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Mr. Roger Wittekind  
P. O. Box 432  
Eldridge, IA 52748

Re: Hearing on February 16, 1993

No. 90 SC 3806

Roger Wittekind v. Beverly Rusk

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Official Court Reporter

Diane Reason  
Official Court Reporter

1 IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
2 ROCK ISLAND COUNTY, ILLINOIS  
3 GENERAL DIVISION  
4

5 ROGER WITTEKIND,

6 Plaintiff,

7 vs.

No. 90 SC 3806

8 BEVERLY RUSK,

9 Defendant.

Motion to Reopen

10 REPORT OF PROCEEDINGS of the hearing before the  
11 Honorable John M. Telleen on the 16th day of February, 1993.

12 APPEARANCES:

13 Plaintiff in court pro se

14 Defendant by Attorney Duane Thompson  
15  
16  
17  
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19  
20

21 Diane Reason

22 Official Court Reporter  
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1 BY THE COURT: Is this part of your motion?

2 MR. THOMPSON: Yes, it is the attachments that  
3 support the dates and descriptions.

4 BY THE COURT: I am going to take your motion to  
5 strike.

6 MR. WITTEKIND: I have four witnesses, Your Honor.

7 BY THE COURT: Well we will see about them after  
8 we hear your motion to strike. Mr. Wittekind, the docket  
9 shows that today you filed a motion.

10 MR. WITTEKIND: A reply.

11 BY THE COURT: Reply to motion to strike petition  
12 to reopen judgment and reply to motion for sanctions with  
13 amended affidavit of Roger Wittekind, but I don't find it  
14 here in the file, so would you give me your copy? All  
15 right. It's in a different place. Okay. I have found it.  
16 There's two files here, and I was looking in the wrong file.  
17 I have it. Mr. Thompson, go ahead with your motion to  
18 strike.

19 MR. THOMPSON: Thank you, Your Honor. I've set  
20 out the basis for the motion for my arguments on behalf of  
21 the motion to strike in my petition, but in summary it  
22 basically goes to the jurisdiction of this court. This  
23 matter has been heard in trial, gone to final judgment, been  
24 to the Appellate Court, was decided contrary to Mr. Wittekind  
25

1 in the Appellate Court, was taken to the Supreme Court on a  
2 petition for review. That petition was denied.

3 The mandate was returned in April of 1992, and  
4 there's been no action until January of this year when the  
5 petition to reopen the judgment was filed. I think it's  
6 pretty clear that at this point there's no jurisdiction.

7 The only time post trial motions are allowed under  
8 the Civil Practice Act are Chapter 110 Section 2 1203 and  
9 Section 2-1401. 1203 requires 30 days, that the motion be  
10 filed within 30 days. 2-1401 requires that it be filed  
11 within two years, and the case law requires that four  
12 elements be established on the face of the motion. Generally  
13 that type of motion is directed at failures of diligence on  
14 the part of one of the parties to show up for good cause, the  
15 existence of meritorious defense, and basically some good  
16 cause or reason why the judgment should be reopened.

17 In this case there's no indication in the motion  
18 to reopen of any errors or any mistake. In fact, what the  
19 plaintiff is doing is merely rearguing the same matters that  
20 were brought before this trial, and the Appellate Court has  
21 not established a jurisdictional basis for this court to  
22 reopen the judgment. Therefore, I would indicate at this  
23 time that the judgment in this matter is a final judgment,  
24 that there's no basis whatsoever to reopen it, and as far as  
25

1 the motion to strike is concerned, this petition should be  
2 stricken and the matter terminated at that point.

3 BY THE COURT: Mr. Wittekind, I want to see your  
4 reply to Mr. Thompson's motion. I will read that quickly.  
5 Just a minute.

6 You may make a short argument, Mr. Wittekind.

7 MR. WITTEKIND: Okay.

8 BY THE COURT: I have now read your reply and your  
9 affidavit, and I want you to specifically address one thing  
10 and one thing only, and that is what new things have you  
11 included in your motion that were not argued in the original  
12 appeal to the Appellate Court and to the Supreme Court.

