

Spring 1991

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Recommended Citation

Joy Hannel, *Missouri Takes a Step Forward: The Status of Battered Spouse Syndrome in Missouri*, 56 Mo. L. REV. (1991)

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Missouri Takes a Step Forward: The Status of "Battered Spouse Syndrome" in Missouri

*State v. Williams*¹

I. INTRODUCTION

When Missouri Revised Statute section 563.033,² which makes evidence of "Battered Spouse Syndrome" admissible on the issue of self-defense, was passed in 1987, those involved believed that the statute would be a solution to some of the problems women have encountered under the male-dominated legal system.³ This has been recognized, however, as a fallacy.⁴ While the statute is definitely a step in the right direction, biases inherent in the justice system continue to affect the interpretation of the statute.⁵

This Note will analyze a recent application of Missouri's battered spouse provision. The Note will briefly discuss the history of wife abuse and then focus on the history of self-defense and its use by women who have killed their partners.⁶ As background, the Note will also look at Dr. Lenore Walker's theories on "Battered Woman Syndrome."

II. FACTS AND HOLDING

From 1983 to 1988, Donna Williams (Williams), defendant, had a nonmarital intimate relationship with Louis Teague (Teague).⁷ During that

1. 787 S.W.2d 308 (Mo. Ct. App. 1990).

2. MO. REV. STAT. § 563.033 (Supp. II 1989). Pertinent sections of the statute are as follows:

1. Evidence that the actor was suffering from the battered spouse syndrome shall be admissible upon the issue of whether the actor lawfully acted in self-defense or defense of another.

3. *Id.* See Note, *Missouri's New Law on "Battered Spouse Syndrome:" A Moral Victory, A Partial Solution*, 33 ST. LOUIS U.L.J. 227 (1988).

4. *Id.* at 239-53.

5. *Id.* at 255.

6. While this Note focuses on battered women, the Missouri statute is equally applicable to the situation where a husband is the battered, physically weaker person in the relationship.

7. *Williams*, 787 S.W.2d at 309.

period, Teague beat Williams on at least ten and as many as seventeen occasions.⁸ At least once Teague kicked her in the stomach while she was pregnant with their child.⁹ On many of these occasions Williams required medical attention.¹⁰ Teague also vandalized Williams' apartment on one occasion and was placed on one year of probation.¹¹ On that occasion, police told Williams that if she had been at the apartment, Teague would have killed her.¹² On the other numerous occasions in which the police were called, the police always released Teague without charges.¹³ Williams continued her relationship with Teague for many reasons, such as her belief that he would change and her desire to give their daughter a complete family.¹⁴ She believed that his violence was due to his problems with drugs and alcohol and that once he was free of their influence, the situation would improve.¹⁵

On April 22, 1988, Williams worked until 11:00 pm, and was to meet Teague at her home after he picked up their daughter from the babysitter.¹⁶ Teague did not pick up their daughter.¹⁷ Rather, he had "spent the day with friends, including Joel Robinson, drinking, using drugs, and playing cards."¹⁸ Williams picked up their daughter from a man with whom the babysitter had left the child.¹⁹ She was upset about the potential harm that could have come to the child, and she blamed Teague for it.²⁰ She searched for Teague because he had the only keys to her apartment.²¹ She found Teague at Robinson's house and an argument followed.²² Teague struck Williams in the face, knocking her down the stairs.²³ He then hit her again while she was on the ground, knocking off her glasses.²⁴ Williams managed to get in

8. *Id.* One time Teague required medical treatment when Williams hit him with a flower pot trying to defend herself from his assault. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* at 309-10.

20. *Id.* at 310.

21. *Id.* at 309-10.

22. *Id.* at 310.

