

INTIMATE PARTNER SEXUAL ABUSE: ADJUDICATING THIS HIDDEN DIMENSION OF DOMESTIC VIOLENCE CASES

Criminal Case Study

State v. Peter Logan

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***A project of Legal Momentum in cooperation with the National Association of Women
Judges**

Intimate Partner Sexual Abuse:

CRIMINAL CASE STUDY

STATE V. PETER LOGAN

Following a bench trial before you, Peter Logan was convicted of sexual assault in the second degree, unlawful imprisonment, assault in the first degree, and lesser offenses stemming from a six-hour siege in his family home. During that time he bound, beat and raped his wife of sixteen years, Dorothy Logan, causing internal injuries. He left her unconscious in their master suite located on the lower level of their Aquino Village home, and from his wife's cell phone dialed 911, alerting the dispatcher to a "murder" at their home address. Their two children, Peter, Jr. (age 15) and Darcy (age 11), asleep upstairs in the "children's wing" of their house, were awakened by sirens, crackling radios, and the sound of their front door being broken in with a police battering ram. They witnessed paramedics remove their bleeding, unconscious mother and rush her away in an ambulance. She required three surgeries to repair damage to her spleen, left arm and jaw.

In a victim impact statement, Ms. Logan has asked that you impose the maximum term of incarceration, eight to 24 years' imprisonment. She states that Mr. Logan ruled the house for many years through verbal and physical assaults upon her and their two children, that left them so traumatized that her son, Peter, still will not return to the family home. Their only chance for finding a sense of safety and security is knowing that their father is in a place where he cannot hurt them again.

You have also received a letter from Peter, Jr. He presents a different view. His father, he writes, "is the best Dad a son could ever want." He describes camping adventures, afternoons playing softball, patient help with homework, and steady support in his Scout troop, where his father was an assistant troop leader. He states that his mother "is a total loser," who badgered his father incessantly until he "cracked on that night." Their home was such a mess they were ashamed to bring friends home; in any event, "Mom was such a mess, too, we didn't want anyone to see her. Assuming she'd even be awake." The best thing that ever happened to him, he states, has been moving to the home of his friend Scott Plano, where he went on the day of the assault and has remained since. "Please, your Honor," Peter writes, "don't take away from me the only good parent I have ever known. My dad and I will live together and you will see. Without Mom dragging us down, things will be great. Please give him a chance. He deserves that after everything he's been through."

Letters from many members of Troop 48, including scouts and their parents, attest that Mr. Logan has been an inspired scout master and respected leader of the boys. Colleagues at Mr. Logan's company, New Foundations Digital, attest to his efficiency and reliability as a founding partner in their very successful company. Several moving stories of his generosity to employees in times of family need are recounted.

The probation report is more mixed. Mr. Logan's community ties are indisputable, and his high profile there is outstanding. The investigating probation officer found Mr. Logan less than cooperative, however, expressing no remorse and continuing to blame his wife, to whom he referred as "the nut job," for what happened to her. He insisted that he was defending himself, as she was "very unstable" and often attacked him. During these times, he asserted ("claiming extreme embarrassment") she "was like a nymphomaniac," alternating between assaulting him and demanding sex. He claims he had to seek prescriptions for Viagra in order to keep up with her needs. He was deeply concerned about what would happen to his children if he were incarcerated: "they have to be protected from her."

Defense counsel seeks a sentence of five years' probation, combined with anger management, counseling, and parenting classes. A full order of protection would be in effect as to Ms. Logan but not as to his children. Contact with the children would be worked out "over in the Matrimonial Part, where this matter should have been in the first place." He argues that both parents "have failed these children, not out of malice but out of human tragedy." If home life was as violent and abusive as the mother claimed, she deserves to be prosecuted for exposing her children to such an environment. The court "can't have it both ways." Since she never sought help for the violence she now claims, she is less than credible. She was injured, no doubt about it, and that's "a shame and something no one should have to go through," but "let's be sure we understand what really happened here." The extenuating circumstances warrant the court's compassion and leniency.

Q1.

Is it reasonable to consider the victim's conduct in formulating a disposition?

Q2.

How much weight should be given the testimonials from people who knew Mr. Logan from a context other than his family life?

