



Judges in the Classroom

Battered Child Syndrome - Mock Trial

Source:

Written by Julia Gold of the Institute for Citizen Education in the Law, Seattle, Washington. Staff at the Washington State Administrative Office of the Courts (AOC) updated the lesson in 2019. For more information, contact AOC, Temple of Justice, 415 12th Ave SW, PO Box 41174, Olympia, WA 98504-1174. For an electronic copy of this lesson, or to view other lesson plans, visit Educational Resources on the Washington Courts Web site at: www.courts.wa.gov/education/.

Objectives:

1. Students will demonstrate an understanding of the trial process.
2. Students will analyze and apply the battered child defense to a murder charge.
3. Students will improve skills in listening, speaking, and critical analysis of facts.

Grade Level:

Grades 8-12

Time:

At least one class period (approximately 50 minutes), assuming prior preparation for trial by classroom teacher.

Materials:

Copy of witness affidavits for each student.

Procedures:

- A. **Before the actual trial**, it would be helpful to coordinate with the classroom teacher to prepare the students for the trial. "Teacher's Guide to Mock Trials," in Street Law, A Course in Practical Law, Teacher's Manual, 9th Edition, (Glencoe/McGraw-Hill, 2016) outlines procedures to prepare students for mock trials.

Note: The Washington State Supreme Court became the first state supreme court in the nation to recognize "battered-child syndrome," ruling that it could be admissible in appropriate cases, *State v. Janes*, 121 Wash. 2d 220 (1993).

B. **Prior to the trial, introduce yourself to the students**, and tell a little bit about what you do, if this is your first class. Explain that the purpose of the trial is to familiarize them with the trial process and to learn more about criminal law and child abuse.

C. **Start the trial** using the following agenda:

Note: The names of witnesses are intended to be non-gender specific, so that either males or females can play any witness role. Before the trial, you should determine whether the defendant is male or female, so that your instructions can reflect that.

Mock Trial Enactment (45-50 minutes):

Note: Evidence objections are limited to those listed in the Simplified Rules of Evidence, following the trial witness statements.

1. Bailiff calls court to order as judge enters.
2. Judge announces case of *State v. Reynolds* and reads aloud these instructions:

"This is a criminal case brought by the State of Washington charging the defendant, Dale Reynolds, with first degree murder. The State claims that Reynolds, with a premeditated intent to cause the death of Thomas Simpson, caused his death."

"Reynolds admits that s/he killed Simpson, but alleges that s/he was acting in self-defense because s/he perceived that s/he was in imminent danger of serious bodily harm because of a condition called the 'battered child syndrome,' resulting from a continuous pattern of abuse s/he had suffered at the hands of Simpson."

"The bailiff will now swear in the jury."

(If the bailiff is not prepared to do this, the judge may proceed with the swearing in.) The bailiff announces:

"Will the jury please rise and raise your right hands? Please indicate your agreement by saying 'I do.' Do you swear or affirm that you will base your decision solely on the evidence presented before you in this case, not allowing any prior class work or friendships to influence your final decision?"

After the bailiff swears in the jury, ask them to be seated, and continue:

"The burden of proof in this case is on the prosecution; it is proof beyond a reasonable doubt. The case will now follow in this order. First, the prosecutor will make an opening statement, outlining the evidence to be presented on behalf of the prosecution's case. The defense lawyer will then make an opening statement, outlining the defense's case. Second, the prosecutor will introduce evidence. At the conclusion of the prosecution's evidence, the defense may introduce evidence. Third, after all the evidence has been presented, I will give you more instructions, after which the lawyers will make closing arguments. Then you will go to the jury room, select a presiding juror, and decide on your verdict."

3. Judge asks counsel to introduce themselves and their client.
4. Prosecution's opening statement (3 minutes). Time for each activity is tracked by a clerk, who alerts the judge and lawyers of remaining time by holding up cards indicating "2 minutes," "1 minute," "30 seconds."
5. Defendant's opening statement (3 minutes).
6. Prosecution's case in chief consists of two witnesses. (Direct examination is limited to 5 minutes for each witness; cross-examination is 3 minutes for each witness.)