13 MR. WITTEKIND: The Supreme Court was never  
14 heard. The point I want to make on the Supreme Court deal is  
15 a valid adjudication. The Supreme Court can deny cases just  
16 because they can't hear all of them, so I can't consider that  
17 a valid adjudication.

18 So I would like to go with what items are new that  
19 were not presented to the Appellate Court.

20 BY THE COURT: Now I don't mean new words of  
21 argument. I mean what new issues are there?

22 MR. WITTEKIND: Specifically errors of law.  
23 Errors on the face of the record, two of them.

24 BY THE COURT: Did all of those errors occur in  
25

1 the trial court?

2 MR. WITTEKIND: In the trial, both places.

3 BY THE COURT: Okay, and . .

4 MR. WITTEKIND: Appellate Court is guilty of the  
5 same errors, and he's entered the evidence on that. He can  
6 show that right here that they don't apply the standard for  
7 probable cause either. He's entered the evidence for me on  
8 that.

9 BY THE COURT: I didn't see a single issue in your  
10 2-1401 motion, Mr. Wittekind - -

11 MR. WITTEKIND: Are you --

12 BY THE COURT: Listen. The petition to reopen  
13 judgment. That is what I am referring to as a 2-1401  
14 motion. Okay? I didn't see a single thing in there that  
15 alleges anything new that would have changed the trial.

16 In fact, paragraph 3 says at the time of entry of  
17 the judgment the correct facts were presented to the judge.  
18 That's the first sentence of paragraph 3. Paragraph 4 rates  
19 nothing new. Paragraph 5 refers to your affidavit, and your  
20 affidavit only reargues what you call the standard for  
21 probable cause and your reference to the Mack case.

22 So paragraphs A, B, C raise nothing new.  
23 Paragraph D you talk about an error of law. Then two is  
24 another argument on the same cases that were argued to the  
25

1 Appellate Court.

2 MR. WITTEKIND: What did you say there?

3 BY THE COURT: I said your paragraph 2 argues the  
4 same case. In other words, Mack versus First Security Bank,  
5 which was referred to by the Appellate Court in their opinion  
6 when this case was on direct appeal to the Appellate Court.  
7 That argument about the introduction of the transcript of the  
8 first trial, that was in the first appeal, the Henny Penny  
9 argument.

10 MR. WITTEKIND: That's brand new.

11 BY THE COURT: That's what?

12 MR. WITTEKIND: Brand new. That's a new one.

13 BY THE COURT: But it's just another way of  
14 arguing the issues of law that were included in the first  
15 case. Everything in paragraph 4 you could have handled in  
16 the first appeal or in the first trial, and you didn't. None  
17 of these matters are new legal issues.

18 MR. WITTEKIND: You said, you told me that if they  
19 were going to use an earlier court case, and I have got you  
20 saying that in this transcript. That if they were going to  
21 use an earlier conviction against me that I would be allowed  
22 to bring in evidence to show that that was fraudulent. This  
23 is something that has to be done to satisfy the Appellate  
24 Court.

25

1           Also because - there is your quote. Because they  
2 jump. They have made erroneous assumptions without the  
3 evidence. They are incorrect, and this is new evidence. You  
4 told me you would let me enter this.

5           BY THE COURT: All right. That was all part of  
6 the initial case. I want to tell you about Section 2-1401  
7 entitled relief from judgments. Just listen to this and quit  
8 fussing with your papers. I will tell you about it.

9           Subsection (a) says relief from final orders and  
10 judgments, after 30 days from the entry thereof, may be had  
11 upon a petition as provided in this section. Writs of error  
12 coram nobis and coram vobis, bills of review and bills in the  
13 nature of bills of review are abolished. All relief  
14 heretofore obtainable and the grounds for such relief  
15 heretofore available, whether by any of the foregoing  
16 remedies or otherwise, shall be available in every case, by  
17 proceedings hereunder, regardless of the nature of the order  
18 or judgment from which relief is sought or of the proceedings  
19 in which it was entered. There shall be no distinction  
20 between actions and other proceedings, statutory or  
21 otherwise, as to the availability of relief, grounds for  
22 relief, or the relief obtainable.