23. *Id.*

24. *Id.*

her car, but she was hysterical and crying.²⁵ She had her glasses, but in the confusion did not put them on, thereby reducing her vision to 20/400.²⁶ As Teague approached, she pulled out and struck the car in front of her.²⁷ Unknown to Williams, Robinson had also entered the street and was struck by the car, falling into the street.²⁸ She saw the body in the street and assumed that it was Teague's body and that he was hurt.²⁹ She turned around and ran over the body, killing Robinson.³⁰

The state charged Williams with first degree murder.³¹ Since Williams believed that she was killing Teague, any defenses she may have had to killing him transferred to the actual victim, Robinson.³² At trial, Williams attempted to introduce evidence of "Battered Spouse Syndrome"³³ pursuant to Missouri Revised Statute section 563.033,³⁴ because of her long-time abusive relationship with Teague.³⁵

The trial court excluded the evidence of Williams' history of abuse and all testimony regarding "Battered Spouse Syndrome," stating that Missouri Revised Statute section 563.033 applied only when the defendant in question was married to the victim.³⁶ The court focused on the term "spouse" in the legislature's use of the term "Battered Spouse Syndrome."³⁷ Williams was convicted and sentenced to twenty years in prison.³⁸

On appeal, the Eastern District of the Missouri Court of Appeals reversed and remanded,³⁹ holding that application of "Battered Spouse Syndrome" pursuant to Missouri statute to a claim of self-defense is not dependent upon the defendant's marital status.⁴⁰ The applicable standard is what a reasonable

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.* Williams remembered that Teague had told her before that if she ever hurt him she had better kill him, or he would kill her. *Id.*

30. *Id.*

31. *Id.* at 309.

32. *Id.*

33. See *infra* notes 87-101 and accompanying text.

34. MO. REV. STAT. § 563.033 (Supp. II 1989).

35. *Williams*, 787 S.W.2d at 310.

36. *Id.*

37. *Id.*

38. *Id.* at 309.

39. *Id.* at 314.

40. *Id.* at 312.

battered woman would have perceived and how she would have reacted considering her history of abuse.⁴¹

III. LEGAL BACKGROUND

A. Abuse of Women: Socialization and Legal Problems

A woman, who had experienced 14 years of beatings from a husband . . . had gotten 1 year Family Court injunctions against his assaults seven times. Frequently, when the police responded they told her to file a violation petition, requesting the court to hold her husband in contempt. They did not arrest him until the night they found her dazed and dripping with blood from a large head wound. Her husband had smashed her in the head repeatedly with a chair. He had inflicted several stab wounds with a screwdriver. . . . As the officers arrested the man for attempted murder, he protested, 'But she's my wife.'⁴²

Attitudes such as the one described above are prevalent in society as a whole and apply to all women, regardless of marital status. These attitudes have their roots in history, with even the Bible providing an illustration.⁴³ At common law, a woman had no property rights, could not sue or be sued, and was considered a single legal entity with her husband, that is, his property.⁴⁴ During this time, wife beating was an accepted practice.⁴⁵ Consider the common law "Rule of Thumb" in England, in which the man was allowed to beat his wife with a rod "no thicker than his thumb."⁴⁶ This rule was considered moderate at the time because it imposed restrictions on what a man could do in his own home.⁴⁷ England finally abolished the right of a

41. *Id.* at 312-13.

42. S. SCHECHTER, *WOMEN AND MALE VIOLENCE* 54 (1982) (quoting M. FIELDS, *WIFE BEATING: GOVERNMENT INTERVENTION POLICIES AND PRACTICES*, U.S. COMMISSION ON CIVIL RIGHTS, *BATTERED WOMEN: ISSUES OF PUBLIC POLICY* 235 (1978)).

43. *Genesis* 3:16 (husband has dominion over wife); *Deuteronomy* 22:13-21 (woman's hand could be cut off for grabbing another man's genitals to save her husband in a fight). See A. BROWNE, *WHEN BATTERED WOMEN KILL* (1987).

44. Comment, *A Woman, a Horse, and a Hickory Tree: The Development of Expert Testimony on the Battered Woman Syndrome in Homicide Cases*, 53 *UMKC L. REV.* 386, 387 (1985).

