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2B 104
Huron Valley Women's Correctional Facility
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Dear Megyn Kelly:

As I mentioned in my phone interview with you, I have been an ardent fan of your work since your days at FOX News. Your tenacity in tackling the most controversial topics and your investigative style which seeks to uncover "the rest of the story" is why you have loyal viewers.

Thank you for featuring my criminal case on your May 11th show. With domestic violence so prevalent in our society, you performed a great service by informing women that the most dangerous time for a battered woman is when she finally leaves the abusive relationship. More importantly, you exposed the injustice battered women face in our criminal justice system.

Society is harsh in its judgment of battered women which is why battered women live in the shadows with the shame of abuse as their closely guarded secret. In my criminal trial, my family and I had hoped for a verdict based solely on the evidence. There was clearly plenty of it to support a finding that I acted in self defense when I killed my husband. I had purchased a condo and was leaving the marriage peacefully with the support of my father and two sons. Witness testimony corroborated my claim that I was a battered woman. The State's own nurse examiner classified my injuries at the time of arrest as "defensive injuries". There was alcohol and amphetamines in my husband's system which likely fueled his rage when he attacked me. My testimony was supported by the forensic evidence. The pathologist testified it was a face-to-face confrontation and the first blow to the front of my husband's head likely incapacitated him. The "overkill" stab wounds, common in battered women cases, were post-mortem. Meteorological data and store surveillance video showed my hair and clothing was dry when I purchased the hatchet, debunking the prosecutor's claim that I went out in a "driving rainstorm". And purchasing cleaning supplies after the homicide is inconsistent with premeditation.

However, the comments you elicited from one of my jurors during your interview confirmed what we had always suspected. Myths, misconceptions, and stereotypes about battered women crept into the jury box and affected their objectivity and opinion of me, colored the lens through which they viewed the actual evidence, and adversely impacted the verdict.

She should have left.

She didn't cry or show any emotion.

She cleaned up after the fact.

Her sons had differing opinions about the abuse.

There was "overkill".

She didn't call the police.

If the trial testimony of Dr. Lenore Walker, the foremost authority on Battered Woman Syndrome, had not been so severely restricted, she could have explained how these behaviors, which this juror found

irrational, incomprehensible, and indicative of guilt, were in fact consistent with my behaviors throughout the marriage which was to deny the reality of my husband's violence, cover up any evidence of it, and go about life as if nothing ever happened. Dr. Walker also could have explained how my behaviors before and after the homicide were consistent with the behaviors of battered women in other cases. At trial, Dr. Walker was prepared to present a clinical diagnosis that I was a battered woman suffering from severe PTSD as a result of long-term battering and how that affected my state of mind, behaviors, and perception of imminent danger, however, Michigan law which severely restricts the testimony of BWS expert witnesses prohibited her from doing so.

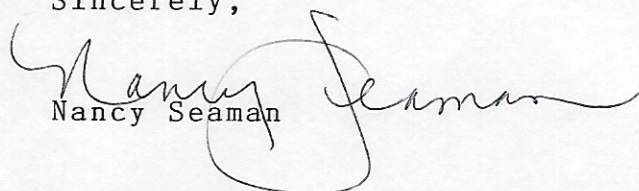
If Dr. Walker had been on your show, she could have explained to this juror why years of abuse causes a battered woman to suppress her emotions and tears, why battered women stay in abusive relationships, why children in the same household view the abuse differently, why negative interactions with the police make it less likely a battered woman would consider calling them again for help, why the fear of being overpowered might lead to "overkill" when a battered woman defends herself, and why shame makes a battered woman want to "clean up the mess" and go about life as if it never happened. Without any of this testimony, my jury was left to presume that my behaviors were indicative of premeditation and guilt.

Both state and federal courts have overturned the verdict in my case, ruling that the omission of critical BWS evidence and the lack of evidence to support premeditation denied me a fair trial. Prosecutor Lisa Gorcyca's ability to get these rulings reversed does not negate the opinions of the three judges who ruled that an injustice has occurred nor does it negate the findings of the Michigan Court of Appeals which ruled that Gorcyca committed misconduct in closing argument moments before the jury deliberated my fate. A defendant is not entitled to a perfect trial, but they are guaranteed a fair one. That did not occur in my case which is why trial Judge John McDonald is advocating for a grant of commutation in my case.

I wish there had been time on your show for a discussion about the disparity in treatment battered women defendants face with respect to conviction rates and the severity of sentences depending on whether their trial takes place in a state that allows BWS expert testimony or severely restricts it. The difference is significant. But, that's an argument for another day.

Thank you for recognizing that there was another side to this story and for using your journalist gifts to shine a light on the injustice in my case. My family and I are grateful for your integrity, objectivity, and fairness.

Sincerely,


Nancy Seaman