Nickie Loo
Jan Martinez

Note: The bailiff swears in the witnesses.

7. Defendant's case in chief consists of two witnesses. (Direct examination is limited to 5 minutes for each witness; cross-examination is 3 minutes for each witness.)

Dale Reynolds
Dr. Pat Carroll

8. After all the testimony, the judge reads aloud the closing instructions to the jury:

"To convict Dale Reynolds of the crime of murder in the first degree, the prosecution must have proved beyond a reasonable doubt that Reynolds acted with a premeditated intent to cause the death of Simpson, and that s/he caused his death. Premeditation involves more than a point in time.

"If you do not find that Reynolds acted with premeditation, you may find her/him guilty of second degree murder, a lesser included offense of first degree murder. An intentional murder is in the first degree if it is committed with premeditation. It is murder in the second degree if it is committed without premeditation. Premeditation may be proved by demonstrating that the accused acted with

consideration and reflection upon the preconceived design to kill, turning it over in the mind, giving it a second thought.

"The defendant has offered evidence that s/he acted in self-defense. In Washington State, the standard for self-defense is that the accused, given his or her situation, had a reasonable belief that his or her life was in imminent danger. You the jury must put yourselves in the shoes of the defendant, and determine what was reasonable for the person who committed the act to believe at the time the act was committed.

"In homicide cases where the defendant claims self-defense, expert testimony regarding battered child syndrome is admissible. You may consider whether Reynolds suffered from the syndrome, and if so, how it affected the defendant's perceptions and behavior at the time of the killing. You may consider the defendant's subjective impressions of the potential for danger, and whether s/he reasonably believed that the victim intended to inflict death or great bodily harm.

"The prosecution has the burden to prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that prosecution did not meet this burden, and that the defendant acted in self-defense, you must find her/him not guilty of murder.

"When you go to the jury room, you should first pick a presiding juror. All of the jurors must agree upon a verdict. When you have so agreed, the presiding juror will notify the bailiff, who will escort you into the courtroom to declare your verdict."

9. **After instructions are read**, the prosecutor's closing argument (3 minutes including rebuttal) is presented.
10. **Defendant's closing argument** (3 minutes).
11. **Prosecutor's rebuttal.**
12. **Jury deliberations.**
13. **Debriefing.** After the trial, the judge should convene the students for debriefing. Any time the jury reaches a verdict, the judge should suspend the debriefing process and allow the jury to render the verdict. Following the verdict, the judge should resume the debriefing.

During the debriefing, the judge should acknowledge the contributions of the clerk and the bailiff, and thank the jury for its attention. The judge should offer constructive comments to the students (keeping in mind how long they had to prepare for the trial, often only one day). The judge can also explain the reasons for any rulings on objections, discuss strategies students used or could have used, and comment on the performance of witnesses. The judge may also comment on how this mock trial differs from actual cases.

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON**

STATE OF WASHINGTON,)	
)	
Plaintiff,)	No. 22-1-80213-6
)	
v.)	STATEMENT OF
)	STIPULATED FACTS
DALE REYNOLDS,)	
)	
Defendant.)	
_____)	

All of the parties agree to the following facts:

On September 30, Dale Reynolds, age 18, shot and killed his/her stepfather, Thomas Simpson, as Simpson entered the front door of their home at 1516 Lynn Avenue, City, State of Washington. Dale then called the police. Detective Nickie Loo responded to the call, reported to the house, interviewed Dale, then arrested him/her. Dale was charged with premeditated murder in the first degree.

Dale waived the right to remain silent, and admitted that s/he shot Simpson, but asserts that s/he acted in self-defense. Dale claims that s/he acted in self-defense because s/he perceived that s/he was in imminent danger of serious bodily harm due to years of abuse at the hands of Thomas Simpson - a condition similar to the "battered woman syndrome" called "battered child syndrome."

Dale stated that Simpson came to live with the family 12 years ago, when Dale was 6 years old, and that Simpson had abused Dale, a younger sister, and their mother on almost a daily basis during the last 12 years, when the family moved into a home of their own. Dale states that Simpson was subject to unpredictable bursts of anger, when he would beat them, smash their toys, and threaten to kill them for failing to do chores around the house.

