

Commonwealth v. Conaghan, 433 Mass. 105 (2000): A Flexible Approach To Battered Woman Syndrome In The Massachusetts Courts

By Dana Alan Curhan



On December 22, 2000, in a 4 to 3 decision, the Supreme Judicial Court ruled that a woman who claimed to be suffering from battered woman syndrome was entitled to an examination by an expert on the subject to determine "her competency to assist counsel in her defense and to enter a voluntary plea due to battered woman syndrome." *Commonwealth v. Conaghan*, 433 Mass. 105, 110 (2000). In so deciding, the Supreme Judicial Court overruled a split decision of the Appeals Court which had found that Conaghan did not fit the traditional definition of a battered woman. *Commonwealth v. Conaghan*, 48 Mass. App. Ct. 304, 312-313 (1999). The sharp division among the justices who considered this case (5 to 5) highlights the continuing debate as to what constitutes battered woman syndrome (BWS) and how such evidence should be presented in the trial courts.

Ultimately, the Supreme Judicial Court adopted a flexible approach, leaving the initial decision to the experts. Not only will this approach accommodate changing views on the subject, but it will permit trial courts to consider the individual circumstances of victims of domestic abuse.

Background

On October 12, 1991, Deborah Conaghan carried the lifeless body of her five year old son into the Emergency Room at St. Vincent Hospital in Worcester. She told emergency personnel that the child had slipped in the bathroom, fallen backwards, and struck his head. She also told them that she was alone at the time of the accident and that she drove him to the hospital by herself. An autopsy revealed three subdural hematomas, each of varying age. The most recent of the three aggravated one of the earlier injuries, causing the child's brain to swell and leading to his death.

When questioned by state troopers, Conaghan subsequently stated that she pushed her son to the floor several times to punish him for vomiting. She also admitted to pushing him and hitting him with a hairbrush at various times in the month preceding his death. She punished him for disobeying, for not listening to her, and for playing with the "private parts" of her boyfriend's daughter. She insisted that she was alone with her son during each of these punishment sessions.

She pleaded guilty to manslaughter on September 1, 1992, again claiming to have acted alone. She received a 12 to 18 year sentence.

In April of 1997, Conaghan filed a motion to withdraw her guilty plea. She claimed that her boyfriend inflicted the fatal injuries upon her son and that to the extent that she may have contributed to any of her son's injuries her participation was coerced. She further claimed

that her boyfriend coerced her into pleading guilty to the charges. She subsequently filed a motion requesting a psychiatric examination to determine whether she suffered from battered woman syndrome.

In support of her new trial motion, she presented materials "reveal[ing] the violent and abusive personality of [her boyfriend]." *Commonwealth v. Conaghan*, 433 Mass. at 108. In particular, she offered "extensive evidence of [his] physical abuse of children, particularly boys" and of his long history of controlling women through fear and intimidation.

Commonwealth v. Conaghan, 48 Mass. App. Ct. at 326 (Dreben, J., dissenting). His abuse of these children included punishment sessions for vomiting and playing with the private parts of other children. Two years after Conaghan's plea, he was convicted by a jury of forcible rape of a child, indecent assault and battery on a child under fourteen years of age, assault and battery, and assault and battery by means of a dangerous weapon in connection with his abuse of the children of another girlfriend.

Conaghan described his constant threats of physical violence and emotional abuse. She also presented evidence that she had been physically and emotionally abused in previous relationships, and indeed, the records describing her mental health treatment after her incarceration refer to her "past tendencies to be lorded over by abusive males." Notwithstanding the evidence presented, the trial court denied her new trial motion and motion for a psychiatric examination without an evidentiary hearing.

Treatment Of Battered Woman Syndrome In The Courts

"Battered woman syndrome has been described as a 'series of common characteristics that appear in women who are abused physically and psychologically over an extended period of time by the dominant male figure in their lives.'" *Commonwealth v. Pike*, 431 Mass. 212, 221 (2000), quoting *State v. Kelly*, 97 N.J. 178, 198, 478 A.2d 364 (1984). "'Among the characteristics of such abused women are a decrease in self-esteem, an emotional dependence upon the dominant male and [a] type of psychological "learned" helplessness arising out of an inability to predict or control the violence directed against them. Numbed by a dread of imminent aggression, these women are unable to think clearly about the means of escape from this abusive family existence; and this emotional paralysis is often reinforced by their traditional beliefs about the sanctity of home and family and their false hopes that things will improve.'" *Commonwealth v. Pike*, 431 Mass. at 221, quoting *Commonwealth v. Moore*, 25 Mass. App. Ct. 63, 66 (1987) and *People v. Torres*, 128 Misc.2d 129, 132, 488 N.Y.S.2d 358 (N.Y.Sup.Ct. 1985).

Battered woman syndrome is commonly described as a category of posttraumatic stress syndrome. See *Commonwealth v. Crawford*, 429 Mass. 60, 66-67 (1999); *Commonwealth v. Grimshaw*, 412 Mass. 505, 506 (1992). Evidence of BWS is typically introduced to explain a defendant's mental state in support another theory of defense. Most commonly, it is offered in support of a self-defense theory where a woman has attacked her batterer in circumstances where her fear of imminent death or great bodily harm would not otherwise appear objectively reasonable. In such cases, expert testimony is offered to show that the history of abuse increased the woman's perception of the danger and contributed to her belief that her use of force was her only means of escape. See *Commonwealth v. Rodriguez*, 418 Mass. 1, 7 (1994); *Commonwealth v. Hall*, 45 Mass. App. Ct. 146, 149-150 (1998); G.L. c. 233, §23F.