23           Okay. The petition must be filed in the same  
24 proceeding in which the order or judgment was entered but is  
25

1 not a continuation thereof. The petition must be supported  
2 by affidavit or other appropriate showing as to matters not  
3 of record and all parties shall be notified. Petition must  
4 be filed not later than two years after the entry of the  
5 order or judgment.

6 So then you skip D. It doesn't apply. Unless  
7 lack of jurisdiction affirmatively appears from the record  
8 proper, the vacation or modification of an order or judgment  
9 pursuant to the provisions of this section does not affect...  
10 Then it goes on about title to real estate, and so forth.

11 But okay. The point of all that is that even  
12 though you feel that you have struck upon something so that  
13 you could come in here on the day before the expiration of  
14 the, or the passing of the two year period and reargue the  
15 case, that's not the fact.

16 MR. WITTEKIND: I have one more paragraph I would  
17 like to enter please.

18 BY THE COURT: Now those former Latin terms like  
19 writ of error coram nobis, that was to call to the attention  
20 of the court errors or matters of fact which would have  
21 prevented the court from entering the judgment it entered at  
22 that time.

23 It says something in here if the true facts had  
24 been known the court wouldn't have entered it.

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MR. WITTEKIND: Do I say . .

BY THE COURT: Listen. It says that the true facts . .

MR. WITTEKIND: Where is this?

BY THE COURT: . . were presented to the court. I am not reading anything that you read. I am telling you what the law is.

MR. WITTEKIND: That's where I am referring to, by true facts what the definition of probable cause is and prejudice. Malice.

BY THE COURT: Anyway, you do not allege any facts which if the court had known them at the time would have changed the result of the case.

MR. WITTEKIND: My affidavit can't be used for that?

BY THE COURT: Pardon?

MR. WITTEKIND: The facts I allege in my affidavit can't be used for that?

BY THE COURT: No. There's nothing new in there at all. First place, you don't show that, even if you assume that there was something new in there you don't show any excuse for not presenting it at the time that the case was heard the first time.

MR. WITTEKIND: I did present it, Your Honor.

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BY THE COURT: You did present it.

MR. WITTEKIND: I presented it.

BY THE COURT: Okay. You presented it and it's already been handled in the first case.

MR. WITTEKIND: Your Honor. . .

BY THE COURT: Now I am going to tell you that the motion under 2-1401 cannot be used to relitigate questions which had been adjudicated previously. I want to tell you. .

MR. WITTEKIND: Note 25.

BY THE COURT: Okay.

MR. WITTEKIND: Read that please.

BY THE COURT: That's a good case. It says former Section 72 of Chapter 110. Now this paragraph could not be used to relitigate any issue already passed on by the trial court. That's exactly my point. There's another case in 59 Illinois 2d, page 502.

MR. WITTEKIND: This is the one I want read.

BY THE COURT: Which one?

MR. WITTEKIND: Circle it. That one right there.

BY THE COURT: I will circle it. Is that the one?

MR. WITTEKIND: Yes.

BY THE COURT: The motion for relief from judgment cannot be used to again put in issue questions previously

1 adjudicated by valid means.

2 MR. WITTEKIND: Keep going. Keep going.

3 BY THE COURT: That's all of that paragraph.

4 MR. WITTEKIND: Did I miss it again? The one  
5 right above it. Sorry about that.

6 BY THE COURT: Okay. I will circle that one now.

7 MR. WITTEKIND: Sorry, Your Honor.

8 BY THE COURT: It's all right. Cause of action  
9 once adjudicated by court of competent jurisdiction cannot be  
10 tried again in new proceedings before the same or different  
11 tribunal except in direct action to set aside the prior  
12 adjudication.