The State of Washington claims that Dale acted with a premeditated intent to cause the death of his/her stepfather, and did cause his death. The prosecution denies that Dale was acting in self-defense because Simpson was not actually threatening Dale at the time of the shooting.

Dale claims that at the time of the shooting s/he was in fear for his/her life because Simpson had threatened to kill him/her the night before, after Simpson had accused Dale of stealing drugs from him.

The following witnesses will be called:

For the State of Washington:

Detective Nickie Loo, City Police Department
Jan Martinez, friend of Defendant

For the Defendant, Dale Reynolds:

Dale Reynolds, Defendant
Dr. Pat Carroll, expert on battered child syndrome

Affidavit of Nickie Loo

My name is Nickie Loo, and I reside at _____, City, Washington. I am a detective with the Police Department in City, Washington. I have been a police officer for 21 years and a detective for 10 years. Presently I head up our homicide investigations division.

On September 30, at about 4:45 p.m. I received a call on my car radio that there had been a shooting at 1516 Lynn Ave. I was in the area and responded to the call.

I arrived at the house at 4:55 p.m. and found a white male lying on the doorstep, with two gunshot wounds in the head. He was dead. I checked and found no weapons in the dead man's possession.

The defendant was standing in the living room, just inside the front door, still holding a 9 mm handgun. No one else was home at the time. I took possession of the handgun and then I quickly walked through the house. There was no sign of a struggle.

I advised the defendant of his/her rights. The defendant was crying and seemed disoriented. I could smell alcohol on his/her breath. We took the defendant down to the station, where s/he gave a voluntary statement.

The defendant admitted to shooting Simpson, but claimed that s/he was acting in self-defense.

Affidavit of Jan Martinez

My name is Jan Martinez, and I am a good friend of Dale's. I live at _____, City, Washington. I'm a junior at the local high school. Dale and I have known each other since sixth grade, when s/he moved in down the street from my family. We've dated since 9th grade.

Dale is really moody. In the last few months before the shooting, s/he was really hard to be around. S/he'd started breaking dates and was hanging out with a pretty tough crowd. I'd basically decided to just avoid him/her. I also think s/he was going out with someone else, but I'm not sure.

Anyway, the day of the shooting, I stopped by the Reynolds' house in the morning on the way to school and Dale was home alone. S/he told me to come up to his/her room. When I did, s/he showed me a shotgun s/he said s/he had taken from Mr. Simpson. Dale said it was loaded, and s/he was going to use it to kill Mr. Simpson.

Well, I was pretty freaked out, and even though I know that Mr. Simpson is not exactly the ideal father, I couldn't believe that Dale would really follow through with it. So I didn't really take him/her seriously. Now I really wish I had done something to try to stop him/her.

Affidavit of Dale Reynolds

My name is Dale Reynolds, and I'm presently residing at the county jail. I'm 18 years old and I was a senior in high school at the time of the shooting.

Up until the shooting I lived with my mom and little sister at 1516 Lynn Avenue, City, Washington. Simpson moved in with us about 12 years ago, when I was 6 years old. My dad had just left. We've never heard from him since the day he walked out. My mom was happy when she met Simpson because he seemed like a good provider, and he was okay to us kids at first, too.

Pretty soon we moved into a house that Simpson bought, and almost right away things began to change. He started beating on my mom first, and then started in on me. He'd scream and yell if I didn't take out the garbage when he asked, and if he thought I was slow, he'd find something he knew I really cared about and destroy it. One time he smashed my bike with a sledgehammer, and another time he threw my new stereo out the window. I'd saved up for months to buy it.

But all of that wasn't as bad as when he'd beat us. It was totally unpredictable. One minute he'd be fine, and the next he was kicking me in the stomach, pinning me to the floor and bashing my head on the floor. It happened at least two or three times a week. A week before I shot him I had to go to the emergency room and get 15 stitches in my forehead where he took a baseball bat to me when he thought I'd stolen some marijuana from him. Only a few minutes before, we'd been playing ball.

