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"...The Good Fight."

VOLUME 4, ISSUE 3

OCTOBER 2013

Federal Judge Sentences Abusive Husband to 30 Months of Federal Prison Time and Prohibits Firearm Possession for Life

USDOJ's 1st "Annual Project Safe Neighborhood Deputy DA of the Year Award" given to Crook County DV Prosecutor Katherine KrauelHernberg. **Congratulations, Katherine!**

On July 11, 2013, United States District Court Judge Ann Aiken sentenced Willard Bryan Wilhelm to 30 months in federal prison for possessing a firearm in violation of 18 USC 922(g)(9) by having a qualifying misdemeanor conviction for domestic violence. The qualifying conviction was for Assault in the Fourth Degree Constituting Domestic Violence from 2010 in Crook County. At that time, the defendant's girlfriend had tried to prevent him from driving home from the bar intoxicated. He threw her to the ground and drove home. Later that night, they had an argument and he threw her onto the bed, put his hands around her neck, and tried to strangle her. The victim had several large welts on her neck and arms. The Crook County District Attorney's Office charged the assault with a "knowingly" mental state and the judgment included language that stated the defendant may lose the right to buy, sell, transport, receive or possess firearms or ammunition pursuant to 18 USC 922(g).

The defendant had a long history of violence and excessive drinking beginning in 2002. In 2002, he shoved his mother into a door and threatened to get a gun and "even the score." In 2005, he punched his father who hit his head and was transported by Air Lift to the hospital. His wife divorced him in 2006 due to domestic violence and alcohol. In 2010, he threw his 7 year-old daughter into a wall. From 2010 to June 2012, the Defendant was convicted of eleven different misdemeanor offenses which included Assault in the Fourth Degree Constituting Domestic Violence, Harassment, Wildlife Violation (he poached a deer), Reckless Driving, two DUIs, two counts of Contempt of Court (both violations of restraining orders), and three counts of Driving While Suspended.

On June 8, 2012, his former step-daughter (age 16) called 911 because the defendant was suicidal and threatening to kill himself with a weapon. He had consumed a case of beer and a fifth of whiskey. On July 19, 2012, the defendant was intoxicated and called law enforcement to report that his children were being physically abused by their step-father.

Continued next page...

Abusive Husband Sentenced, continued...

US Attorney Amanda Marshall said, "Not every abuser who owns or possesses a firearm will use them to threaten, kill, or injure others, but if an abuser has access to a firearm, it is far more likely that a homicide, suicide, or serious injury will occur. My office will prosecute those convicted of domestic violence misdemeanors who subsequently possess a firearm."

—KTVZ, 2/14/13

When law enforcement were interviewing his 9 year-old daughter on the porch, the defendant came outside with a loaded rifle and said that if law enforcement didn't handle it, he would blow the step-father's head off and that he had a right to kill him. The defendant's daughter was standing in between the officer and the defendant, and there were other children behind the defendant inside the home. The defendant complied with orders to put the gun down and was arrested. In the bedroom, law enforcement seized two additional rifles and one shotgun.

Based on the increasing criminal behavior, history of violence, violation of court orders, suicide gestures and use of firearms, the Crook County DA's office was very concerned about the potential for a homicide and contacted Assistant U.S. Attorney Frank Papagni in Eugene. Fortunately, he agreed to prosecute the case. Our office provided all the necessary documents, and Mr. Papagni took the case to federal grand jury for an indictment within 6 weeks.

The defendant entered a plea of guilty, without a plea offer, on February 14, 2013. The presumptive sentence was 24-30 months federal prison, but the defendant was requesting probation based on the argument that the firearms were solely possessed for lawful sporting purposes. Unfortunately for the defendant, his hunting license was actually suspended due to his prior conviction for a wildlife violation. Based on the facts presented by the prosecution, Judge Aiken did not rule in favor of the defendant.

On July 11, 2013, Assistant U.S. Attorney Frank Papagni presented witness testimony during sentencing from two of the defendant's ex-wives, one ex-girlfriend (the victim in the qualifying conviction for domestic violence), a DHS employee, and one of the officers who responded on July 19, 2012. AUSA Frank Papagni prepared a thorough sentencing memorandum and a binder of exhibits for the Court, and gave a brilliant closing argument. Judge Aiken sentenced the defendant to 30 months federal prison with 180 days of a residential re-entry program upon release. She imposed 3 years of supervised release and no contact with any of the victims. The defendant is now a federal felon and prohibited from possessing firearms for the remainder of his life.