13 Well, you did your direct action to set aside the  
14 prior litigation. You appealed to the Illinois Appellate  
15 Court. The Illinois Appellate Court denied your appeal, and  
16 so you can't relitigate that, Mr. Wittekind.

17 MR. WITTEKIND: The two items, the definition for  
18 probable cause and malice were not brought in in my brief,  
19 and he's got it right here, my brief and argument. That was  
20 no part of my brief and argument.

21 BY THE COURT: I am sorry, Mr. Wittekind, but you  
22 do not have a case that can be raised again under 2-1401, and  
23 I am going to strike and dismiss your motion for, or petition  
24 to reopen judgment which you filed on January 13, 1993, and I  
25

//

1 am going to strike it. There's nothing in there.

2 You can tell your witnesses that they are excused,  
3 and the cost, if they sign the book as witnesses here you owe  
4 them their witness fees unless you have already paid them.

5 MR. WITTEKIND: How many days do I have to appeal  
6 this decision?

7 BY THE COURT: I am not going to give you any  
8 legal advice other than to say . . .

9 MR. WITTEKIND: Can I bring in . . .Your Honor, in  
10 the interest . . .

11 BY THE COURT: You have at the most 30 days to do  
12 anything further but I have struck your motion to reopen, and  
13 I am going to hear Mr. Thompson's request for sanctions  
14 against you for raising something that you shouldn't have  
15 been in here raising. You have nothing to support yourself,  
16 and there's nothing new under, that you included.

17 MR. WITTEKIND: The bottom line is . . .

18 BY THE COURT: Officer, would you go out and  
19 notify any witnesses that they are excused.

20 MR. WITTEKIND: The bottom line is, Your Honor. .

21 BY THE COURT: Tell them if they go to the clerk's  
22 office and sign a witness tab I will assess the costs. If  
23 they don't do it there won't be any.

24 Okay, Mr. Thompson, you can proceed on your motion  
25

1 for sanctions.

2 MR. THOMPSON: Thank you, Your Honor. I have  
3 raised a request for sanctions against Mr. Wittekind under  
4 Supreme Court Rule 137. In my motion I have set out, with  
5 attachments, the rather detailed and protracted litigation  
6 tract that this matter has taken.

7 It is important to remember that the underlying  
8 case involved a suit by Mr. Wittekind against Ms. Rusk who  
9 was a complaining witness in a criminal case. He basically  
10 alleged malicious prosecution and sought recovery of his  
11 costs. She was not a plaintiff in that case. It was not a  
12 civil case.

13 It was a case brought by the State's Attorney in  
14 which Ms. Rusk was a complaining witness. We had a trial on  
15 that matter at which time, in fact, I will note it was a  
16 rather lengthy trial on that matter, at which time Mr.  
17 Wittekind had full latitude to present every argument, piece  
18 of evidence, or issue that he could, at which time his  
19 complaint was denied.

20 Since that time we have done a full appeal in the  
21 Appellate Court. He has turned me in for misrepresenting him  
22 into the Attorney Disciplinary Commission, which I have had  
23 to . .

24 BY THE COURT: You wouldn't be entitled to the  
25

1 Disciplinary Commission costs as part of this.

2 MR. THOMPSON: I am only asking for costs of this  
3 proceeding.

4 BY THE COURT: You are asking only for the time  
5 that you spent in response to Mr. Wittekind's motion to  
6 reopen the judgment.

7 MR. THOMPSON: That is correct. I mention that  
8 only to indicate to the court Mr. Wittekind has exhausted  
9 every available remedy he has, and is fully aware of all  
10 remedies available to him.

11 We come today on a motion to reopen for which  
12 there is no statutory basis for it based on pleadings which  
13 present no new issues of evidence for any reason why any  
14 issues he's arguing were not previously presented.