45. Mather, *The Skeleton in the Closet: The Battered Woman Syndrome, Self-Defense, and Expert Testimony*, 39 *MERCER L. REV.* 545, 547 (1988).

46. *Id.* at 546.

47. *Id.*

husband to beat his wife one hundred years ago, but the right has still been defended by some judges in modern times.⁴⁸

Even though American courts have withdrawn a husband's right to beat his wife, abuse of women continues. The FBI estimates that a woman is beaten every eighteen seconds.⁴⁹ One source estimates that "[i]n this country, a woman's chances of being assaulted at home by her partner are greater than that of the police being assaulted on the job."⁵⁰ These assaults are also more dangerous to the woman and inflict more serious life-threatening injuries.⁵¹ The main cause of abuse of women is the continued socialization of men to regard women as second-class citizens and property.⁵² This socialization is perpetuated by society's laws and its failure to protect women from men with whom they have relationships.⁵³ Dr. Lenore Walker, a renowned psychologist in the field, states that "[i]t is a fact that *batterers often suffer no legal consequences whatsoever for their behavior*."⁵⁴ Legislatures can pass laws which seek to equalize the treatment of women in the criminal justice system, but until such legislation is enforced, societal attitudes about women will not substantially change.⁵⁵

The failure to hold batterers accountable is attributable to two major factors: lack of police intervention and failure to prosecute. Police do not like to intervene in domestic violence situations because of the likelihood of serious injury or death⁵⁶ and because they perceive domestic violence as a family matter, not a legal matter.⁵⁷ The police rarely arrest a batterer or even remove him from the home.⁵⁸ The Commander of the Detroit Police

48. Comment, *supra* note 44, at 388.

49. FEDERAL BUREAU OF INVESTIGATION UNIFORM CRIME REPORTS, UNITED STATES DEPARTMENT OF JUSTICE, CRIME IN THE UNITED STATES 1979 10-11 (1980).

50. A. BROWNE, WHEN BATTERED WOMEN KILL 4 (1987).

51. *Id.* at 5.

52. L. WALKER, TERRIFYING LOVE: WHY BATTERED WOMEN KILL AND HOW SOCIETY RESPONDS 236-37 (1989) [hereinafter TERRIFYING LOVE]. See also Pagelow, *Sex Roles, Power, and Woman Battering*, in WOMEN AND CRIME IN AMERICA 239-77 (L. Bowker ed. 1981).

53. TERRIFYING LOVE, *supra* note 52, at 279.

54. *Id.* at 241.

55. D. MARTIN, BATTERED WIVES 175 (1976).

56. S. SCHECHTER, WOMEN AND MALE VIOLENCE: THE VISIONS AND STRUGGLES OF THE BATTERED WOMEN'S MOVEMENT 161 (1982).

57. See A. BROWNE, *supra* note 50, at 164.

58. C. EWING, BATTERED WOMEN WHO KILL: PSYCHOLOGICAL SELF-DEFENSE OR LEGAL JUSTIFICATION 15 (1987). See D. MARTIN, *supra* note 55, at 93 (indicating that the procedure for handling domestic violence police calls usually instructs police to avoid making arrests); Faragher, *Police Response to Violence Against Women in the Home*, in PRIVATE VIOLENCE AND PUBLIC POLICY: THE NEEDS OF BATTERED WOMEN

Department indicated that most police officers have a *laissez faire* attitude about domestic cases which has been made worse by their view of females as subordinate to males.⁵⁹

The failure to prosecute exemplifies these views. In a study of abused women, Dr. Lenore Walker found that ninety percent of the women who reported abuse to the police did sign complaints, but fewer than one percent of the men were ever prosecuted.⁶⁰ The reasons for failure to prosecute are varied. Some prosecutors may not want to bother with the case, while others simply mislead the judge about the seriousness of the crime.⁶¹ Dr. Walker states that low prosecution rates are attributable to women often dropping the charges and to the serious evidentiary problems presented by the usual lack of witnesses to the events.⁶² It is common procedure "for an attorney to measure the probable amount of 'prosecutable' injury a battered woman has sustained by counting the number of stitches required to close her wounds."⁶³

