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Family Violence and Abuse

M1 Written Assignment

MARCIA IS NOT GUILTY OF MURDER

Marcia is not guilty of the murder of her husband. Self-defense is a valid defense to killing someone. It is a form of justifiable homicide. Self-defense is defined as “the necessity, real or reasonably apparent, of killing an unlawful aggressor to save oneself from imminent death or great bodily harm.” The facts in this case clearly show that Marcia had a reasonable belief that she was in danger of imminent death or great bodily harm.

The previous treatment by her husband Mitchell would clearly show Marcia that he was not only a threat to her life, but had, in front of witnesses showed his desire to have her die. He had not only threatened her numerous times but had also beat her when she would not do what he wanted. She was slapped, kicked and even burned by Mitchell during their 25 year marriage.

Marcia was forced by her husband to be a prostitute in order to bring money into the family, because he did not work. Being a prostitute lends itself to being in danger from the “johns” that take advantage of the prostitutes, even ending up in violence or death. But, though this is part of the marriage between Mitchell and Marcia, this alone would not lead her to believe he was putting her life in imminent danger.

One must look at this situation in the “totality of the circumstances” surrounding the claim of self-defense and the mind-set of the person who pulled the trigger. Marcia was a woman who was married at the age of 14 and spent her entire adult life being physically and mentally abused, as the facts demonstrate. She was suicidal at times, taking pills to try to kill herself to get out of the situation. When he was arrested, she was afraid of filing a complaint because she thought her life was in danger from him.

The definition of imminent danger is quite important here. According to Black’s Law Dictionary, 2nd Edition, in relation to homicide in self-defense, “this term means immediate danger, such as must be Instantly met, such as cannot be guarded against It calling for the assistance of others or the protection of the law. U. S. v. Outerbridge,27 Fed. Cas. 390; State v. West, 45 La. Ann. 14, 12 South. 7; State v. Smith, 43Or. 109, 71 Pac. 973. Or, as otherwise defined, such an appearance of threatened and impending injury as would put a reasonable and prudent man to his instant defense. State v. Fontenot, 50 La. Ann. 537, 23 South. 034. 09 Am. St. Rep. 455; Shorter v.People, 2 N. Y. 201, 51 Am. Dec. 280.”

To put it another way, it must be a danger of being seriously injured or killed that is immediate and not just a thought that something may happen in the future. It cannot be just an idea that someone may slap or kick the victim, but a real fear of immediate danger. In the facts of the marriage of Marcia and Mitchell, Marcia had a need, in her mind, to defend herself and the only way she saw to do this was to kill Mitchell. Self-defense is the necessity, real or reasonably apparent, of killing an unlawful aggressor to save oneself from imminent death or great bodily harm. The wording “real or reasonably apparent” is crucial. Marcia, in her state of mind, and having lived through the life she lived, had a reasonable belief that if she did not kill Mitchell, he would kill her. She apparently felt that the danger was imminent, and that her life was in immediate danger from him. That is the key—her belief. Another person, in other circumstances, may not feel that his or her life is in imminent danger, but self-defense must be considered on a “case by case” basis.

One argument might be that Marcia calmly planned the killing of her husband, by getting the pistol and taking her baby out of harm’s way before she killed him. But, there is no “time constraint” mentioned in the area of self-defense. The law does not say it must be within a certain time frame for a person to believe that their live is in immediate danger. She truly believed that she had to act against the aggressor as soon as possible or she would be killed.

In many states, the courts have recognized the “battered wife” syndrome, which applies to circumstances such as this. Often, a women who has faced similar circumstances, has killed an abusive husband because of the same belief of imminent death or serious injury. It is a difficult concept for some people to accept, but courts have frequently ruled these cases as justifiable homicide, or self-defense. It all comes down to whether the belief is reasonable, and in this particular case, Marcia was justified in her belief of imminent danger.

MARCIA IS GUILTY OF MURDER

Marcia is guilty of the murder of Mitchell, her husband. Marcia, at trial, pled self-defense. Yet, self-defense is “the necessity, real or reasonably apparent, of killing an unlawful aggressor to save oneself from imminent death or great bodily harm.” Marcia had indeed suffered physical and mental harm from Mitchell throughout their marriage. However, Mitchell was asleep when Marcia shot him. She could not have been in “imminent” danger from a person who was sound asleep. He could have, and did many times, hurt her, but the facts do not demonstrate that he had a gun, or was in any condition to use it. Nor was he a danger to her at that point in time, because of his being asleep. She had no reason to feel that there was impending harm coming from him.

It is true that his treatment of Marcia was extremely mentally and physically harmful, but the facts do not even show that his treatment of her put her in the hospital or created extremely serious injuries. He had spoken of wanting her to die, but had not attempted to kill her or at least there was nothing in the facts to show such behavior from him.

If the self-defense plea would be accepted, it would be what is called in the law, a “slippery slope.” Anyone who has been punched or hit might feel that murder would be the justifiable response. What amount of abuse would be enough to be “justified?” In addition, along with physical abuse, threats against someone in the form of mental or emotional abuse might be included in the self-defense pleas which would cause the never-ending trail of murders attributed to domestic abuse, even if not proven or serious enough to cause true imminent danger.

When an aggressor is physically present and posing a threat to a person’s life or well-being, or that of a loved one, that is self-defense. It is not killing someone in his sleep because of past abuse that was not even prosecuted by the authorities due to no complaints being filed. Marcia took the opportunity to obtain a pistol, take her child out of the house, and wait for Mitchell to go to sleep. She then coolly and with pre-meditation, killed an unsuspecting Mitchell. She cannot claim this is self-defense.