

September 2003

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### Recommended Citation

Daniel D. Angiolillo, *Seeking Truth, Preserving Rights - Battered Women's Syndrome/Extreme Emotional Distress: Abuse Excuse or Syndrome Defense*, 24 Pace L. Rev. 253 (2003)

Available at: <https://digitalcommons.pace.edu/plr/vol24/iss1/12>

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# **Seeking Truth, Preserving Rights— Battered Women’s Syndrome/Extreme Emotional Distress: Abuse Excuse or Syndrome Defense**

**The Honorable Daniel D. Angiolillo, J.S.C.\***

Good afternoon everyone. I certainly welcome the opportunity to share a few minutes with you to discuss battered women’s syndrome and extreme emotional disturbance - seeking the truth from a court’s perspective. I believe the best way to address this topic is to turn to a real case that occurred a few years ago here in Westchester County. I feel comfortable discussing the case because the battered woman in that case pled guilty and there was no appeal. When she entered her plea of guilty to manslaughter in the second degree, she waived her right to appeal. I will not mention any specific names as I review the many facts that were on the court record. With that having been said, I will now proceed.

First some background information. The domestic violence court commenced in Westchester County about four years ago in June 1999. The court was thereafter integrated a little over a year ago and is now known as the Integrated Domestic Violence Court of Westchester County. What I mean by “integrated” is that the court now has jurisdiction over domestic violence criminal cases, as well as any related family court and/or matrimonial cases. Therefore, rather than having the litigants appear in two or three different courts, i.e., before two or three different judges, the litigants appear in this part, the Integrated Domestic Violence Court, for all the issues related to their criminal, family court and matrimonial cases. The court is also known as the “one family/one judge” court.

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\* The Honorable Daniel Angiolillo is the presiding judge in the Westchester County Integrated Domestic Violence Court and addresses the multiple legal issues—criminal, family and matrimonial—that can arise when domestic violence occurs. Judge Angiolillo lectures extensively on integrated domestic violence courts.

The case I plan to discuss this afternoon did not have any related cases, as it was a homicide case. My perspective is the court's view on how to approach these cases. Specifically, how I approached this particular case and arrived at what I thought was a just and appropriate sentence, and what tools were available in attempting to seek the truth.

This case, as I said, was a homicide case. The defendant was almost eighteen years old when she killed her partner. The deceased was eighteen years old. They met when she was about fifteen and shortly thereafter she became pregnant and had a child. She was a victim of domestic violence for more than 2½ years. During their 2½ year on and off relationship, she lived with her mother and he lived with his family.

On the night in question, the deceased had dinner at her house. After dinner, she went into her bedroom and fell asleep. A number of hours later, she was awakened by him as he was on top of her attempting to remove her clothes. She pushed him off, went into the kitchen and picked up a kitchen knife. At this point it gets somewhat cloudy as to what exactly happened. She claimed that he was in the bedroom behind the bedroom door when she had this knife in her right hand and motioned it downward between the door and the doorframe, about a 1½ foot opening. She then heard a noise, checked and found him lying on the floor. She then realized he was bleeding and immediately called 911. The police and ambulance arrived. He died later that night from one stab wound to the chest. The grand jury heard evidence which included her testimony and returned an indictment of manslaughter in the second degree. Not manslaughter in the first degree, not murder in the second degree, but the lesser charge of manslaughter in the second degree. Extreme emotional disturbance was therefore not applicable to this case. If we have time, I would like to take a few minutes to discuss extreme emotional disturbance, possibly after the other speakers. I will therefore hold my comments regarding extreme emotional disturbance.