Having the opportunity to work on this case with the U.S. Attorney's Office and the ATF was an incredible experience. I am very grateful to Frank Papagni and the U.S. Attorney's Office for taking this case and preventing a tragedy in Crook County. I deeply appreciate all the work U.S. DOJ and Oregon's DOJ's DV Resource Prosecutor program have done to provide several excellent trainings on this topic which were instrumental to prosecuting this case.



Article by: Katherine KrauelHernberg

Willard Bryan Willhelm was sentenced on February 14, 2013 to 30 months in federal prison for unlawful possession of a firearm based on a previous misdemeanor conviction of domestic violence.

FIREARMS and DOMESTIC VIOLENCE: A Lethal Combination

In Oregon, between 2003-2010, there were 207 deaths related to Intimate Partner Violence.¹ Of those 207 IPV-related deaths, 61% were due to gunshot wounds.² Nationally, for homicides in which the weapon could be identified, 52% of female victims were killed with guns.³ However, of all females killed with firearms, nearly two-thirds were murdered by male intimates.⁴ In the context of intimate partner homicides it is clear that firearms, specifically handguns, are the weapon of choice.

Also clear is the fact that the act of separating—“whether through divorce, by physical or legal separation, or by ending a dating relationship— often triggers an escalation of violence.”⁵ In a desperate attempt to maintain power and control, a Domestic Violence offender may go to the extreme, indeed lethal, lengths.⁶

Consider these statistics:

- Family and intimate partner assaults involving firearms are 12 times more likely to result in death than intimate partner assaults that do not involve firearms.⁷
- Access to firearms increases the risk of intimate partner homicide nearly five times more than instances where there are no weapons.⁸
- Abusers who possess guns tend to inflict the most severe abuse on their partners.⁹

The heightened potential for lethality in the combination of these factors (separation and firearm access) make it critically important for the criminal justice system to act when possible and take guns out of the hands of Domestic Violence offenders and those persons who are subject to a qualifying protective order (Restraining Order, Stalking Order, or even a “No Contact” Order).

Fortunately, there are existing tools available for criminal justice professionals to use to dispossess offenders of guns, or even assist in their federal prosecution:

- Federal Law: Gun Act (18 USC 922(g)(8)): Makes it a federal crime for a person is subject to a “qualifying protection order” to possess a firearm or ammunition.
- Federal Law: Lautenberg Amendment (18 USC 922(g)(9)): Makes it a federal crime for persons convicted of a “qualifying misdemeanor crime” to possess (purchase, receive, ect) a firearm or ammunition.
- State Law(s) where the court has the discretion to restrict firearm possession: FAPA (Restraining Order), Stalking Citation, Stalking Order, Release Agreements, Standard Condition of Probation.
- Model Firearm Surrender Protocols: Developed by the Oregon Firearm and Domestic Violence Task Force to identify FAPA and Criminal Cases where dispossession is appropriate

Provides a process and supporting documents to execute dispossession.

If you are interested in more information on any of the items listed above, please contact: Erin Greenawald, Department of Justice at: erin.greenawald@doj.state.or.us

¹ Homicides in Oregon Related to Intimate Partner Violence, Oregon Public Health Division 2012; Oregon Injury Prevention and Epidemiology Fact Sheet.

² Id. Comparatively, firearms were the mechanism of deaths in 50% of all violence deaths. “Violent Deaths in Oregon: 2010. Oregon Health Authority, Public Health Division.

³ www.vpc.org

⁴ Id.

⁵ Carbon, Susan B., Mitchell, Darren. “Firearms and Domestic Violence: A Primer for Judges.” Court Review, Summer 2002.

⁶ In a study of domestic homicides in Florida, 65% of intimate homicide victims had physically separated from the perpetrator prior to their death. See Florida Governor’s Task Force on Domestic and Sexual Violence, Florida Mortality Review Project, at 44, table 7. (1997).

⁷ Pennsylvania Coalition Against Domestic Violence Fact Sheet.

⁸ Campbell, Jacquelyn C. 2003. “Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study.” American Journal of Public Health.