Battered woman syndrome is not a defense in its own right. Thus, the fact that the defendant may have been the victim of domestic abuse in the past does not provide a blanket justification for "a crime of violence against her abuser. *Commonwealth v. Haddock*, 46 Mass. App. Ct. 246, 249-250 n. 4 (1999).

Moreover, as the Appeals Court noted, most "courts have found that battered woman syndrome is not a mental disease, defect or illness." *Commonwealth v. Conaghan*, 48 Mass. App. Ct. at 319. *See United States v. Johnson*, 956 F.2d 894, 899-900 (9th Cir. 1992) ("Battered woman's syndrome is not a gross, identifiable mental defect"); *People v. Seeley*, --- N.Y.S.2d ---, 2000 WL 33115688 at 2 (N.Y.Sup. 2000) ("Battered Woman Syndrome is not a mental defect or disease"); *People v. Aris*, 215 Cal.App.3d 1178, 1194, 264 Cal.Rptr. 167 (1989) (battered woman syndrome is not a mental illness); *State v. Borrelli*, 227 Conn. 153, 169 n. 13, 629 A.2d 1105 (1993); *Bechtel v. State*, 840 P.2d 1, 7 (Okla.Crim.App. 1992) (battered woman syndrome is "not a mental disease in the context of insanity"). *See also United States v. Marengi*, 893 F.Supp. 85, 91 n. 10 (D.Me. 1995) ("There is no consensus among courts regarding whether the syndrome is properly characterized as a defect"). Efforts to build an insanity defense on evidence of battered woman syndrome have therefore met with little success. *See Commonwealth v. Hall*, 45 Mass. App. Ct. at 152-153 (nothing in expert's findings as to battered woman syndrome indicated that the defendants condition prevented her from understanding the wrongfulness of her behavior or prevented her from controlling her actions).

Rejecting A Narrow Definition Of Battered Woman Syndrome

In concluding that Conaghan's did not suffer from battered woman syndrome, the Appeals Court adopted a narrow definition of the term. The court noted that:

Violent behavior directed against women occurs in cycles consisting of three stages. "During the first stage, there is mostly verbal abuse, with minor physical abuse." Stage two is "characterized by an escalation of the abuse 'until there is an explosive instance where the woman is physically beaten up.'" Stage three "consists of a respite, with no abuse for a short period of time. This cycle continues throughout the relationship with a decrease in the time between the batterings." *Commonwealth v. Lazarovich*, 410 Mass. 466, 471 (1991).

Commonwealth v. Conaghan, 48 Mass. App. Ct. at 312. Although Conaghan's boyfriend emotionally abused her, the court found that he did not become physically abusive until after the child's death. In the absence of evidence of "an explosive instance" of physical violence, the court concluded, Conaghan failed "to demonstrate a cycle of abuse" and "her claim that she suffers from battered woman's syndrome cannot succeed." *Id.*

The difficulty with the Appeals Court's approach is that it assumes that there is a single definition of battered woman syndrome. While the "cycle" theory is widely accepted, *see* L. Walker, *The Battered Woman* at 55-70 (1979), there is in fact no consensus on a single definition of BWS. The term encompasses a wide variety of reactions by a wide variety of women in response to a wide variety of abusive behavior. There may be circumstances, for example, in which the abuse is entirely psychological rather than physical. *Compare State v. Kelly*, 97 N.J. at 193, 478 A.2d at 371 ("Dr. Lenore Walker, a prominent writer on the battered-woman's syndrome, defines the battered woman as one . . . who is repeatedly subjected to *any* forceful physical *or* psychological behavior by a man in order to coerce her to do something he wants her to do without concern for her rights.") (emphasis added).

There may also be circumstances where the target of abuse is particularly vulnerable-for

example, someone like Conaghan who has been abused in past relationships may react to less than a full "cycle" of abuse.

In fact, both the Supreme Judicial Court and the Legislature have recognized the need for a more flexible approach in which an expert examines each woman in light of her individual experiences, determines "her particular mental state as a battered woman[.]" and presents those findings to the court. *Commonwealth v. Crawford*, 429 Mass. at 66. See G.L. c. 233, § 23F (permitting criminal defendants to introduce expert testimony as to whether they "displayed characteristics common to victims of abuse."). This is precisely the approach that the Supreme Judicial Court took in *Conaghan*. The court neither endorsed nor rejected her claims, but simply held that a decision could not be made without expert guidance. *Commonwealth v. Conaghan*, 433 Mass. at 110.

It should be noted that the decision in *Conaghan* is rather narrowly drawn. While the Appeals Court concluded that BWS would not provide a defense to the underlying charges (concluding that it is not a mental disease or defect that would have prevented Conaghan from being held criminally responsible for the offense), the Supreme Judicial Court did not address the subject. The SJC focused only on her mental competency to assist her attorney and to plead guilty voluntarily. *Id.* at 110-111.

However, nothing in the court's opinion forecloses Conaghan from offering evidence of BWS on the underlying offense. Thus, "if a new trial were granted, it would be open to [her] to argue that undue pressure was exerted upon her, that is, she was coerced to participate in pushing her son." *Commonwealth v. Conaghan*, 48 Mass. App. Ct. at 327 n.12 (Dreben, J., dissenting). Compare *Commonwealth v. Pike*, 431 Mass. at 217 (trial court considered evidence in support of claim that defendant committed murder "under [her boyfriend's] duress").

Conclusion

While courts struggle to define battered woman syndrome and set parameters for its use in the trial courts, the Supreme Judicial Court has wisely refused to adopt a single, arbitrary definition or a single set of arbitrary criteria for the admission of evidence on the subject. Instead, the court has opted for a more flexible approach, leaving the initial evaluation to the experts. Not only will this approach accommodate changing definitions of BWS, but by allowing defendants to present expert testimony tailored to their individual circumstances, it will allow the trial courts to make fair and accurate decisions.

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