B. What Happens When Battered Women Kill

Inevitably, some women who are abused will strike back, killing their partners. It is ironic that the same women, whose continual appeals for police protection have been denied, are arrested quickly for the murders of their partners.⁶⁴

In the 1970s, battered women who killed their partners began to turn primarily to the defense of self-defense.⁶⁵ In order for a defendant to prevail on a self-defense claim she had to show that: (1) she reasonably believed she was in imminent danger of serious bodily harm or death; and (2) that she reasonably believed that the use of such deadly force was necessary to avoid this danger.⁶⁶

The biggest problem with this defense was showing that the woman had a reasonable belief of imminent danger.⁶⁷ At common law, the defendant's

AND THE RESPONSE OF THE PUBLIC SERVICES 110-124 (J. Pahl ed. 1985); Mather, *supra* note 45, at 557-59.

59. S. SCHECHTER, *supra* note 56, at 158.

60. TERRIFYING LOVE, *supra* note 52, at 54.

61. D. MARTIN, *supra* note 55, at 117-18.

62. L. WALKER, THE BATTERED WOMAN 213 (1979) [hereinafter BATTERED WOMAN].

63. TERRIFYING LOVE, *supra* note 52, at 236-37.

64. A. BROWNE, *supra* note 50, at 159.

65. Mather, *supra* note 45, at 560.

66. W. LAFAVE & A. SCOTT, CRIMINAL LAW 455 (1988); see also State v. Chambers, 671 S.W.2d 781 (Mo. 1984).

67. Mather, *supra* note 45, at 565.

actions were measured by the "reasonable man" standard; that is, how a reasonable and prudent man would have acted in similar circumstances.⁶⁸ It became apparent, however, that this standard did not apply for many battered women, because what was reasonable conduct for a man was not reasonable for a woman in the same situation.⁶⁹

This phenomenon is illustrated by the case of *People v. White*.⁷⁰ Ms. White had lived with George Butler for five years.⁷¹ During those years, Butler beat her frequently.⁷² Once, Butler had broken her ankle, her ribs, and hit her over the head with a jack.⁷³ On another occasion, he had beaten her so badly in the face with a bottle that she required surgery to repair the damage.⁷⁴ On the night in question, Butler threatened to whip White, so she ran to her bedroom and got a gun.⁷⁵ When Butler entered the room she shot him twice.⁷⁶ The jury, however, seemed to find that White's belief that deadly force was necessary to prevent her own death was not reasonable, and she was convicted of voluntary manslaughter.⁷⁷

A woman's perception of danger and its imminence can be different from that of a man's perception.⁷⁸ A woman, who may have no self-defense training and who is weaker than her attacker, may reasonably believe she is in danger of being killed, even if the man is only hitting her with his fists.⁷⁹ Traditionally, a man is not allowed to use deadly force to defend an attack with fists, but this may be entirely reasonable for a woman in the same situation.⁸⁰ One of the first courts to address this issue was the Washington Supreme Court in *State v. Wanrow*.⁸¹ In this case, a five foot four inch tall woman with a broken leg shot a man whom she believed to be a child

68. W. LAFAVE & A. SCOTT, *supra* note 66, at 457; C. GILLESPIE, *JUSTIFIABLE HOMICIDE: BATTERED WOMEN, SELF-DEFENSE, AND THE LAW* 31-49 (1989) (detailing the history of how the reasonable man standard developed); Crocker, *The Meaning of Equality for Battered Women Who Kill Men in Self-Defense*, 8 HARV. WOMEN'S L.J. 121, 124-26 (1985).

69. Crocker, *supra* note 68, at 127-28.

70. 90 Ill. App. 3d 1067, 414 N.E.2d 196 (1980).

71. *Id.* at 1068, 414 N.E.2d at 198.

72. *Id.* at 1069-70, 414 N.E.2d at 198.

73. *Id.* at 1069, 414 N.E.2d at 198.

