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Marital Rape Case is Rarity for Court; An Omaha Woman's Decision Puts Her Husband on Trial

By Todd Cooper, World-Herald Staff Writer

Her 2-year-old sleeping beside her, the Omaha woman awoke to a hand covering her mouth and another squeezing her throat.

Feeling like she was about to take her last breath, she fought back. She clawed her attacker, and he cut her.

In the melee, the toddler began to stir. The attacker stopped, fixed the child a bottle and coaxed him back to sleep.

He then proceeded to rape the woman three times – while the child slept on the bed.

The intruder in the wee hours of that July morning wasn't some random rapist or anonymous burglar.

It was her husband.

Terrell McClinton, 31, was convicted last week of two counts of first-degree sexual assault in a rare trial that exposed an insidious aspect of domestic violence – marital rape.

Anywhere from 10 percent to 14 percent of women say they have been raped by their husbands, national surveys show.

That percentage spikes substantially for battered women, according to the National Resource Center on Domestic Violence. One-third to one-half of battered women say they have been raped, said Raquel Kennedy Bergen, head of the sociology department at St. Joseph's University in Philadelphia.

Yet the crime rarely goes from the bedroom to the courtroom. It wasn't until 1993 that marital rape became a crime in all 50 states.

While authorities have adopted no-tolerance policies for domestic violence, prosecutors say they have a hard time persuading victims to risk exposing themselves, and the intimate details of their sex lives, in court.

Deputy Douglas County Attorney Kim Pankonin, who prosecutes domestic violence cases, said many women would rather prosecute their husbands for a black eye than a rape.

Pankonin said she currently has three domestic violence cases in which women say they were raped. Yet the women want nothing to do with bringing sexual assault charges.

“There’s a lot of components to it – including the general perception in the community that you can’t rape your wife,” Pankonin said. “It’s intensely personal. It’s much more humiliating.

“And batterers know that. It’s a way to exercise even more control over (women’s) lives.”

It’s something the 31-year-old Omaha woman says she knew all too well.

The woman, who has a different last name from McClinton, said their relationship typified the depths of domestic violence.

The two met in high school. Three weeks after they began dating, she said, McClinton slapped her. He quickly apologized and showered her with affection – a practice that would become common.

She learned to avoid setting him off – limiting the abuse to every three months or so.

She got pregnant at 16, and the couple went on to have five children – marrying in 2000. But the abuse outlasted the honeymoon.

Tired of the beatings, the woman said, she finally vowed to call police “every time he did something to me.”

In February 2004, McClinton, a former football player for the semiprofessional Nebraska Bears, threw the woman on a bed and against a wall. She called police. And this time, unlike so many others, she proceeded with charges.

McClinton pleaded guilty to misdemeanor assault and was sentenced June 1 to 90 days in jail.

Corrections officials and a judge allowed McClinton on work-release. He spent his days driving for Husker Drywall, his nights in jail – and his downtime checking on his wife’s every move.

Stewing over her insistence that they divorce, the woman said, McClinton showed up in her bedroom about 6 a.m. July 3. He startled her awake, sat beside her and started running his hands up her legs.

She resisted. He overpowered her and raped her.

After he left for work, the woman called 911 and reported the rape. Omaha police interviewed her at length and took her to a hospital where nurses collected evidence.

Yet McClinton wasn’t arrested or removed from work-release.

On July 5, McClinton again slipped into the woman's bedroom about 6 a.m.

The woman said she awoke to him choking her. She fought back and he cut her – police believe with a knife.

A 6-inch gash lined her face. Two smaller cuts marred her lip and nose.

McClinton demanded to know why she had reported him to police July 3. He told her he had stayed up all night pondering ways to kill her.

Their youngest son began to stir on the bed beside her. McClinton went to the kitchen, fixed a bottle and calmed the child back to sleep.

He then sexually assaulted his wife three times.

The woman said it eventually ended when she claimed that she heard the kids waking.

She told him she wouldn't call police and offered to give him a ride to work.

The woman woke one son up so he could ride with them. She woke another and told him to call 911 and ask police to meet them at Dad's work.

Omaha police arrived about the same time McClinton and his wife did. McClinton took off running, but police caught him a half-mile later.

Last week, nine months after his arrest, the woman stoically faced him down in court.

She also confronted accusations about her own behavior. McClinton's attorney, Assistant Douglas County Public Defender Brenda Leuck, peppered her with questions: Did she say no? How did he know that she didn't want to have sex if she didn't voice it?

And what about the time, just a few weeks earlier, when she had sex with McClinton at his workplace?

The woman acknowledged having consensual sex with McClinton once while he was on work-release. She said she immediately regretted it.

McClinton testified his wife made up the allegations because she was enraged that he hadn't paid the bills or fixed the brakes on her van. He also contended that his wife caused the cut on her face by scratching herself.

Prosecutors Sandi Denton and Robin Lewis, deputy Douglas County attorneys, called McClinton's claims "ridiculous."

They noted the cuts, the pictures of the disheveled bedroom and McClinton running from police.

And they pointed out that the woman had nothing to gain by testifying against her husband. In fact, Denton said, she was cutting off a funding source for their five children.

A jury of seven men and five women convicted him after a day of deliberations.

“This case was as much about control and domination as it was about rape,” Denton said. “It took tremendous courage for her to come to court and stand up to him. I think it was her way of assuming power over her life.”

Nine months after the attacks, the woman is left with a half-inch scar on her temple – and a bigger one on her psyche.

Their divorce became final the day of his conviction. And, she said, she proved to herself and other women that they can escape abuse and survive.

Yet she’s left with the grim task of telling her children that their father is going to prison. He faces up to 50 years on each count when he is sentenced in July.

“Thank God my mind can do what’s right because my heart sure can’t,” she said. “In my heart to this day, I feel guilt.

“It’s bittersweet to me. I just wish he could be right.”

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