Returning to this case, she testified at the grand jury. The grand jury handed up an indictment charging one count of manslaughter in the second degree and the case was assigned to me. We had a preliminary conference at which time the district attorney's office took a very strong, firm position. They wanted

the maximum sentence of five to fifteen years in state prison without youthful offender adjudication. The defense attorney on the other hand sought youthful offender adjudication with time served plus probation. As the judge, I was faced with these two extreme positions and attempted to arrive at an appropriate and just sentence. The defense attorney at the initial conference said, "Judge, there's a long history of domestic violence. We're going to raise the defense of battered women's syndrome and justification. She suffered from post-traumatic stress disorder." There were then many adjournments over a number of months. At one point, the defense retained a Ph.D., a psychologist from New York City, to prepare a psychological evaluation of the defendant. This doctor spent eighteen hours with the defendant who was housed at the Youth Shelter in Westchester County. The doctor also reviewed a number of medical reports and police reports and thereafter submitted a nineteen-page evaluation; a very thorough report. On one of the adjourned court dates, the defense lawyer made a suggestion for a pre-plea report to be prepared by the probation department. As I look back, it was a brilliant idea. At the time I didn't realize how helpful it would prove to be. A pre-plea report is a procedure we use occasionally in Westchester County, but not too often. Fortunately, this tool was used in this case.

The Probation Department of Westchester County prepared a pre-plea investigation report. The assigned probation officer prepared this report after spending six hours with the defendant over a few different sessions. She also spent three or four hours with the victim's family. Upon completion of the report, the probation department made a recommendation for youthful offender adjudication. Although it is uncommon for the probation department to take such a position, they did so in this particular case. With "Y.O.," or youthful offender adjudication, the maximum sentence under New York law is one to four years and no higher.

Upon receipt of the probation department's pre-plea report, a conference was held with the lawyers. The district attorney's office was still recommending the maximum sentence of five to fifteen years, notwithstanding the fact that probation was recommending a youthful offender adjudication and that the doctor, the Ph.D., had prepared an extensive report detailing over

2½ years of domestic violence. At this point, I had to weigh many different factors. On one side, I had a defendant with no prior criminal record; someone who had been at the youth shelter for about a year with a very positive education record at the shelter and who was very remorseful according to the probation department. The probation department in recommending the youthful offender adjudication reviewed all the pertinent police reports and interviewed several detectives, one of whom said that this incident was “more of an accident” than anything else. Most importantly, the probation officer documented sixteen domestic violence police calls involving the defendant and deceased. The doctor’s report also detailed over 2½ years of domestic violence. As I mentioned earlier, the doctor spent many hours reviewing police reports and medical records before issuing his evaluation and conclusion that defendant was a victim of battered women’s syndrome.

I had all of that on one side and I weighed it against the other side. A life was taken. The victim’s family wanted a state prison sentence. I was told that the victim’s mother wanted to speak at the time of sentence, which is considered a victim’s right in New York State. The district attorney’s office was unwavering in their position, the maximum state prison sentence and no youthful offender adjudication. The victim’s mother believed her son was a good, young man who was loved by his family. Reports from the community said that he was well respected, not only by his peers, but also by his teachers and community members. All of this information was a part of the probation department’s extensive and thorough report. Probably the most extensive and thorough report I have ever seen from the bench.

I have with me both the pre-plea report and the doctor’s report and had planned to reference for you the different incidents of domestic violence. The doctor’s report states quite clearly that the defendant was a classic battered woman. You can draw that inference from the number of instances that were reported. If we have time, I will detail the domestic violence history, but I know we’re running a bit beyond the time limit. Interestingly, the district attorney’s office prosecuted this case by their general trial bureau rather than their domestic violence bureau.

I said to you at the beginning that I attempted to seek the truth. Was I successful in seeking the truth by having the assistance of the probation department and the doctor's psychological evaluation? I believe I was; nothing is certain, however, but I can tell you that my knowledge was certainly enhanced because of what the probation department and the doctor (the Ph.D./psychologist) presented to me. After weighing all this information including the fact that she had been in the youth shelter for a little over a year and keeping in mind that a life was taken, I decided not to adjudicate her a youthful offender and I imposed a sentence of 1½ to 4½ years in state prison. That was my decision in this case after presenting all of these facts and reasons on the record. Some of you may agree or disagree with the sentence. But I can tell you with confidence that these extra tools, the probation department's pre-plea report in particular, an invaluable tool, and the psychologist's evaluation, assisted me in arriving at a more informed decision. I realize that I am over the time limit. I will stop at this point and hopefully, we will have a few more minutes later because there is so much more to talk about.