

**BATTERED WOMAN<sup>1</sup> SYNDROME - DEFENSES**

Defendant contends that if the State proves beyond a reasonable doubt that she committed \_\_\_\_\_, then her conduct was justified because she acted [summarize defense claimed].<sup>2</sup> I have already instructed you on [defense claimed] [**WHERE APPROPRIATE:** and the State’s burden to disprove that claim beyond a reasonable doubt]. In support of defendant’s claim, evidence was introduced to show that \_\_\_\_\_ physically [and/or psychologically] battered and abused defendant over an extended period of time prior to the time of the events in question. This history of abuse may be considered by you in assessing the honesty [**WHERE APPROPRIATE:** and reasonableness] of defendant’s belief that \_\_\_\_\_, which [is an/are] essential feature[s] of [defense claimed].<sup>3</sup>

In further support of the [defense claimed], defendant called Dr. \_\_\_\_\_ to give expert testimony on Battered Woman Syndrome, a series of common characteristics that appear in

---

<sup>1</sup> Use of the term “woman” is not meant to preclude evidence that this defense can be applied to a defendant other than a woman.

<sup>2</sup> This version of the model charge on Battered Woman Syndrome is intended for use when a defendant claims that otherwise criminal acts are excused by some form of defense. The most common setting for Battered Woman Syndrome evidence is a murder prosecution of a woman who claims that she acted in self-defense against a husband or significant other who had repeatedly battered her in the past and who appeared intent on doing so again. State v. Kelly, 97 N.J. 178, 191 (1984). In State v. B.H., 183 N.J. 171 (2005), however, evidence of the syndrome also was held to be admissible to prove subjective elements of duress. A separate model charge is offered when evidence regarding the syndrome is adduced in other contexts recognized by the courts. See State v. Townsend, 186 N.J. 473, 499 (2006) (allowing expert testimony from the State “inform[ing] the jury about the effects of battering on women and describ[ing] the commonly observed behaviors of both battered women who are not diagnosed with the syndrome and those identified as suffering from the syndrome” in order to prove that the victim lied when she gave a dying declaration that the defendant had not beaten her).

<sup>3</sup> In B.H., 183 N.J. at 201, it was held that when a defendant claims duress as a defense, evidence of the syndrome “may be used [by the jury] to assess the sincerity of defendant’s perception of a threat from her alleged abuser,” but cannot be “used to assist the jury in assessing the objective reasonableness of defendant’s conduct in response to the purported threat....” This differs from the use of this evidence as part of a self-defense claim, when it is also “relevant to the reasonableness of defendant’s belief that she was in imminent danger of death or serious bodily injury.” Kelly, 97 N.J. at 204.

**BATTERED WOMAN SYNDROME –  
DEFENSES**

women who are abused physically or psychologically over an extended period of time by the dominant male figure in their lives.<sup>4</sup> This testimony was offered to support the honesty [WHERE APPROPRIATE: and reasonableness] of defendant's belief that she was in imminent danger of death or serious injury at the hands of \_\_\_\_\_. [WHERE APPROPRIATE: In response to this testimony, the State called Dr. \_\_\_\_, who gave expert testimony on the same subject.] As I shall explain more fully, this limited purpose of supporting the credibility of defendant's belief that she acted [defense claimed] is the sole reason for the admission of this expert testimony on Battered Woman Syndrome, and the evidence is not admissible for any other purpose.

Evidence was introduced that despite her assertion that she had been battered or abused over an extended period of time, defendant [remained silent/took no action/did not report this abuse/continued to live with \_\_\_\_]. The law recognizes that many people believe that a woman's claim that she was battered or abused is not credible solely because she remained silent about the battering or otherwise did not act to stop it. Evidence regarding Battered Woman Syndrome is relevant, if believed by you, because it can explain that such behaviors are among the many ways that a woman may respond to such battering.

In a burglary or theft case or other property crime, if the owner did not report the crime for several years, your common sense might tell you that the delay reflected a lack of truthfulness on the part of the owner. In that case, no expert would be offered to explain such conduct because it is within the common experience and knowledge of most jurors. By contrast, in a case such as this, expert testimony regarding Battered Woman Syndrome can help explain the effects that a sustained pattern of physical and/or psychological abuse can have on a woman.<sup>5</sup>

You may not consider evidence regarding Battered Woman Syndrome as proving that

---

<sup>4</sup> Kelly, 97 N.J. at 193.

<sup>5</sup> Kelly, 97 N.J. at 192-193.

**BATTERED WOMAN SYNDROME –  
DEFENSES**

battering did or did not occur. Battered Woman Syndrome cannot be used to determine whether or not defendant was, in fact, abused.<sup>6</sup> [WHERE APPROPRIATE: Similarly, you may not consider that evidence as proving, in and of itself, whether defendant was or was not truthful when describing \_\_\_\_\_'s prior conduct.] Instead, Battered Woman Syndrome, if proven, may help explain why a battered woman may [remain silent/take no action/continue to live with the batterer and/or deny that any battering occurred].

In summary, testimony as to the Battered Woman Syndrome is offered only to explain certain behavior of an alleged victim of battering. As with all other expert testimony, the weight to be given to the testimony of Dr[s]. \_\_\_\_\_ regarding Battered Woman Syndrome is entirely up to you. You may give it great weight, slight weight, some weight, or reject it entirely, in your discretion.

---

<sup>6</sup> Townsend, 186 N.J. at 499.