

# Law Establishes Women Can be Fired for Being Stalked by a Non-Employee at Work

## Law Professor Asks Federal Court of Appeals to Review Panel Decision Ruling

By [Lahle Wolfe](#), About.com Guide

Case: [Martin v. Howard University](#) (opens in .pdf), 1999 U.S. Dist. LEXIS 19516, 1999 WL 1295339; 81 Fair Empl. Prac. Cas. (BNA) 964; 15 I.E.R. Cas. (BNA) 1587 (D.D.C. 1999).

### Why Working Women Should Know About This Case

*Martin v. Howard University* is the first case considering the concept of "gender profiling" in employment, under Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex.

However, the current standing on this case allows employers to refuse to take action against non-employee stalkers that are strangers, or known by the victim, including boyfriends, ex-husbands, clients, and customers, if it is not deemed to be sexual harassment. It has also set a legal precedent that a woman can be fired if she is stalked at work and demands protection in the workplace.

### About *Martin v. Howard University*

A recent and very disturbing ruling was affirmed by the United States Court of Appeals for the D.C. Circuit, on March 31, 2008. The unpublished decision was handed down by Judges Edwards, Henderson, and Williams who upheld a lower court's decision favoring employers over women's safety in the workplace.

The case involves complainant, [Professor Dawn V. Martin](#), who was stalked and harassed by a homeless man while she was at work. The man, Leonard Harrison, had been stalking and harassing women of color at Howard University and other campuses for more than twenty years without any repercussions.

According to Professor Martin, "for accuracy and to help protect other women who may be targeted by the serial campus stalker, Leonard Harrison was not stalking women at Howard for twenty years — he was stalking or otherwise targeting women law professors at various universities across the country, since the mid-1980s, and even pursued a woman lawyer in Toronto, Canada, in 1998, after he appeared to stop stalking me at Howard."

Despite repeated pleas from Professor Martin to Howard University campus security, her employer not only refused to take steps to ensure her safety, they would not even enforce existing security policies already in place. After Martin's requests for security improvements her employment contract was not renewed.

A 1999 ruling in the federal district established that Equal Employment Opportunity Commission (EEOC) Regulation 29 CFR 1604.11(e), did extend to Martin, who was sexually harassed by a homeless man, who purposely and repeatedly stalked women, including Professor Martin, because he was looking for a "wife."

This precedent-setting ruling held that employers were liable for sexual harassment by non-employees in the work place if the employer knew, or should have known about the harassment, and did not take reasonable steps to stop it.

The jury was confused about how to apply the EEOC's Regulation and queried the judge for additional instructions. The judge refused to answer the jury's questions and in the end the jury found "harassment of Prof. Martin was so severe and pervasive that it created a hostile work environment for her."

The jury further concluded that Howard University did not take reasonable steps to end the harassment in her workplace, as is required by EEOC Regulation 29 CFR 1604.11(e). However, without clarification from the judge about this Regulation, the jury decided in favor of Howard, because they were unclear if the nature of the stalking and harassment was considered "sexual" harassment.

On April 1, 2008, Martin, herself a lawyer with more than twenty-six years of legal experience in civil rights law, filed a [Petition for Rehearing, En Banc](#) (opens in .pdf). But Martin is not optimistic that the panel decision will be reviewed, "The Court rarely grants petitions for review, but it is the only step before the United States Supreme Court. I would appreciate it if women's groups, civil rights groups and crime victim's associations would make their members aware of this case."

According to Alexis Moore, President and Founder of [Survivors In Action](#), a nonprofit, victim's advocacy and support organization. "A woman should not have to choose between her job and her own personal safety. ... Violence in the workplace is at an all time high. Millions of women daily are working in fear at their jobs and feel that they are forced to do so because they need the income to support their families."

Source:

"[Law Professor Asks Federal Court of Appeals to Review Panel Decision Ruling That a Woman Can be Fired for Being Stalked by a Stranger Roaming Freely in her Workplace.](#)" (opens in .pdf) Press Release. April 30, 2008.

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