⁹ Id.

New Multnomah County Protocol



**MULTNOMAH
COUNTY**

In June, a new protocol in Multnomah County went into effect that requires certain respondents served with a restraining order to surrender their firearms if ordered to do so. Anyone issued the order must comply within 48 hours.

Prior to this, law enforcement could ask offenders if they wanted to surrender their firearms in order to diffuse the situation, however, such action was voluntary.

In the past, there has been

difficulty in trying to figure out where in the community those guns and ammunition could be stored.

Respondents of the order may now turn in their firearms to either the Portland Police Bureau's Central Precinct (open 24 hours), the Police Bureau's Property & Evidence Warehouse, or the Multnomah County Sheriff's Office.

Respondents also have the option to transfer their firearms to a friend or relative

who must pass an Oregon State Police background check and sign a notarized affidavit.

The protocol is the result of a years long efforts between Multnomah County judges, law enforcement, prosecutors and Portland city officials.

For more information, visit the Commissioner Dan Saltzman's website for a FAQ sheet.:

www.portlandonline.com/saltzman/

Sherwood PD Scenario Training

The Sherwood Police Department and the Oregon Department of Justice recently hosted a two day scenario-based domestic violence training event in order to offer real-world DV experiences for Sherwood, Salem, King City, and Prineville officers.

The various scenarios replicated domestic violence calls to which the officers were to respond. The characters in each scenario were

played by prosecutors, advocates, and community corrections officers all of whom had vast experience with domestic violence cases.

The participating officers were required to investigate their assigned scenario. After each scenario, the officers and role-players de-briefed the situation.

Chief of Police for the Sherwood Police Department,

Jeff Groth, said the training was "overwhelmingly successful" with many of the officers noting that the event was the best DV training they had received. The use of these kinds of events will better prepare officers to handle common domestic violence calls.

For more information on attending next year's training or creating a training for your jurisdiction, please contact Erin Greenawald at erin.greenawald@doj.state.or.us.

**One million men.
One million promises.**



Update: Ring the Bell

Ring the Bell, an India based campaign that encourages men to pledge against domestic violence, is advocated by Star Trek movie star Patrick Stewart. Other notable celebrities who have shown their support for the cause include Lewis Black, Russell Simmons, and Richard Branson.

Patrick Stewart was recently interviewed about his own experiences with domestic violence as a child and how that has pushed him into the activist role that he assumes now. Stewart mentioned that although he could not help his mother then, he can now.

Watch the interview here:

For more information about Ring the Bell go to: <http://breakthrough.tv/ringthebell/>.



<http://www.npr.org/blogs/thetwo-way/2013/05/31/187551135/video-patrick-stewarts-strong-words-about-domestic-violence>

Of Note: State v. Alex Rice

A column featuring DV cases tried by local prosecutors so we can learn from each others' accomplishments, strategies, and trial challenges. Article by Holly Allen, DDA, Benton County

Alex Rice is the scariest person I have ever prosecuted. In 2011, I prosecuted Alex Rice and he was sent to prison for Assault IV and Burglary I. In March of 2013, I learned that Rice was on AIP release for Burglary in the First Degree and Felony Assault in the Fourth Degree (DV) and he had a new girlfriend, Patty.** I knew it was only a matter of time before something happened. On March 29, 2013, the wait was over.

In the early hours of March 29, Alex Rice assaulted Patty. Rice was three days shy of finishing his transitional AIP leave and going on PPS. The assault began with Rice refusing to leave Patty's apartment, and, during the next two hours, Rice burned Patty about an inch below her eye with a cigarette, punched her, dislocated her finger, smashed her cell phone, and snapped her head back and forth while he threatened to snap her neck, all while he was preventing her from leaving her bedroom and calling 911. He threatened her over and over again, telling her that if he went back to prison, she was dead. Patty's opinion of the case from Grand Jury to the first trial setting in July was that it was "a joke"; she wanted him to get treatment, not go to prison.

However, the week before trial, much to my surprise, Patty showed up at my office for trial prep. She had an entirely different attitude. After receiving letters from the defendant when he was returned to prison, Patty recognized she had been manipulated and controlled and now believed he was extremely dangerous and needed to go to prison.