74. *Id.*

75. *Id.* at 1068-69, 414 N.E.2d at 198.

76. *Id.* at 1069, 414 N.E.2d at 198.

77. *Id.* at 1068, 414 N.E.2d at 197.

78. *See* Crocker, *supra* note 68, at 127.

79. *See* C. GILLESPIE, *supra* note 18, at 123-25.

80. Crocker, *supra* note 68, at 127; *see also* Mather, *supra* note 45, at 569-70.

81. 88 Wash. 2d 221, 559 P.2d 548 (1977).

molester when he approached her from behind.⁸² The court ruled that self-defense instructions must "afford women the right to have their conduct judged in light of the individual physical handicaps which are the product of sex discrimination."⁸³

It became readily apparent that most women who killed their batterers could not meet the self-defense standard, particularly the imminence element of self-defense.⁸⁴ Many of the killings occurred in non-confrontational settings after physical violence had stopped, but where the women were still afraid for their lives.⁸⁵ Due to these problems, women began to try to introduce evidence of "Battered Woman Syndrome" to support the reasonableness of their actions.

"Battered Woman Syndrome" is a theory developed by psychologist Dr. Lenore Walker, that explains the behavior of battered women and the patterns that develop in their relationships.⁸⁶ Battered women become victims of abusive relationships for a variety of reasons. The women have often been the victims of child abuse or sexual abuse.⁸⁷ They are especially susceptible to stereotypical sex-role socialization and believe they must submit to man's domination.⁸⁸ Once a battered woman becomes involved in an abusive relationship, she does not attempt to leave it because she does not believe anything she or anyone else does will alter her circumstances.⁸⁹ She is more likely to respond to abuse by coping, rather than escaping, and she becomes a victim of "learned helplessness," the reaction of a battered woman when the abuse escalates and she is less and less able to cope with the situation.⁹⁰

Dr. Walker also developed the Cycle Theory of Violence, which explains how women become victims of abuse and fall into "learned helplessness."⁹¹ There are three distinct phases in the Cycle of Violence: (1) the *tension-building phase*, in which there are minor battering incidents and a woman goes to great lengths to placate her partner; (2) the *acute battering phase*, in which the male partner exhibits uncontrolled violence, highly destructive to the woman; and (3) the *loving phase*, in which the batterer is remorseful and

82. *Id.* at 224-26, 559 P.2d at 550-51.

83. *Id.* at 240, 559 P.2d at 559.

84. Crocker, *supra* note 68, at 139.

85. See, e.g., *Ibn-Tamas v. United States*, 407 A.2d 626 (D.C. 1979); *White*, 90 Ill. App. 3d 1067, 414 N.E.2d 196.

86. BATTERED WOMAN, *supra* note 62, at 55-70.

87. *Id.* at 51.

88. *Id.*

89. *Id.* at 49.

90. *Id.* at 45-51.

91. *Id.* at 55.

apologetic for his behavior.⁹² Women are likely to retaliate to stop the man from eventually killing her when phase three lapses back into phase one.⁹³ At that time, the batterer really believes that next time she will be killed.⁹⁴

Both the "Battered Woman Syndrome" and the Cycle of Violence Theory are relevant to the issue of self-defense for several reasons. First, they explain to the jury why battered women stay in abusive relationships by relating the theories of learned helplessness and the economic and emotional dependence prevalent in battered women.⁹⁵ This can prevent the jury from reasoning that a battered woman simply could have left the man if the relationship was so bad, and it supports the woman's allegations of abuse.⁹⁶ Second, the evidence of "Battered Woman Syndrome" supports the reasonableness of the battered woman's actions.⁹⁷ The battered woman kills to avoid being killed in what she perceives as self-defense.⁹⁸ Expert testimony of "Battered Woman Syndrome" can explain to the jury why the degree of force which the woman used is reasonable.⁹⁹ It can also show that the battered woman becomes familiar with the behavior of her partner; so familiar, in fact, that she is alerted to the imminence of harm far before the actual attack.¹⁰⁰

The first case to allow expert testimony on "Battered Woman Syndrome" was *Ibn-Tamas v. United States*.¹⁰¹ In this case, the District of Columbia Court of Appeals allowed expert testimony of "Battered Woman Syndrome" to support the defendant's claim of self-defense in killing her husband.¹⁰² The court held that the evidence would help the jury to understand a situation

92. *Id.* at 42-47.

