Two-year odyssey comes to an end

Court system is 'screwed-up' says Good Samaritan

By DONNA SWICEGOOD

When George Cartin saw a man hitting a female employee at an Iredell fast-food restaurant in December 1999, he reacted instinctively.

Cartin jumped into the fray, pulled the man off the cashier and held him until police arrived. Cartin's reason for stepping in was simple: "That's the way I was raised."

But what he didn't know that December day was that his actions would send him on a two-year odyssey through the court system — a trip that saw him charged with assault and left him frustrated and frightened.

David Dewayne Smith, 35, of Statesville, was the man charged with assaulting the cashier. He was convicted last week in Iredell County Superior Court of assaulting the cashier and of assaulting Cartin. He was found not guilty of assaulting Cartin's wife, Marie.

Judge Michael Helms sentenced Smith to an active term of 120 days with a probationary sentence to follow.

"That's the most the judge could give him," said Assistant District Attorney Chris Collier, who prosecuted the case. "It wasn't enough."

Although the Cartins agree the sentence was too lax, the conviction ends nearly two years of worry and fear.

It all started a few days after Thanksgiving in 1999. The Cartins decided to eat at the Burger King on Turnersburg Highway.

While dining, they witnessed an argument involving an angry father (Smith), a perplexed employee and the ownership of a Pokemon cartoon character card the restaurant was distributing as part of a promotion. When the disagreement turned violent, Cartin could sit still no more.

"I ain't going to stand here and let no man hit a woman," he told his wife.

Cartin stepped in and restrained Smith. Police arrived and Smith was carted off to jail.

Cartin figured his part in the matter was finished. "I thought they'd arrested him and he'd go to jail," he said. "I figured I'd show up in court and that would be the end of it."

That proved to be far from the truth.

A few days later, Smith took out a warrant on Cartin, charging him with assault. That was hard for Cartin to understand.

"It's a screwed-up system," he said. "I was the victim."

He was surprised to find out that it's fairly easy to obtain a misdemeanor warrant. "I was shocked that just anybody can take out a warrant," he said. "It's ridiculous."

Eventually the charges were dropped, but the numerous court appearances cost both Cartin and his wife many hours away from work. And the assault charge cost Cartin his security guard job.

"Every time we'd get a piece of paper, I'd have to miss work, she'd have to miss work (pointing to his wife)," he said. "We miss one day's worth of work and then it's postponed."

The case was heard in District Court in February 2000, and Smith was found guilty of two counts of simple assault, assault on a female and communicating threats. He was sentenced to seven days in jail and ordered to serve a six-year probationary sentence and pay a $1,000 fine.

Smith appealed the sentence to Superior Court, where the case bounced around the docket until July.

Collier said that's not unusual.

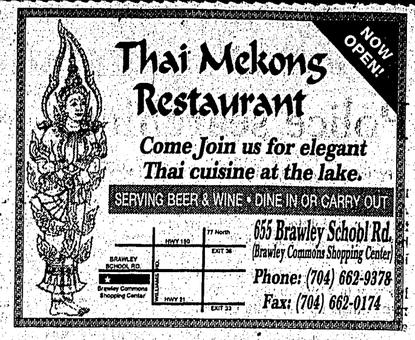
"Misdemeanor cases for trial do sometimes tend to take longer," he said. "We focus on jail cases (those incarcerated awaiting trial) and felonies, so it's not unusual for misdemeanor cases to get older."

The numerous delays in the case have frustrated the Cartins, who took time off work to go to court or were forced to stay near a phone all day.

"What I did I should be commended for," he said. "Instead, I've lost sleep, lost work and it's occupied almost two years of my life."

Collier agreed that Cartin deserved credit for what he did, both in pulling Smith off Murdock and having the restraint not to injure him.

"I told the jury that the defendant was lucky that George Cartin was there," he said.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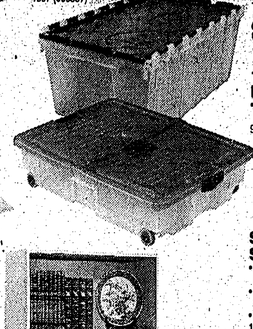
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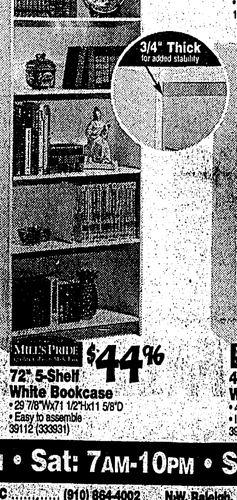
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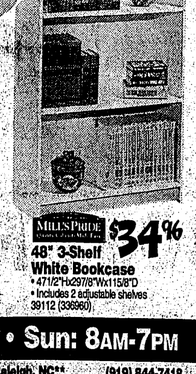
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