Within days of Rice's arrest, Sharon, the victim on the 2011 assault case, was waiting outside my office. She directed me to a public Facebook group called "Linn County Exposed," where there were numerous comments on Rice's booking photo from previous victims. With the previous case, Sharon had not been in a strong place emotionally, was extremely traumatized and unable to testify, though she did support him going to prison. The abuse against her included cutting her throat and wrist, daily assaults, pointing a shotgun at her then firing just off to the side, and skewering and burning her body causing permanent scarring. Rice was only convicted of Felony Assault IV against Sharon and Reckless Endangering as to her then 10 year old daughter.

Sharon was checking in with me as soon as he was arrested on the new charges and would periodically show up at our office to make sure I was still handling the case because she didn't trust anyone else to understand how dangerous he was. Though Sharon was too traumatized and fragile to face trial the first time, this time she was a rock committed to protecting other women from being victimized.

With the information from Linn County Exposed, the patrol officer handling the case was able to track down Katie, a previous victim from 2010. Of the three women, Katie was the most vulnerable. Though he was convicted of only minor offenses (Interfering with 911 and Reckless Endangering), Katie suffered unreported abuse that including being cut with a machete and other knives that cause permanent scarring, as well as the defendant's trademark cigarette burns. Through Katie, we learned that Rice's Burglary conviction was for breaking into Katie's brother's house looking for her while he was on pretrial release in her case. Katie and I met over the phone several times leading up to trial, and for the first time she began disclosing the extent of the abuse. Katie was terrified of Rice, but felt testifying was important to protect other women, but she was adamant that her family not know what happened to her and would not allow any family or friends to be involved as support people.

Continued next page...



Alex Rice

OF NOTE: State v. Alex Rice Cont...

I met Katie face to face for the first time a week before trial and arranged for her meeting to overlap with Sharon's in the hopes that Sharon could offer her some support. That worked out beautifully; the two connected briefly and when trial day rolled around, Katie was much more secure with Sharon's presence. Patty met the two for the first time when the trial started. At first, she wasn't completely engaged with them, but after testifying, she drew strength from their support and the three of them bonded. Katie and Sharon testified exclusively to the intentional acts that Rice was convicted of committing against them. For Katie, going through the trial process really helped her acknowledge the trauma she had experienced.

As we wrapped up the case, Sharon, Patty, and Katie all sat together in the courtroom. During my closing argument, they were in the front row with their arms around each other. We all waited together in the courthouse for about 2.5 hours for the verdict on 7 charges. During the reading of the verdict the three held hands and Patty and Katie pretty much collapsed in Sharon's lap. We got unanimous guilty verdicts on Coercion, three counts of Assault IV misdemeanor, Menacing, and Interfering with 911. The three women had to be ushered out of the courtroom because it was too much for them emotionally.

The jury returned the next day to consider aggravating factors of persistent involvement with domestic violence and under supervision at the time. They returned with yes on both in about 15 minutes. We went ahead with sentencing and Patty read a victim impact statement that she had thoughtfully written from the perspective of all three, plus another woman who never reported any of the abuse. It was powerful. Patty started out terrified to testify but by the time her statement came around, she very much wanted to face the defendant and read it.

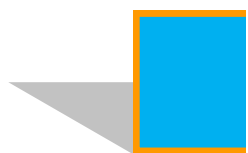
During sentencing, the police officer came in on her personal time, two parole and probation officers sat in, two DHS caseworkers who had been involved in reporting the cases of Sharon and Patty sat in, along with Sharon's parents, Patty's brother, my victim advocate, and another attorney from my office (for back up). Seven of the twelve jurors returned for sentencing. As they came in, one of the jurors told my advocate "We wouldn't miss this for anything."

Defendant was a 7-A. I asked for 60 months and got 48 months, consecutive to what he is serving in DOC on Sharon's case and the case of Katie's brother. He received concurrent 6 month sentences on all the misdemeanors.

These certainly aren't the most serious charges I have ever handled, but he is the most serious offender. Sharon, Patty, Katie, and I formed a connection and I will not ever forget this case. This was more than a one in a million case. It is the gold standard, I believe, of why we are domestic violence prosecutors. In my mind, the emotional outcome that Katie, Patty, and Sharon received from this case is a reward that very, very few prosecutors will ever have in their careers.