93. *Id.* at 70.

94. *Id.* at 220.

95. See D. MARTIN, *supra* note 55, at 83-85.

96. Comment, *Defense Strategies for Battered Women Who Assault Their Mates: State v. Curry*, 4 HARV. WOMEN'S L.J. 161, 171-72 (1981); Note, *Battered Woman Syndrome: Admissibility of Expert Testimony for the Defense*, 47 MO. L. REV. 835, 840-41 (1982).

97. See Comment, *The Battered Woman's Syndrome Defense*, 34 U. KAN. L. REV. 337, 361-62.

98. L. WALKER, *THE BATTERED WOMAN SYNDROME* 40 (1984).

99. BATTERED WOMAN, *supra* note 62, at 62-63.

100. See Comment, *supra* note 96, at 171; Comment, *The Battered Wife's Dilemma: To Kill or To Be Killed*, 32 HASTINGS L.J. 895, 926-30 (1981).

101. 407 A.2d 626 (D.C. 1979).

102. *Id.* at 639. In *Ibn-Tamas*, defendant was married to her husband for five violent years. One morning, while defendant was pregnant, violence erupted and her husband began to beat her with a brush. Her husband told her either she could leave on her own or he would see to it that she left permanently. When her husband returned, the defendant shot him. *Id.* at 630.

which was "beyond the ken of the average layman."¹⁰³ The court agreed with the defendant that expert testimony would enhance the defendant's credibility and would support her self-defense claim by showing her belief that danger was imminent.¹⁰⁴

Since *Ibn-Tamas*, state court decisions have been inconsistent in allowing expert testimony of "Battered Woman Syndrome," largely due to the trial judge's broad discretion in the areas of expert testimony.¹⁰⁵ Before 1987, Missouri courts generally disallowed such testimony. For example, in *State v. Martin*,¹⁰⁶ the Missouri Court of Appeals held that evidence of "Battered Woman Syndrome" was inadmissible on the issue of self-defense because the defendant failed to make a *prima facie* showing of self-defense.¹⁰⁷

In 1987, the Missouri legislature passed Missouri Revised Statute section 563.033, to establish uniform treatment of expert testimony on "Battered Woman Syndrome."¹⁰⁸ A major purpose of the statute was to remove the discretion of the trial judge when a defendant raises such a defense.¹⁰⁹ The term "Battered Spouse Syndrome" was used as the appropriate term of art, because it applied to both men and women, and the sponsors wanted to provide the defense to both sexes to avoid any equal protection challenges.¹¹⁰ The Missouri statute has been criticized though, because it may not apply to all pertinent situations, such as when women have not acted immediately after the beating.¹¹¹ This criticism will be addressed in the Comment section below.

103. *Id.* at 632. Most courts require that before expert testimony can be admitted, the issue must be outside the jurors' own knowledge and experience. This allowed courts to exclude expert testimony about Battered Woman Syndrome because fear was a common human emotion which a juror could easily understand. See Comment, *Expert Testimony on Battered Woman Syndrome: Its Admissibility in Spousal Homicide Cases*, 19 SUFFOLK U.L. REV. 877 (1985).

104. *Ibn-Tamas*, 407 A.2d at 634.

105. See Note, *supra* note 3, at 234-35.

106. 666 S.W.2d 895 (Mo. Ct. App. 1984).

107. *Id.* at 899-900.

108. Note, *supra* note 3, at 228.

109. *Id.*

110. *Id.* at 245-47.

111. *Id.* at 253.