The night before the shooting, I could hear him slapping my mom around, and I yelled for him to stop. He came in my room, and told me if I didn't keep out of his business, he'd "get rid of me once and for all." He accused me of taking some stuff from him.

The next morning, after everyone else had left the house, I broke the lock on his closet and took out his shotgun and another smaller gun. The smaller gun was already loaded. I drank some of his alcohol, just to make him mad, and sat waiting for him.

I don't really remember what else happened, except that when he walked in the door I must have shot him. I was sure that he was coming to get me.

Affidavit of Dr. Pat Carroll

My name is Pat Carroll, and I reside in Milwaukee, Wisconsin, where I am a professor of psychology at the Medical College of Wisconsin. I hold a Ph.D. in psychology from the University of Minnesota. I have written numerous articles about the battered child syndrome, and was in the forefront of bringing this condition to the attention of the courts as a legitimate defense to cases in which children have killed abusive parents.

I also spend time testifying at trials across the country. My fee is \$10,000, plus expenses. This includes my time in reviewing the case files, interviewing the defendant, and actual testimony.

I have reviewed the files in this case, and conducted two one-hour interviews with the defendant. In my opinion, Dale Reynolds was suffering from battered child syndrome at the time s/he shot and killed her/his stepfather.

"Battered child syndrome" is an extension of the battered woman syndrome. The battered woman syndrome has become an accepted defense by abused women who have killed their abusive husbands or boyfriends. Like the battered woman syndrome, the battered child defense allows jurors to evaluate the state of mind of the child at the time of the act of killing by considering a pattern of abuse that had altered the child's perception about whether s/he was in imminent danger at the time of the act.

Battered children and women perceive, more acutely than strangers, the imminence and degree of danger at the hands of their abusers. We call this "heightened awareness" or "hypervigilance." Victims of continued abuse become attuned to stages of violence and learn to interpret certain conduct to indicate an imminent attack or a more severe attack. To a battered person, subtle changes, like a new method of abuse, may create a reasonable fear of imminent severe or deadly violence that might be imperceptible to an outsider. Because victims of abuse know their abusers and their capacities for violence, they may strike back at times that seem to the outsider less dangerous than previous episodes of abuse, or that do not seem threatening at all to someone else.

Children who have suffered abuse over long periods of time often also suffer from low self-esteem, depression, isolation, a belief in the omnipotence of the abuser, and a sense there is nothing they can do to stop the violence.

Simplified Rules of Evidence

In American trials and hearings, elaborate rules are used to regulate the admission of proof. These rules are designed to make sure that both parties receive a fair hearing and to exclude any evidence that is irrelevant, not trustworthy, or too prejudicial.

The lawyer and the judge are responsible for enforcing these rules. Before the judge can apply a rule of evidence, a lawyer must ask the judge to do so.

Lawyers do this by making "objections" to the evidence or procedure employed by the opposing side. When an objection is raised, the lawyer stands and says "I object" and gives the reason for the objection. The lawyer against whom the objection is raised will usually be asked by the judge to respond. A response should tell the judge why the question or the witness' answer was not in violation of the rules of evidence.

The judge then rules on whether or not the evidence rule has been violated. If the judge "sustains" the objection, the evidence is kept out; if the judge "overrules" the objection, the evidence is admitted.

For purposes of this mock trial, the following rules of evidence apply.

RULES OF EVIDENCE

Rule 1. Leading Questions

Leading questions may not be asked when questioning one's own witness in direct examination. Leading questions may be used on cross-examination.

A "leading" question is one which suggests the answer desired by the questioner, usually by stating some facts not previously discussed and asking the witness to give a "yes" or a "no" answer.

Rule 2: Narration

Witnesses' answers must respond to the questions. A long story is objectionable.

"Narration" occurs when the witness provides much more information than the question calls for.

Rule 3: Relevance

Questions or answers that add nothing to the understanding of the issue in dispute are objectionable.

Questions and answers must relate to the subject matter of the case; this is called "relevance." Those that do not relate to the case are "irrelevant."

