

***R v Falls, Coupe, Cummings-Creed & Hoare* [2010] QSC (3 June 2010) summing up - unreported – Queensland Supreme Court**

‘Abused person’ – ‘Battered woman syndrome’ – ‘Expert evidence - psychiatrist’ – ‘Murder’ – ‘Self defence’

Charge: Murder.

Result: Acquitted.

Facts: In May 2006, the accused, Susan Falls, shot and killed her husband, Rodney Falls. Throughout their relationship, Susan Falls was subject to significant physical and emotional abuse. This included: numerous incidents of physical violence, beating one of the family’s dogs to death; numerous incidents of sexual violence and rape; threatening to kill her or harm the couple’s children. Susan Falls drugged the deceased and shot him twice as he dozed in a chair. She was charged with murder. Both self-defence, ss 271(2), 273 *Criminal Code 1899* (Qld) and the defence of killing for preservation in an abusive domestic relationship, s 304B *Criminal Code 1899* (Qld) were raised at trial. Two forensic psychiatrists (Dr Lawrence and Associate Professor Quadrio) were called by the defence and gave evidence about the history of violence and its effect on the offender. (Note *Coupe, Cumming-Creed and Hoare* were charged with being accessories to the murder but were also acquitted).

Applegarth J, summing up (3 June 2010):

‘Evidence of what, for want of a better expression, is referred to as "battered woman syndrome", is admitted, not because battered woman syndrome is a disorder, or because battered woman syndrome is a defence. Battered woman syndrome isn't a defence. The fact that someone is battered for years doesn't automatically give them a defence. Whether they have a defence depends on whether they acted as they did in circumstances that the law provides is a defence.

However, what is conveniently, and perhaps somewhat inaccurately, described as "battered woman syndrome" is relevant to legal defences.

It doesn't have to be a psychological disorder to be relevant to behaviour and to the defences in this case. It's relevant to the mental state of Ms Falls, and whether she exhibited hyperarousal and other symptoms that are recognised in such cases.

I won't repeat it. You will remember the evidence of Dr Lawrence and Associate Professor Quadrio about the mental state of persons who are subjected to prolonged abuse, their vigilance and so on. Associate Professor Quadrio summed it up pretty simply in saying they're "revved up all the time".

The behaviour of people, be they soldiers or civilians who are subjected to trauma, has been the subject of organised study. It's not every form of behaviour that is or needs to be the subject of expert evidence. Someone's grief reaction when a loved one dies, or the anxiety that most of us feel when we talk in public, or the anxiety that most people experience when they sit exams, these are things that are familiar to us because we might remember sitting exams or we've had children who sit exams. So we don't need expert evidence to tell us about how people become anxious in certain circumstances, when they're going for an exam or a driver's licence or something of that kind, that we all know about or most of us know about. But because battered wife syndrome is relatively rare it is a legitimate matter for expert evidence and it is the proper subject for expert evidence because, without the assistance of expert evidence, ordinary people who don't know or study these things, might find the behaviour perplexing, counterintuitive or unreasonable.

It might seem odd why there would be a bond between the abuser and the abused. Why there might be, what Dr Lawrence referred to as, an ambivalent relationship, or what Associate Professor Quadrio referred to as a traumatic attachment. The behaviour of someone with a vulnerability because of past abuse who remains with their abuser.

Dr Lawrence and Associate Professor Quadrio, who are experts in their field, were able to address what was described as the "cycle of violence". How, over time the situation worsens. How often it's the case that the abuser isolates the partner. The common symptoms of a variation in mental state. The loss of self-esteem. The belief that the person who is being abused is somehow at fault. The shame they feel when they return, contrary to the advice of police. The belief that in those circumstances the police won't help them again. The reasons they don't leave: children; lack of support; lack of financial support; threats to the woman; threats to people they love; threats over the custody of children.

And apart from giving you evidence about those characteristics and observed behaviours, Dr Lawrence and Associate Professor Quadrio gave you evidence about the fact that victims of prolonged abuse can have quite correct perceptions as to the risks that are posed to them if they try to leave....

Battered wife syndrome isn't a psychological disorder. As Dr Lawrence and Dr Quadrio explained it's a pattern of behaviours. It's been the subject of research, and it's a field of study by practitioners and scholars whose research and reports are open to contest, as you'd expect scientific inquiry and research to be in a proper field of scientific study.

Dr Quadrio described how there is what she described as a "learned helplessness". How abused women are afraid to leave because they correctly assess that they're at risk. That there may have been past attempts to leave. She referred to the triggers that occur for a violent response. That the level of risk is perceived to increase or has in fact increased. Often there are threats to harm children, and the threats become specific in terms of how, when and where they will be carried out.