

## TESTIMONY OF

### MARSHA KIGHT

#### Before the United States Congress - Senate Judiciary Committee

#### on the Victims' Rights Constitutional Amendment

Mr. Chairman, Senators, thank you for the opportunity to appear today and be a voice for my murdered daughter, Frankie Merrel, and her surviving daughter Morgan. On April 19, 1995, the bomb that shattered the Alfred P. Murrah Federal Building in Oklahoma City also shattered my life.

This was not the first time I have dealt with victimization. I was a victim of rape at the age of nineteen. That loss ripped a hole in my heart - but I buried that pain.

I never reported the rape, because I did not trust the judicial process.

But, when my daughter was murdered, *I buried my daughter but could not bury the pain*. I learned that I had to change if I were to live.

It's ironic that five days after the bombing, a memorial service was held. Hundreds of mourners were there. President Clinton was there. He said, "Let the healing begin."

I was not there. I was at the First Christian Church being notified that Frankie was dead.

The grief had just begun. On that same day, when my grandmother heard of Frankie's death, she said, "I die now." We buried her one week after we buried Frankie.

The hole in my heart almost consumed me. When Frankie died, I would have pulled out my own heart if I could have. I knew that I had to find my voice to survive.

My voice has been joined by many others - so, I speak for Families and Survivors United as well as for myself.

Millions have been here before us and, many are yet to follow. But our *hope* is a U. S. Constitutional amendment for victims' rights.

I have experienced the indignities of our current system. This discussion is not theoretical. It is about my daughter.

I am not here to take rights away from defendants. I plead only for fundamental fairness by asking you to elevate a class of U.S. citizens - victims of crime - to the same status as other Americans.

Without repeating the details of my written testimony, I emphasize the following:

- When this case began, there was federal legislation allowing victims to be present and heard during criminal cases.

- Judge Matsch said that wasn't to be allowed in this case - we could be present, or heard, but not both. - Seeking redress, 88 other victims and I, along with the National Organization for Victim Assistance, representing some 10,000 victim service programs, appealed his ruling. We were told that none of us had standing to appeal - we had no voice.

- Seeing how its laws were being interpreted, Congress passed additional legislation, the Victim Rights Clarification Act of 1997, to reinforce the rights of victims to be present and heard.

- We were hopeful that the will of the people would now prevail in the courtroom. We were wrong.

Judge Matsch did rescind his order but, he left open the possibility that victims may still be excluded from the sentencing phase if they choose to remain in the courtroom during the trial. He hinted that there may be a Constitutional defect in the new law.

We are still awaiting a clarification of that issue. Until then, the prosecutors have advised us that those who wish to testify at sentencing should stay out of the trial.

The right of victims to participate at all appropriate stages of the judicial process must be absolute.

In my mind, there were only three other times when the need for constitutional change was so pressing:

- When the Bill of Rights was written.
- When slavery was abolished.
- When women were granted the right to vote.

Now, as then, is the time for us, as a nation, to guarantee that an amendment to the Constitution gives victims legitimate standing in every court, on every level, throughout America.

*Permit me to end on a personal note. I will be attending the trial - but not because I don't want to testify at any sentencing hearing. I would like to speak for myself, and Frankie and Morgan.*

*But the prosecution team has told me that, under the current rules, I am ineligible to be a witness because I am a member of a minority group - those who oppose the death penalty.*

*If a Constitutional amendment had already been passed, I could accept an implementation statute limiting the number of impact witnesses. I could also accept that I might not win a random drawing to speak at any sentencing.*

*What I could not accept is a philosophical test that automatically excludes people like me from speaking.*

Let me say, the hole in my heart remains unfilled and will always be open, but you can help give me hope, if you remember that the blessings of liberty should mean freedom from fear, freedom to receive information, freedom to participate, and freedom of speech - in the courtroom and for the victim.

I ask you, "If not the Oklahoma City bombing, then what will it take to initiate change? " Or maybe the question is, "Who is next - your child?"