

Kill a Biker, Go to Jail

By Dave Dwyer

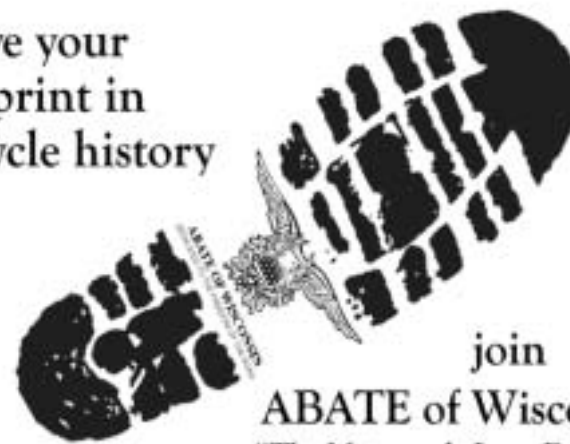
In May, ABATE got a letter from a Kathy Paddock who lost her son Timothy Bennett, in a left turn motorcycle crash and was looking for someone to help her persuade the judge in the case to pass a meaningful sentence in the case. The crash happened at 5 p.m. on Nov. 1, 2005. Tim was traveling west on Hwy 82 and the defendant, traveling east on 82 turned her pick-up truck left into a tavern parking lot directly into his path. She went into the tavern to call for help and then returned outside, where another person was already rendering aid to Tim, so she helped direct traffic until emergency personal arrived on the scene.

When the Marquette County officer interviewed her, both she and her husband claimed that he was the driver at the time of the crash, not her. That being the case there were no tests performed on her to see if she had been drinking. (She has since had an OWI conviction for another incident.) When the Sheriff's office finally determined that she was in fact the driver they forwarded that information to the District Attorney who then filed "hit and run resulting in a death" charges, against both her and her husband. The judge dismissed the case because the defendants did not flee the scene, they had "only obstructed justice" by not identifying her as the driver and he did not believe hit and run was the right charge. The DA followed up by taking the case to the Appeals Court. The Appeals Court decided the charges were appropriate because in their opinion it is the duty of the driver to identify himself or herself as the driver. The Appeals Court ordered the judge to hear the case. The defendant's lawyer then appealed that decision to the Supreme Court, which refused to hear it, so the Appeals Court decision stood.

The case did not have to go to trial because the defendant (her husband had died of cancer) came to a plea agreement with the DA. This was about the time that Kathy found out about ABATE from a Share the Road placemat and sent in her letter requesting help. I spoke with Kathy and we decided that we would do what we could to help influence the judge. Having never worked with the courts before, Greg Rodd, Chubby and I put together a plan of attack. Wanting a professional opinion, I sent our plan to Attorney Mike Hupy for his opinion and suggestions on how to proceed.

Mike reviewed our plan with me in several phone calls and then sent it to the Public Relations firm he works with and requested they start looking at this. Several days later they replied with a plan very close to what we had drafted and included a price of \$1,000 to \$1200 for the work. I replied to Mike that I would need to get BOD approval for that expenditure. In a return email, Mike said that "Hupy and Abraham

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S. C. would pay for the PR involvement." This was completely unexpected, but much appreciated. This started a flurry of emails between the PR firm, Chubby, Mike and I reviewing opinion pieces and possible releases and alerts to the local media.

Kathy provided the contact information for me to talk with the Victim's Advocate in the DA's office to get her take on what was happening. She suggested that it would be helpful if several ABATE Officers would be able to speak at the sentencing. With the sentencing being July 9th there was time for a discussion with some of the members of 2J, Adams and Marquette Counties at the Hummer. Bruce Hall, Region Rep for 2J, agreed to speak along with Chubby and myself. Arrangements were made with the DA for the three of us to make statements and we were set to go.

The day before the sentencing we received word that the Portage paper was sending a reporter and wanted to talk to someone from ABATE and that the Marquette County paper had published the opinion piece with Mike Hupy's name on it. This was a result of the work of the PR firm. The morning of the hearing there were 13 ABATE members in the hall outside the courtroom along with Tim's parents and the Victim's Advocate from the DA's office. The local Sheriff and two of his deputies joined us. He introduced himself and thanked us for showing up to help make a difference. He went over the rules of the court, no weapons or outbursts of emotion. He offered to hold any weapons we may have and told to contact one of his deputies if we needed anything.

