'S NOT AFRAID,
23 HE'S NOT IN FEAR, HE'S NOT ENTITLED TO A RESTRAINING
24 ORDER BECAUSE HE'S NOT AFRAID OF STERLING. THE COURT
25 ALSO DOES NOT BELIEVE HER CONDUCT IN BOTH INCIDENTS IS
26 SUFFICIENT FOR A RESTRAINING ORDER EVEN IF HE TESTIFIED
27 THAT HE WAS AFRAID OF STERLING.

28 IN SUMMARY, NEITHER SIDE IN THIS CASE IS

1 WITHOUT FAULT. MS. STERLING COULD MODIFY HER CONDUCT AND
2 MAKE MORE OF AN ATTEMPT TO GET ALONG WITH THE
3 PETITIONERS. MS. STERLING IS NOW REPRESENTED BY COUNSEL,
4 AND I BELIEVE THAT'S A REALLY GOOD THING AND CAN PROBABLY
5 SOLVE A LOT OF PROBLEMS BETWEEN MS. STERLING AND THE
6 PETITIONERS.

7 BUT IN THE END, NONE OF THE PETITIONERS PROVED
8 THEIR CASE WITH CLEAR AND CONVINCING PROOF. THEREFORE,
9 AS TO EACH PETITIONER, THEIR REQUEST FOR A RESTRAINING
10 ORDER IS DENIED.

11 THAT'S THE BEST I CAN DO.

12 MR. MCMILLAN: YOUR HONOR, WE APPRECIATE, AND I
13 KNOW I SPEAK FOR EVERYBODY, THE AMOUNT OF TIME AND
14 ATTENTION THAT YOU PAID TO THIS DISPUTE.

15 THE COURT: WELL, EVERYBODY DID A GOOD JOB.
16 AND AS I SAID, THAT'S THE BEST I CAN DO.

17 SO MS. STERLING, DO YOUR PART TO MAKE THINGS WORK,
18 AND HOPEFULLY THE PETITIONERS WILL DO THEIR PART TO MAKE
19 THINGS WORK. AND HOPEFULLY WITH MR. MCMILLAN'S HELP, THINGS
20 WILL BE BETTER.

21 MS. STERLING: (NODS HEAD.)

22 THE COURT: ALL RIGHT. WE'RE IN RECESS.

23 AS TO THE EXHIBITS, ALL THE EXHIBITS ARE GOING
24 TO BE RETURNED TO THE PARTIES PROVIDING THEM.

25 MR. MCMILLAN: THANK YOU, YOUR HONOR.

26 MS. TUCKER: THANK YOU, YOUR HONOR.

27 (ADJOURNED.)

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