IV. INSTANT DECISION

The court first considered whether the statute required that only a spouse could use evidence of "Battered Spouse Syndrome."¹¹² It found that the only specific reference was the word "actor," which was neutral as to marital status.¹¹³ The court then examined whether the use of the specific language "Battered Spouse Syndrome" showed an intent to restrict the statute to spouses.¹¹⁴ The court noted that the language was a term of art, used interchangeably with "Battered Wife Syndrome" and "Battered Woman Syndrome."¹¹⁵

The court then looked to the originator of "Battered Spouse Syndrome," Dr. Walker, to determine if she restricted her theories to spouses.¹¹⁶ The court found that she did not restrict her theories; on the contrary, she explicitly stated that battering also exists outside of marriage.¹¹⁷ Several cases in other jurisdictions that did not indicate that "Battered Spouse Syndrome" has ever been restricted by marital status supported the court's position.¹¹⁸ The court then held that nothing in the "Battered Spouse Syndrome" theory indicates that a woman must be married to be involved in an abusive relationship.¹¹⁹ They concluded that "Battered Spouse Syndrome" was a term of art, that its use in a claim of self-defense was not dependent upon marital status, and that restricting the defense to spouses would be a violation of equal protection.¹²⁰

The court then considered whether the evidence of "Battered Spouse Syndrome" was inadmissible because without it there was insufficient evidence of self-defense.¹²¹ It noted that the defendant, without evidence of "Battered Spouse Syndrome," could not possibly meet all the elements of self-defense.¹²² The court stated, however, that for Missouri Revised Statute section 563.033 to mean anything, it must be construed to mean that evidence of the syndrome "creates a perception in the battered woman so that as to her the required elements have been met."¹²³ The court also stated that the jury

112. *Williams*, 787 S.W.2d 308.

113. *Id.* at 308.

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.* at 312.

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

must weigh all evidence of self-defense in terms of how reasonable a battered woman would act under similar circumstances.¹²⁴ The court pointed out that their decision was not inconsistent with other cases which restrict the use of evidence of "Battered Spouse Syndrome" when the killing occurs immediately after the beating.¹²⁵ The court then reversed the defendant's conviction and remanded with instructions to admit evidence of "Battered Spouse Syndrome."¹²⁶

V. COMMENT

The instant decision improves treatment of women in the criminal justice system and achieves a fair result. First, by allowing evidence of "Battered Spouse Syndrome" in homicide cases, the court takes a significant step toward changing social attitudes about women and their roles in society. Our criminal justice system has a long history of bias against women.¹²⁷ This bias is prevalent when prosecuting men for abuse of women, and when prosecuting women for killing their partners.¹²⁸ In a time when women are more likely to be assaulted in their homes by their partners than on the street,¹²⁹ the law must change to accord women equal treatment in the criminal justice system. Only when the law changes to recognize that women have different needs than men, such as a need for a different "reasonable person" standard, will social attitudes about women change. The instant case, by holding that Missouri Revised Statute section 563.033 is applicable regardless of marital status and that a battered woman's perception must be considered in the issue of self-defense, promotes the equal treatment of women in the criminal justice system.

Second, the instant decision specifically states that the jury must consider all the evidence from the perspective of the battered woman considering her past history of abuse.¹³⁰ This holding changes the common law "reasonable man" standard and allows a woman to have her actions considered free of the inherent biases embodied in the "reasonable man" standard. The jury may consider the psychological characteristics of the woman—to place themselves in her shoes. With this new standard, not only is evidence of "Battered Spouse Syndrome" admissible, but the jury views the incident through her eyes, achieving a fairer result for some battered women.

124. *Id.* at 312-13.

125. *Id.* at 313.

126. *Id.* at 314.

127. *See supra* notes 43-64 and accompanying text.

128. *See supra* notes 57-65 and accompanying text.

129. *See A. BROWNE, supra* note 50, at 4.

130. *Williams, 787 S.W.2d* at 312.

