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Domestic violence cases tried anyway – 2 women recanted; 1 batterer convicted

By Karen Farkas, Cleveland Plain Dealer Reporter

[AKRON] – Two men were arrested for punching their girlfriends in the face.

Both men were charged with domestic violence, but the women later recanted their statements in which they told police they were hit.

Instead of dropping the cases because the victims would no longer cooperate, prosecutors went to trial using evidence that included photographs and statements the girlfriends made to police and doctors.

Both women testified – but for their alleged abusers, not against them.

Keith Bradford was convicted. Albert Wade was acquitted.

Winning one case using evidence-based prosecution was considered a victory for the Summit County prosecutor's office. Since February, it has been preparing domestic violence cases with the assumption the victim will not help, said Assistant Prosecutor Susan Ragsdale.

“There is a ‘so what’ factor if the victim doesn't cooperate,” she said of those involved in domestic violence cases, including juries. “If she's willing to put up with it, why should we do our job? But she's a victim of the cycle of violence. As long as he's in control, he wins.”

According to a 2002 U.S. Department of Justice study, only about one-seventh of all domestic violence assaults come to the attention of the police. About half of those cases are either dismissed or do not go to trial because the victim either recants statements or disappears, officials said.

Evidence-based prosecution, which includes everything police can gather at the scene, all statements and the defendant's prior convictions, has become more common in recent years, said Rita Smith, executive director of the National Coalition Against Domestic Violence.

In domestic violence cases, the victim may face intimidation, the loss of a breadwinner or believe the person he or she loves would never harm them again, said Rick Bell, supervisor of the major trial unit in the Cuyahoga County prosecutor's office.

“Sometimes our victims need us to be the bad guys,” he said. “We tell them, ‘We can’t drop the charges’ and it takes some of the heat off their shoulders.”

Bell said his office has pursued such prosecutions for at least three years and trains prosecutors and police to prepare cases that can stand up in court even if the victim doesn’t cooperate.

“Fifteen years ago when I started in the office as a young prosecutor, I would hear defense attorneys and the court and other prosecutors say during plea negotiations, ‘It is just a domestic case,’” he said. “It is not like that anymore. A special priority has to be placed on domestic cases to prevent further spousal abuse and child abuse and murder.”

Bradford, who was convicted of domestic violence and felonious assault, had two prior domestic violence convictions involving another woman, said Assistant Summit County Prosecutor Adam Van Ho.

“Hopefully we are sparing her and other women future attacks,” he said of Bradford’s latest victim, Michell Payne.

Payne cried in court Nov. 16 when Bradford was sentenced to six years in prison, but they were tears of anger, not joy.

“He’s the victim in this case, not me,” said Payne, 32. “He never laid a hand on me.”

Bradford, 32, called paramedics Aug. 8, saying he found Payne unconscious in their Akron apartment. He was arrested after Payne adamantly told doctors and police he hit her.

But at his trial, she testified she tripped over a cable in their Akron apartment and struck her head on a counter.

She had two black eyes and was bruised on the left side of the face. If she had fallen the way she claimed, she would have struck the right side of her face, Van Ho said after Bradford was sentenced. She also had a knot in the middle of her forehead consistent with being struck by a fist.

Payne testified, but jurors also had her statements to police and doctors.

Payne, who has had to find a job since Bradford was arrested, plans to marry him.

“If it has to be in prison, it will be in prison,” she said, twisting her engagement ring. “They’ve taken my future, but I’ll wait.”

In the case of Albert Wade, his girlfriend called police Feb. 27 to tell them he hit her.

The couple had argued and Wade, 33, threw a rock through a window of her car. He did not deny throwing the rock. He was charged with domestic violence and criminal damaging.

The victim later signed statements saying she lied. Wade's attorney, Joseph Gorman, said he believed her.

"She was very upset with him and thought he was cheating on her," he said.

She knew Wade had prior domestic violence convictions so he would be arrested, Gorman said.

The police report indicated there were visible signs she was hit, but photographs showed no marks, Gorman said.

Gorman, a former prosecutor, said there are legitimate cases in which the victim recants to protect the defendant, but not in his client's case.

During the trial in May, prosecutors put into evidence Wade's five prior domestic violence and assault convictions, which included choking and threatening to shoot a victim and punching victims.

Wade was convicted of criminal damaging but acquitted of domestic violence.

John Mascolo, an assistant prosecutor who oversees the Summit County domestic violence unit, said prosecutors felt there was enough evidence in Wade's case to go to trial.

"We want to win our cases, not try cases that we think are risky," he said.

Bell said a victim may make a false report but more often changes her mind about proceeding in the case.

"I have also lost a couple of cases and it is awful," he said. "You think a jury would see right through when a person is trying to change the truth."

Some victims may be intimidated by their violent boyfriend. Others have an economic need to keep the abuser around, Bell said, such as simply buying diapers for the baby.

"It is so sad to see victims willing to trade in their future safety for a small monetary gain," he said.

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