

Battered Women's Syndrome is a Legitimate Defense

From Violence: Opposing Viewpoints, P 158-61, 1996,
David Bender, et al, eds. See NCT-159343)

The battered women syndrome defense has been used by women who argue that their only means of escaping life-threatening abuse is to kill their husbands.

The battered women's syndrome (BWS) expands the concept of legal self defense. This defense holds that a battered woman is virtually held hostage in a violent household by a man who isolates her and terrorizes her, convincing her that if she leaves he will track her down and kill her.

Three components of (BWS) include behavior brought on by victimization, learned helplessness behavior, and self-destructive coping behavior.

In Pennsylvania, in criminal cases, concerning the admissibility of evidence of Battered Women's Syndrome (BWS) and the use of expert testimony regarding (BWS) in Commonwealth v Miller, 430 Pa. Super. 297, 634 A.2d 614 (Pa. Super Ct 1993) In Miller, the Superior Court recognized that (BWS) had not been adopted as a separate defense to homicide in Pennsylvania, and that the use and acceptability of (BWS) evidence was unclear.

Superior Court held the following:

(BWS) does not represent a defense to homicide in and of itself, but rather, is a type of evidence which may be introduced on the question of the reasonable belief requirement of self-defense in cases which

involve a history of abuse between the victim and the defendant. Expert testimony regarding a "battered person syndrome" is relevant to the defendant's state of mind and is not introduced to bolster the credibility of the defendant, but rather, to aid the jury in evaluating the defendant's state of mind given the abusive environment which existed. *Commonwealth v Miller*, 430 Pa. Super, 297, 634 A. 2d 614, 621-22 (Pa. Super Ct 1993) (citing *Commonwealth v Dutton*, 528 Pa., 417, 598 A. 2d 963 (Pa., 1991)). In other words, where a defendant has properly raised a self-defense claim, the defendant may introduce evidence of (BWS) to prove the reasonable belief requirement of a self-defense claim.

However... this is very important... before a claim of self-defense is "properly in issue at trial, there must be some evidence, from whatever source, to justify such a finding." *Commonwealth v Black*, 474 Pa., 47, 376 A. 2d 627, 631 (Pa 1977). It is true that the Commonwealth bears the burden to prove beyond a reasonable doubt that the defendant was not in fact in self-defense, but the defense itself must first be properly raised. *Commonwealth v Mouzon*, 617 Pa. 527 53 A. 3d 738, 742 (Pa 2012) (stating that a claim of self-defense requires evidence established in three elements: "a) that the defendant reasonably believed that she was in an imminent danger of death or serious bodily injury and that it was necessary to use deadly force against the victim to prevent such harm b) that the defendant

was free from fault in provoking the difficulty which culminated in the slaying, and (c) that the defendant did not violate any duty to retreat.")

Battered women's syndrome is often accompanied by legal problems. People who press charges against their abusers, need to testify in court. Restraining orders are usually only 30 days

The issues of concern presented by Appeals involve the ineffectiveness of trial counsel in a homicide case 1) failing to request jury instructions that would require the jury to consider the cumulative effects of psychological and physical abuse when assessing the reasonableness of a battered person's fear of imminent danger of death or serious bodily harm with respect to a claim of self-defense and when assessing what constitutes sufficient provocation to support a conviction for voluntary manslaughter and 2) failing to present expert testimony on the battered women's syndrome with regard to the characteristics of victims of such abuse, and a jury, without the aid of expert testimony is likely to render a verdict based upon erroneous myths concerning the victims of such abuse

How to get back in Appeals, file a "Petition for New Trial under Newly Discovered Evidence exception rule 42 Pa. C.S. 9545 (b)(i)(ii). An important part to add into the Petition, "Defendant would invoke the newly discovered fact exception. In order to overcome the PCRA's jurisdiction hurdle under the newly discovered fact exception 42 Pa. C.S. 9545 (b)(i)(ii). The Petition "must establish that" 1) the facts upon which the claim was predicated were unknown

and 2) could not have been ascertained by the exercise of due diligence. If the Petition alleges and proves these two Components, then the PCRA Court has jurisdiction over the claim under Section 9545 (b)(i)(ii).

Commonwealth v Brown 111A, 3d 171, 177 (Pa Super 2015)
(citing Commonwealth v Bennett, 930A, 2d 1264, 1272 (Pa 2007)).

A list of great (BWS) cases are as listed. please check them out.
Commonwealth v Michelle Brennan - Pa Super Ct April 8, 1997
vacated, new trial

Commonwealth v Erin Nicole Everett - Common Pleas Court of Somerset County, Pa No. 249 Criminal 2011

* U.S v Lashay Marie Lopez 913 F, 3d 807, Jan 10, 2019
Conviction vacated & remanded for a new trial

United States v Carolyn Sue Johnson 9th Circuit Sept 11, 1991
acted under duress - vacated sentence

U.S v Contento - Pachon 9th Circuit Jan 12, 1984
Reversed & remanded - duress defense

Commonwealth v Carol Stone house Supreme Court March 3, 1989
521 Pa 41, 555A, 2d 772 1989 Pa Lexis 42

Commonwealth v Barbara Watson Supreme Court of Pa
July 8, 1981 reversed appellants conviction - self defense

You could be next, also check out (IPS) Intimate Persons Syndrome