At the appointed time, we filed into the small Marquette County courtroom. Between those of us from ABATE and Tim's family we took up most of the seats. We got to see the judge in action as he sentenced defendants in several other cases before ours was called. When our case was called he started by berating the DA for not bringing the right charges. When it came time for me to speak on behalf of the victim, the judge erupted again because "there was no victim here". The DA argued that the victim was not in court because he had been killed. When the judge finally settled down, I was allowed to proceed. That is until one of our members ("thanks" Mary) took a picture and set him off about that. At least he seemed to take an interest in my statement when I got to the part about personal responsibility and how it applied to his case. He even had several comments and questions when I was done.


Chubby was next and he focused on the toll Right-of-Way violations took statewide last year and the need to do something about them. Bruce got to play clean-up and fill in where we had missed. When the judge asked him what ABATE stood for and Bruce told him A Brotherhood Against Totalitarian Enactments he kicked back in his chair and gave us a "thumbs up". We were followed by Tim's mother; she gave a very powerful statement that made many eyes in the court wet. Then it was time for the DA to give his final speech, along with his recommendation for a sentence, 12 years in prison, with the last 5 to 7 being parole. The defense attorney got the last chance to speak. To the judge's credit when he tried to bring up the fact that Tim may have had intoxicants in his system at the time of the crash, the judge cut him off, as that had not bearing on the defendant turning in front of him. He asked that the sentence be no more than one year in the Adams County jail with work release. He wanted Adams County instead of Marquette County because that would make it easier for the defendant to find a ride to work.

When the judge was ready to pass sentence he again admonished the DA because all he felt he could sentence the defendant on was the obstruction part of the charge. He did quote some of the responsibility statements I had made so I know he was paying attention. The final outcome was one year in the Marquette County jail with work release privileges, including credit for time already served.

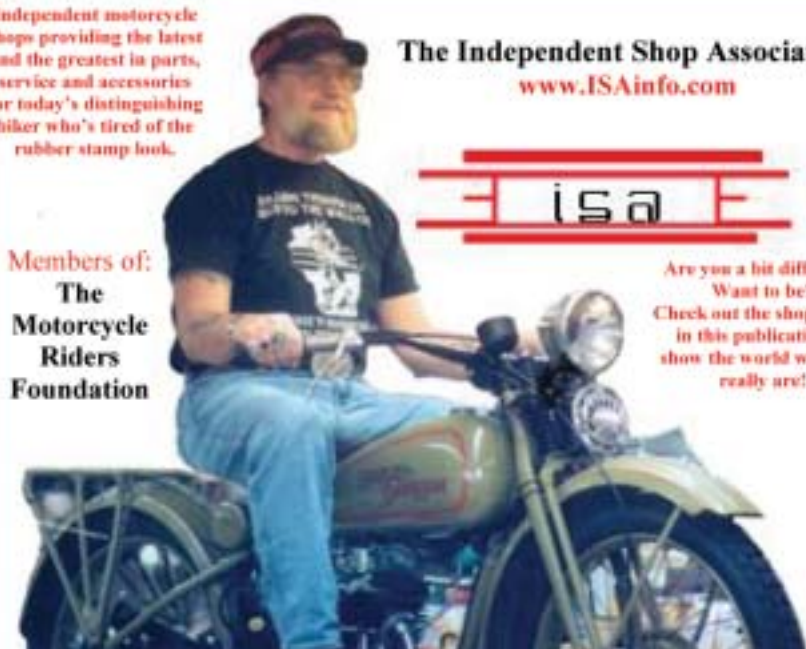
I would like to thank everyone who helped with this effort, Mike Hupy for being a sounding board and for hiring the PR firm, Chubby for shutting his business down for the day and coming up from the Milwaukee area, Bruce, and the folks for 2J for taking a day off from work, and Bill Roberge and Rick Mellon for traveling from the west side of the state to just be there. This was a learning experience for all of us and we intend to pull this knowledge together and spread the knowledge to the Regions for all of ABATE to use. As long as drivers keep violating our right-of-way, we need more headlines that read, "Woman to serve jail time in Motorcycle fatality".

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