15 I have had to respond to that motion. I have had  
16 to appear here today, and from what I can tell this is going  
17 to continue on and on and on. I think it is time that Mr.  
18 Wittekind realized there is some consequences for use of the  
19 legal system to pursue what has now become, if it wasn't  
20 before, a meritless claim and some relief to Ms. Rusk who  
21 continues to incur attorney's fees in defense of this matter.

22 I have set out in my affidavit three and a quarter  
23 hours up until today. I would ask the court add an  
24 additional three quarter hours to make it total four hours  
25

1 time spent in replying to, appearing and arguing against his  
2 petition to reopen judgment, and in favor of the judgments I  
3 filed at \$90.00 an hour for total of sanctions of \$360.00.

4 Further, I would ask those, payment of those  
5 sanctions be a prerequisite to any further filings in this  
6 court file or any further pursuit of the matters, factual  
7 matter which make up this matter so there is hopefully some  
8 end to this, and Ms. Rusk can put this behind her.

9 BY THE COURT: Do you have any cases at all?

10 MR. THOMPSON: I have none with me, Your Honor.

11 BY THE COURT: With regard to pro se parties, and  
12 specifically with regard to his good faith.

13 MR. THOMPSON: No, Your Honor. In fact, I did  
14 look for cases involving pro se litigants. There are few  
15 cases recorded under this section. None of them could I find  
16 a pro se litigant. And my response to that inquiry would be  
17 that even under the standards of pro se litigant he has been  
18 indulged at every turn in this and would at this point now,  
19 even though in my opinion there were questionable merits to  
20 the arguments he raised in the Appellate and Supreme Courts,  
21 he was indulged in those matters.

22 At this point I think there is a time to end the  
23 indulgence. There is no basis for this motion, no reasonable  
24 reading of any statute that would allow us to be here today.  
25

1 I think enough is enough.

2 BY THE COURT: Have you done any briefing with  
3 regard to Mr. Thompson's motion, Mr. Wittekind? Have you  
4 studied that at all?

5 MR. WITTEKIND: The allegations he makes where he  
6 says I am trying to harass Beverly are incorrect.

7 BY THE COURT: Pardon?

8 MR. WITTEKIND: The allegations he makes in his  
9 motion where he says I am just trying to - How did he put  
10 it? Do you remember how he put that?

11 BY THE COURT: I am talking about the part where  
12 he is trying to collect from you for about four hours of his  
13 legal time in resisting this motion to reopen the case.

14 MR. WITTEKIND: I wanted to bring in front of the  
15 court the fact that he did not properly represent the Mack  
16 case. The Mack case was cut in half. He did this even in  
17 the Appellate Court. Even at the Appellate Court level he  
18 fails to state the proper decision in the Mack case. I  
19 consider that fraud, and I do have the definition for fraud  
20 where fraud can be saying concealment, not saying anything.

21 If he had stated the Mack case properly, clarified  
22 probable cause and malice. That prejudiced his malice, I  
23 would have gone his way.

24 I would say you should decide, His Honor, if he  
25

1 had presented the case properly, but since he has not  
2 presented that case properly it is not fair.

3 Again, he did the same thing in the Appellate  
4 Court. He only states half the case. Does not finish it.

5 BY THE COURT: As I recall that Mack case, and  
6 that the Mack case was cited for the particular rule of law  
7 that was clearly set out in that case. It was not cited for  
8 the final decision of the case, which was that I think the  
9 ultimate result on the case was that the case was reversed,  
10 but it did not change the particular rule of law that was  
11 cited in that case. Is that correct, Mr. Thompson?

12 MR. THOMPSON: That's correct, Your Honor.

13 BY THE COURT: And the Appellate Court knew that.  
14 Mr. Thompson did not sneak anything in on the Appellate  
15 Court, nor hide anything about that case.

16 These are some of the things, Mr. Wittekind, that  
17 a trained legal mind understands, and I don't blame you for  
18 the fact that you don't grasp some of these principles.