I would not have had the skills to build this case without the valuable training that the Oregon DOJ's DV Resource Prosecutor program provides. Because of those trainings and the amazing courage of Patty, Sharon, and Katie, Alex Rice is safely behind bars until November 2, 2016.

****Patty, Katie, and Sharon have given permission to use their first names.**



NO MORE
TOGETHER WE CAN END DOMESTIC VIOLENCE & SEXUAL ASSAULT



The **NO MORE** PSA Campaign, spearheaded by the Joyful Heart Foundation in partnership with **NO MORE** and directed by actress and advocate, Mariska Hargitay, involves more than 50 celebrities and public figures asking bystanders to get involved. After 18 months in development, with critical input from domestic violence and sexual assault organizations, **NO MORE** finally launched this campaign.

Beginning September 2013, the three-year PSA campaign will roll out across the country in local and national markets via print, broadcast, online and outdoor advertising and in major airports and medical facilities. The Ad Council's Endorsed Campaign program has endorsed the campaign, and The Entertainment Industry Foundation is also helping generate awareness. Other major partnerships include Viacom, Lifetime Television, ConnectiVISION Digital Networks/ClearVISION and OK TV!."

For more information, please visit: <http://breakthrough.tv/ringthebell/>

For more information about the PSA Campaign, please visit: http://nomore.org/psas/?utm_source=NO+MORE+Master+List&utm_campaign=a1c817cf8a-no_more_psa_campaign_launch_29_24_2013&utm_medium=email&utm_term=0_9a25483780-a1c817cf8a-67167725

NO More Silence. No More Violence.



Domestic Violence Awareness Month (DVAM) evolved from the "Day of Unity" held in October 1981 and conceived by the National Coalition Against Domestic Violence. The intent was to connect advocates across the nation who were working to end violence against women and their children.

The Day of Unity soon became an entire week devoted to a range of activities conducted at the local, state, and national level. The activities conducted were as varied and diverse as the program sponsors but had common themes:

- Mourning those who have died because of domestic violence
- Celebrating those who have survived
- Connecting those who work to end violence

These three themes remain a key focus of DVAM events today. In October 1987, the first Domestic Violence Awareness Month was observed. That same year marks the initiation of the first national domestic violence toll-free hotline.

In 1989, the U.S. Congress passed Public Law 101-112 designating **October** of that year as National Domestic Violence Awareness Month. Such legislation has passed every year since with NCADV providing key leadership in this effort. Each year, the Day of Unity is celebrated the first Monday of Domestic Violence Awareness Month.



For more information on DVAM and to receive a DVAM kit from the Oregon Coalition Against Domestic and Sexual Violence, visit its website: <http://www.ocadsv.com/>

Trainings, Events, and Opportunities

- ♦ **Allies in Change “Working With Abusive Men” (Oct. 2nd-4th, Nov. 13-15th)** Allies in Change presents this multi-day training which meets the state standard requirements for 40 hours of batterer intervention training. It is appropriate for anyone who works with abusive men. Topics include: an overview of domestic violence and batterer intervention, the criminal justice response, cultural humility, effectiveness of interactions, intake procedures, risk assessment, and specific group facilitation techniques. Every item of the Allies in Change Curriculum is reviewed during the course of the training. Participants may sign up for specific days or the entire training. 40 CEUs available. For more information or to register, contact allies@alliesinchange.org or call Allies in Change at 503-297-7979.
- ♦ **Clatsop County’s “Taking a Stand Against DV 5K Run/Walk” (Oct. 5th in Astoria, OR)** Please help support this most important plea to “Take a Stand” against the abuse of others. Dogs are welcomed to join the run (sorry, no admittance to the building). This is a FREE event and Registration is at 9:00am. The race begins at 10:00am. For more information or to register contact Erin at 503-325-8669
- ♦ **Marion County’s DV Walk/Run (October 12th in Salem, OR):** Participating in the domestic violence 5 or 10k walk/run event or becoming a walk/run sponsor will contribute to on-going awareness activities and will show your support for survivors in the Marion County community. Visit <http://www.mcdvcouncil.org/> for more details.
- ♦ **Family Violence Coordinating Counsel’s Monthly Training (Oct 15th in Portland, OR)** Location: SE Health Center, basement conference room, 3653 SE 34th Ave (just south of Powell Blvd.), Portland, OR. Street parking is available. Please refrain from using the Health Center's parking lot, as it is reserved for patient's accessing health services.
- ♦ **Yamhill County’s “4th Annual Domestic Violence Summit” (Oct. 25th in McMinnville, OR)** The Yamhill County Domestic Violence Task Force is presenting a free training for individuals from agencies and organizations within our community and neighboring counties, covering topics around the dynamics of domestic violence and our community response. Mr. Greg Schmidt of the Seattle Police Department will be this year’s Summit speaker. Lunch will be provided with a case presentation during the lunch hour. There is limited space available. Please register by October 11th. Information and registration is available on the Yamhill County Domestic Violence Task Force website under DV Summit at www.domesticviolenceresources.org. If you have questions, please contact Rebecca Heuser at 503-434-7382.