Rule 4: Hearsay

With certain exceptions, statements that are made outside of the courtroom are not allowed as evidence if they are offered in court to show that the statements are true.

There are many exceptions to the hearsay rule, but the only two that apply to this trial are:

- 1) That a witness may repeat a statement made by the accused provided that the witness actually heard the statement; and
- 2) Statements that the accused made that go against his or her own interest.

Rule 5: First-Hand Knowledge

Witnesses must testify about things that they have directly seen, heard, or experienced.

Rule 6: Opinions

Unless a witness is qualified as an expert in the area under question, the witness may not give an opinion about matters relating to that area. However, if the evidence is about something in common experience, an ordinary witness may give an opinion.

Rule 7: Beyond the Scope of Cross-Examination

In cases where the lawyer has time to re-examine a witness after cross-examination, the lawyer on re-examination may only ask questions relating to topics that the opposing lawyer asked about during cross-examination.

Rule 8: Beyond the Scope of the Packet

Questions that ask about, or answers that supply, significant facts not contained in the packet are objectionable. However, minor details regarding a character's role may be asked and added.

Mock Trial Rules

1. The Stipulated Facts may not be disputed at trial. Additionally, the judge and jury cannot consider these facts unless the proper witness has given this evidence.
2. Each witness is bound by the facts in the given witness statement. All participants agree that the witness statements are signed and sworn.
3. All witnesses must be called to the stand.
4. If a witness contradicts a fact in the affidavit, the opposition must show this on cross-examination through correct use of the witness statement through impeachment.
5. Students may read other cases, materials, articles, etc., in preparation for mock trial. However, they may only cite the materials given.
6. All participants are expected to display courtroom decorum and good sports-person-like conduct. Rulings of the judge and jury are final.

Applicable Law

RCW 9A.32.030 "In the State of Washington, a person is guilty of murder in the first degree when, with a premeditated intent to cause the death of another person, he or she causes the death of such person.

"A person is guilty of murder in the second degree when, with intent to cause death of another person, but without premeditation, he or she causes the death of such person.

RCW 9A.32.020 "Premeditation involves more than a point in time.

RCW 9A.32.050 "In the State of Washington, second degree murder is a lesser-included offense of first degree murder, and under an indictment charging first degree murder, the defendant may be found guilty of the necessarily-included offense of second degree murder.

"An intentional murder is in the first degree if it is committed with premeditation. It is murder in the second degree if it is committed without premeditation. Premeditation may be proved by demonstrating that the accused acted with consideration and reflection upon the preconceived design to kill, turning it over in the mind, giving it a second thought.

RCW 9A.16.020 "The defendant has offered evidence that s/he acted in self-defense. In Washington State, the standard for self-defense is that the accused, given his or her situation, had a reasonable belief that his or her life was in imminent danger. The trier of fact (judge or jury) must put itself in the shoes of the defendant and determine what was reasonable for the person who committed the act to believe at the time the act was committed.

"A belief or response, which may be unnecessary in retrospect, may nonetheless have been reasonable in the heat of the moment, and a person in no real danger at all may nevertheless reasonably believe otherwise, and may then lawfully act in self-defense.

RCW 9A.16.050 "The mere presence of the battered child syndrome does not in itself provide justification for killing one's parent. Evidence must still be considered in the context of self-defense, and, based upon the defendant's subjective impressions of the potential for danger, s/he must reasonably believe that the victim intended to inflict death or great bodily harm and there was an imminent danger of such harm being accomplished.

"In homicide cases where the defendant claims self-defense, expert testimony regarding battered child syndrome is admissible. Such evidence may have substantial bearing on the defendant's perceptions and behavior at the time of the killing and is central to the claim of self-defense.

"The expert evidence on battered child syndrome is admissible to establish:

1. That the syndrome exists, and what its definition and characteristics are;
2. That the defendant was suffering from the syndrome; and
3. That a person suffering from Battered Child Syndrome may reasonably have perceptions, fears and beliefs that would not be reasonable in others.

"The expert may not testify as to whether the defendant actually acted out of a reasonable belief of danger, which is the ultimate issue to be decided only by the trier of fact (judge or jury)."