19 Let me just refer to Rule 137, and here is what it  
20 says. I will just read part of it. Signature of an attorney  
21 or party constitutes a certificate by him that he has read  
22 the pleading, motion or other paper; that to the best of his  
23 knowledge, information and belief formed a reasonable  
24 inquiry. It is well grounded in fact and is warranted by  
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1 existing law or a good faith argument for the extension,  
2 modification or reversal of existing law, and that it is not  
3 interposed for any improper purpose such as to harass or to  
4 cause unnecessary delay or needless increase in the cost of  
5 litigation. That's the end of the part that I am going to  
6 read.

7 In Mr. Wittekind's mind I am sure he feels that  
8 he's absolutely right on this thing, and even though, Mr.  
9 Wittekind, you are wrong, and I don't think that he did it to  
10 harass, and therefore, I am going to deny your request for  
11 sanctions, Mr. Thompson.

12 MR. THOMPSON: May I respond briefly, Your Honor?

13 BY THE COURT: Well you can, but I am not going to  
14 change my mind.

15 MR. THOMPSON: Thank you, Your Honor. I  
16 understand what your position is, Your Honor. However, I  
17 would indicate to the court that as we sit here today he has  
18 been told by three different tribunals he is wrong, and he  
19 still persists in making those same arguments.

20 At a certain point his behavior - even if he  
21 believes in himself - is unreasonable and an abuse of the  
22 legal system. He may go to his death bed believing in his  
23 mind that he is right, but when everyone in the world is  
24 telling you that you are wrong, and we've been to three  
25

1 tribunals. They've told you that you are wrong, it is  
2 unreasonable to persist in that belief. It is that  
3 unreasonableness that constitutes bad faith.

4 MR. WITTEKIND: I could come back on that.

5 BY THE COURT: I agree with that somewhat, with  
6 Mr. Thompson's argument, but I still say that in the absence  
7 of any case cited to me to the contrary I feel that we have  
8 to put up with a certain amount of untrained citation of law  
9 to the court, and we have to try to deal with these things in  
10 a fair manner, and that's what the court has tried to do here  
11 as well as in the main case.

12 Since I am not allowed to have any ex-parte  
13 communications with either Mr. Thompson or Mr. Wittekind I  
14 can't spend the time going around to try to convince Mr.  
15 Wittekind that he ought to forego any future time on this  
16 case, and I certainly feel that I want to make this clear,  
17 Mr. Wittekind. I am just going to say it here that it is my  
18 absolute opinion that you ought to drop this case and quit  
19 trying to relive it. Quit trying to reopen it, and accept  
20 the fact that this case is over and done.

21 Also, that no matter what you do you are not going  
22 to recapture what it was that you apparently think you had  
23 heretofore with regard to this young lady, and you might as  
24 well forget all about that, and forget about Beverly Rusk,  
25

1 and forget about Duane Thompson and go about living your life  
2 with today being the first day of leaving all this alone.

3 MR. WITTEKIND: Can I . . .

4 BY THE COURT: At the same time I am going - so  
5 you don't think that I am taking away any of your rights, you  
6 do have a right to appeal my decision.

7 MR. WITTEKIND: May I say one thing for the  
8 record?

9 BY THE COURT: Just a minute. I will give you  
10 plenty of chance after I am done. You do have a right to  
11 take this to a higher court. And this isn't stated as a  
12 threat. But if you do take it to a higher court there's a  
13 provision in the Appellate Rules which also applies to  
14 frivolous appeals, and Mr. Thompson would have the right to  
15 appeal my decision as to the denial of his request for  
16 sanctions here, and maybe if he makes a good argument the  
17 Appellate Court may give us some guidance as to what we  
18 should do on cases involving litigants who appear on their  
19 own and raise legal arguments that do not have merit. So  
20 that's not a threat at all, Mr. Wittekind. I am just trying  
21 to tell you facts.

22 MR. WITTEKIND: May I?

23 BY THE COURT: I am going to state this for the  
24 record too. Mr. Wittekind, when he's going in and out of the  
25

1 law library he sees me in the courthouse he always is very  
2 friendly. I have run into him at a pharmacy shop, and he's  
3 always very friendly.