2013 Legislative Summaries

HOUSE BILLS

Workplace Protections for Survivors

HB 2903: Expands current law providing the right to unpaid leave from work for survivors. Requires that notice of rights to protection under the law must be posted in break rooms. Also extends coverage to new and part-time employees by removing the 6 month pre-qualifying requirement. Effective January 1, 2014.

<http://www.leg.state.or.us/13reg/measpdf/hb2900.dir/hb2903.en.pdf>

HB 3263: Provides paid leave for victims who are state employees. Public employee victims of domestic violence, harassment, sexual assault, or stalking now qualify for leave with pay for the safety purposes set out in the current victim unpaid leave law. Leave of up to 160 hours with pay each calendar year is allowed. All other forms of paid leave must be exhausted. Took effect upon signature.

<http://www.leg.state.or.us/13reg/measpdf/hb3200.dir/hb3263.en.pdf>

Sexual Assault Protection Order (SAPO)

HB 2779 established authority for a Sexual Abuse Protective Order (SAPO) to protect certain victims of sexual abuse. Eligibility is limited to victims of sexual abuse who are not eligible for a FAPA and where the respondent is 18 or older and is not prohibited from contacting the victim by a foreign restraining order, a SPO, a juvenile court RO or a no contact order entered in a criminal case. Initially, the AG's Sexual Assault Task Force will produce forms and an instructional brochure and will provide them to circuit court clerks. The Chief Justice's approval required to produce forms/brochure and to provide them to circuit court clerks. Beginning July 2021, the State Court Administrator will be responsible for producing and disseminating the forms and the instructional brochure. Emergency clause; however, most of bill, including availability of SAPO, does not become operative until January 1, 2014.

<http://www.leg.state.or.us/13reg/measpdf/hb2700.dir/hb2779.en.pdf>

Permits waiver of name change posting requirements for Address Confidentiality Program participants

HB 2226 prohibits a court from requiring public notice and posting of a change of name application, if the applicant is a certified adult participant in Address Confidentiality Program, unless good cause exists to require notice. If a court grants an applicant's request, the court shall seal the record of the case. If the court denies an applicant's request, the court shall seal the record of the case unless the court finds that the interest of the public in the case outweighs the safety concerns of the applicant. Took effect June 6, 2013.

<http://www.leg.state.or.us/13reg/measpdf/hb2200.dir/hb2226.en.pdf>

They Did What?!?

Burglars call 911 on themselves

Nathan Teklemariam and Carson Rinehart were driving around Fresno when one of them must have shifted his weight, accidentally dialing 911. The alert dispatcher soon realized that the call was an accidental one, and, moreover, that the guys on the other end might be up to no good.

For the next 35 minutes, the dispatcher stayed on the line, listening and gathering information as Teklemariam and Rinehart did the following: discovered a car they thought they could burglarize; discussed how to break into the car; allegedly broke into the car; “exclaimed in delight” over finding narcotics in the car; became confused as to how and why a police car was following them as they drove away; and reacted in disbelief when the arresting officer revealed that they had been on the line with 911 the entire time. “This fool really called 911? Damn,” one of the men said. Damn, indeed. (Copied from slate.com)

There is no job more interesting than the one we do. And, as they say, truth is stranger than fiction.

So, if you have a funny or disturbing anecdote, send it my way!

Oregon Department of Justice

Domestic Violence Newsletter

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**Unless someone
like you cares
a whole awful lot,
nothing is going
to get better.
It's not.**