Q3.

How much weight should be given the entreaties of Peter, Jr.?

Q4.

What might explain Peter, Jr.'s loyalty to his father in the face of the brutal assault on his mother?

Q5.

Should you examine the personal circumstances of Ms. Logan, including whether she suffers from emotional problems, as possibly mitigating the offense?

Q6.

Is incarceration really indicated here?

Q7.

What is an appropriate disposition in this case?

Q8.

If this were a case of complete stranger assault and rape, with no history between the parties, would the appropriate disposition be different?

Intimate Partner Sexual Abuse:

DISCUSSION GUIDE FOR FACULTY

STATE V. PETER LOGAN

Q1.

Is it reasonable to consider the victim's conduct in formulating a disposition?

No. The brutality of this assault cannot be excused because of "provocation." Separation and divorce are permitted so that couples who cannot cohabit peacefully can end their marriage in a lawful and civilized manner. Resort to assault in the absence of conduct so threatening as to establish a defense of justification cannot be condoned. Mr. Logan's lack of remorse for his brutal assault and continued rationalization of his conduct bode poorly for his future conduct.

Q2.

How much weight should be given the testimonials from people who knew Mr. Logan from a context other than his family life?

These character witnesses carry little weight, since they evidently lacked knowledge about the circumstances taking place in Mr. Logan's home. Abusers quite often have very different public and private faces.

Q3.

How much weight should be given the entreaties of Peter, Jr.?

While one might assume that a child, who is present in the home so much of the time and witnesses much interaction between parents, is a reliable reporter, in fact a child can be profoundly influenced by psychological and emotional manipulation that distorts the child's ability to process accurately events he or she has witnessed. A court should be very cautious in accepting a child's characterizations of one parent or another as definitive.

Q4.

What might explain Peter, Jr.'s loyalty to his father in the face of the brutal assault on his mother?

Traumatic bonding results in allegiance to the abusive parent rather than the victimized one. It is not unusual for a child to identify with, and defend, the abusive parent over the victimized one. It is safer for the child to be allied with the parent who has the power.

Q5.

Should you examine the personal circumstances of Ms. Logan, including whether she suffers from emotional problems, as possibly mitigating the offense?

[over]

The court might inquire whether the district attorney's office has referred Ms. Logan to local counseling and domestic violence services. Her emotional state should not be considered as mitigating the defendant's commission of a brutal assault, however.

Q6.

Is incarceration really indicated here?

While it can be tempting to conclude that the defendant's long record of business success, community service, and good works offset the wrong done to Mrs. Logan and might support a term of probation rather than incarceration, such a result would send a wrong message to Mr. Logan, his family, other abusers, and the community. Instead, it should be emphasized that what happens in the home is of concern to the community as well, and that such crimes cannot be "privatized." The responses Mr. Logan gave to the probation officer – minimizing his own conduct, demeaning his wife, and justifying his mistreatment of her – are indicators that he will not respond well to rehabilitative efforts.

Q7.

What is an appropriate disposition in this case?

This answer is best considered in conjunction with the question just below.

Q8.

If this were a case of complete stranger assault and rape, with no history between the parties, would the appropriate disposition be different?

The outcome should not be appreciably different. Given the defendant's lack of remorse for and rationalization of his behavior, the court could conclude that he is at high risk to offend again. While incarceration will no doubt cause hardship that probation might not, there are compelling safety reasons for imposing a significant penalty upon this defendant. Moreover, while the defendant will argue that his standing in the community entitles him to leniency, in fact this only increases the harm of his conduct. Persons far beyond the family circle—children whom he has supervised in the Boy Scout troop and softball leagues, business associates, clients—are adversely affected by his dual existence. Such conduct can have a devastating impact particularly on the capacity of children to trust adults in positions of authority, since they become aware that they cannot really ever know a person, even one who seems reliable.

The defendant should be incarcerated and, optimally, the sentence imposed should include both batterer intervention and sex offender treatment. The availability of such programs will depend on resources available in your community. The court, or court administrators, can seek to influence their Department of Corrections' sex offender treatment and batterer intervention programs to require that these address intimate partner sexual abuse as part of their curricula. Similar requirements can be imposed upon community-based programs.