4 He will occasionally, at least once and maybe  
5 twice he's said he's found a good case, and that's the end of  
6 the discussion on it.

7 I think that Mr. Wittekind is in good faith on the  
8 situation. He just doesn't understand the machinations of  
9 the law, and Mr. Wittekind, you have an obsession as to this  
10 young lady and her family, and you are going to have to try  
11 to overcome it.

12 Now, if you want to say something for the record?

13 MR. WITTEKIND: Yes, I do.

14 BY THE COURT: Please do so.

15 MR. WITTEKIND: Okay. As you have pointed out,  
16 what I wanted to do today, I wanted to show that this earlier  
17 court case was fraud, and that Beverly's prejudice was only  
18 enhanced by losing this court case with Richard Coppula and  
19 Joe Trujillo.

20 I want to show she's so prejudiced. I don't want  
21 Cheryl. I feel sorry for what she's gone through. I would  
22 like to make a formal apology to her. I know what started  
23 it. What started it here. I sent it as an exhibit to the  
24 Appellate Court. I am just too shy to talk for myself. I  
25

1 feel sorry for what happened.

2 I want to apologize. I have told Kinser if we  
3 could just talk everything would be fine. If she doesn't  
4 care that's fine, but as long as she believes what she  
5 believes that hurts.

6 I could never do anything to upset her.  
7 Everything she's shown she couldn't bring charges against me.

8 BY THE COURT: I will make a statement. First  
9 thing is that an apology that's based upon a condition that  
10 the other person do something or other is not a true  
11 apology. If you want to make a statement on the record where  
12 you apologize to anybody in the world that you want to  
13 apologize to you can do it, and that apology, if it is short,  
14 can be typed up and delivered to the other party. But I  
15 don't want any apologies based upon any conditions that you  
16 require of the other person.

17 If you want to make an apology go ahead and make  
18 it.

19 MR. WITTEKIND: Okay. The only condition is that  
20 I am given a chance to talk. They have to hear my apology.  
21 To make an apology they have to be willing to listen to one.  
22 Is that still too much, Your Honor?

23 BY THE COURT: Well, you know, you have a certain  
24 amount of freedom of speech. But on the other hand, other  
25

1 people have a right of privacy that they don't have to stand  
2 around and listen to your speech. See? There you have two  
3 competing rights.

4 MR. WITTEKIND: Okay.

5 BY THE COURT: No. I am sorry that I can't say  
6 that anybody is going to have to stand anyplace and listen to  
7 you make an apology.

8 MR. WITTEKIND: This is the straight 6th  
9 Amendment. It boils down to I want to face my accusers. I  
10 know what this woman has accused me of. I just want to face  
11 my accusations.

12 BY THE COURT: The right to face your accusers  
13 only applies to criminal cases.

14 MR. WITTEKIND: That was a criminal case, Your  
15 Honor.

16 BY THE COURT: Roger, I'm sorry.

17 MR. WITTEKIND: Okay.

18 BY THE COURT: The hearing is terminated. Mr.  
19 Thompson, prepare a very short order.

20 MR. WITTEKIND: I feel bad about it. That's all.  
21 I am sorry things happened the way they are but man, I just..

22 BY THE COURT: I am sorry about it too, Roger.  
23  
24  
25

1 IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
2 ROCK ISLAND COUNTY, ILLINOIS  
3  
4  
5  
6

7 I, Diane Reason, an Official Court Reporter for  
8 the Circuit Court of Rock Island County, Fourteenth Judicial  
9 Circuit of Illinois, do hereby certify that I reported in  
10 shorthand the proceedings had on the hearing in the above  
11 entitled cause; that I thereafter caused the foregoing to be  
12 transcribed into typewriting, which I hereby certify to be a  
13 true and accurate transcript of the proceedings requested to  
14 be typed.

15  
16 *Diane Reason*  
17 Official Court Reporter  
18  
19

20 Dated this 22nd day  
21 of February, 1993.  
22  
23  
24  
25