Finally, evidence of "Battered Spouse Syndrome" has become valid evidence of self-defense in Missouri. Before Missouri Revised Statute Section 563.033 was passed, Battered Spouse Syndrome was not readily accepted in the legal community as cogent evidence.¹³¹ Even after the statute was passed, some speculated that the statute would not change much in this area.¹³² However, by indicating that marital status is inconsequential and that a battered woman's perception of the event must be considered, admission of testimony on "Battered Spouse Syndrome" is solidified in Missouri, at least in certain cases. This is a significant step for a state whose courts rarely, if ever, allowed such evidence prior to 1987.¹³³

Although the instant decision improves the treatment of women as defendants, it does not equalize treatment for men and women. While the decision solidifies the use of "Battered Spouse Syndrome" in some cases, it leaves out the "hard" cases where the woman acts a significant time after the beating.¹³⁴ Lawyers consider these cases "hard," because technically the battered woman is not acting while in "imminent" danger and cannot meet the objective reasonable person standard.¹³⁵ By noting that their decision was not inconsistent with others that require the killing to take place "immediately after" the beating, the court leaves a loophole in the statute by indicating that if the woman is not acting "immediately after" the beating, then she probably cannot use "Battered Spouse Syndrome" evidence.¹³⁶ By recognizing this, the court ignores a continuing problem in the area of self-defense for women. Dr. Walker has stated that women are more likely to kill in phase one after the beating has stopped, than during the beating itself.¹³⁷ The court's implication that the woman must act "immediately after," therefore, leaves out most women who kill their partners. It is important to realize that while the woman in this situation is not acting during the beating, she subjectively believes that she is in imminent danger. Something has happened that has convinced her that her partner will soon kill her.¹³⁸ When the battered woman reacts in such a situation, a different standard should apply.

Such a standard should more closely approximate the differing perceptions of women and men.¹³⁹ While some may argue that applying a different standard will result in too many unjust acquittals and an "open

131. See *supra* notes 105-07 and accompanying text.

132. Note, *supra* note 3, at 227-28.

133. See *supra* notes 105-07 and accompanying text.

134. Crocker, *supra* note 68, at 139.

135. *Id.*

136. *Williams*, 787 S.W.2d at 312.

137. BATTERED WOMAN, *supra* note 62, at 70.

138. *Id.* at 220.

139. See Crocker, *supra* note 68, at 127.

season" on men,¹⁴⁰ this is irrational. An adequate self-defense standard for men has been in place for hundreds of years¹⁴¹ and the invalid claims are readily exposed. There is nothing to indicate that women who make false assertions of self-defense would not also be exposed. A woman will still have to show that she is a victim of "Battered Woman Syndrome" and the woman's actions are still subject to review by a jury.¹⁴² An argument of a few unjust acquittals is not effective when the issue is a right to a fair trial.

This decision is a meritorious change in Missouri law on "Battered Spouse Syndrome." While recognizing the syndrome as legitimate evidence and broadening its role in self-defense, the Court of Appeals has taken a small step toward equality for women in the criminal justice system. Perhaps in the future battering of women will decrease. Today, however, battered women are still a major social problem in our society, and courts and legislatures need to recognize this and implement the necessary changes to accommodate the problem in the legal system.

JOY HANNEL

140. Note, *The Battered Woman Syndrome and Self-Defense: A Legal and Empirical Dissent*, 72 VA. L. REV. 619 (1986); Note, *Does Wife Abuse Justify Homicide?*, 24 WAYNE L. REV. 1705 (1978).

141. Donovan & Wildman, *Is the Reasonable Man Obsolete? A Critical Perspective on Self-Defense and Provocation*, 14 LOY. L.A.L. REV. 435, 443 (1981) (self-defense was regarded as a complete excuse in England by the early nineteenth century).

142. In fact, on remand, Williams was convicted by the jury who considered her evidence of "Battered Spouse Syndrome." The jury did not believe that Williams had acted out of fear, but rather, that she had acted out of anger toward Teague. This decision is on transfer to the Missouri Supreme Court as of November 1990. St. Louis Post-Dispatch, Nov. 9, 1990, at 5, col. 1.