

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
3 GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney
4 GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
5 1112 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
FAX: (805) 568-2398

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JAN 18 2005

GARY M. BLAIR, Executive Officer
By *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SANTA BARBARA**

10 **SANTA MARIA DIVISION**

11
12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

15
16 MICHAEL JOE JACKSON,

17 Defendant.

No. 1133603

IN LIMINE MOTION RE:
ADMISSION OF EXPERT
TESTIMONY ON "BATTERED
WOMEN'S SYNDROME"

~~PROPOSED~~ REDACTED

DATE: January 28, 2005
TIME: 9:30 a.m.
DEPT: SM 2 (Melville)

~~FILED UNDER SEAL~~

18
19
20 INTRODUCTION

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

[REDACTED]

The People seek to introduce expert testimony on the subject of domestic violence and Battered Women's Syndrome. This witness is necessary in this case to disabuse jurors of commonly held misconceptions about domestic violence victims. Such expert testimony is admissible to enable jurors to objectively evaluate conduct of victim's of Battered Women's Syndrome free from the restraints of popular myths and misconceptions. This expert testimony will encompass general information about domestic violence and the typical actions, reactions and reasoning of victims of domestic violence which may be counter-intuitive to the average lay juror. Pursuant to Evidence Code section 1107, this testimony will not be offered to prove that the specific charged offenses in fact occurred but rather to help the jury understand the

1 victim's behavior in the context of the stressful and threatening environment she experienced
2 while under the control of the defendant and his co-conspirators. Battered Women's
3 Syndrome is a stress disorder. While this case does not directly involve charges of domestic
4 violence, the fact that one of the victims in this case is a long-term victim of domestic violence
5 is highly relevant to understanding her conduct when she was confronted by common domestic
6 violence stressors such as: death threats to herself and her family, false imprisonment, child
7 abduction, emotional abuse, economic dependency, personal verbal attacks, isolation and
8 hopelessness. This important evidence will be imperative for the jury to properly evaluate
9 Janet Arvizo's credibility at trial.

10 I.
11 **UNDER EVIDENCE CODE SECTIONS 801 AND 1107**
12 **EXPERT TESTIMONY ON THE ISSUE OF BATTERED**
13 **WOMEN'S SYNDROME IS ADMISSIBLE TO ASSIST**
14 **THE JURY IN UNDERSTANDING THE CONDUCT OF**
15 **A VICTIM OF BATTERED WOMEN'S SYNDROME**

16 Expert testimony has been widely accepted as a means to help jurors understand the
17 counter-intuitive behavior of victims of stress disorders. "Evidence that explains rape trauma
18 syndrome, child sexual abuse accommodation syndrome and Battered Women's Syndrome
19 informs the finder of fact that how they think the average reasonable person would behave
20 and/or how they think they personally would behave are not necessarily the same way that
21 people who have been raped, molested or battered in fact behave [W]e have difficulty
22 accepting what we do not understand. Depriving the finder of fact of such understanding may
23 well lead to a conclusion based on misconceptions held in good faith. That such conceptions
24 are held in good faith in no way lessens the magnitude of the error and the injustice that may
25 result." (*People v. Day* (1992) 2 Cal.App.4th 405, 419; disapproved on other grounds in
26 *People v. Humphrey* (1996) 13 Cal.4th 1073, 1088-1089.)

27 Lenore E. Walker, a clinical and forensic psychologist who is nationally recognized
28 as an authority on battered women and who is largely responsible for the development of
"Battered Woman Syndrome," has defined a "battered woman" as "one who has been, on at

1 least two occasions, the victim of physical, sexual, or serious psychological abuse by a man
2 with whom she has an intimate relationship.” She further defined Battered Women’s
3 Syndrome as “a pattern of psychological symptoms that develop after somebody has lived in a
4 battering relationship.” (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1194 disapproved on
5 other grounds in *People v. Humphrey*, *supra*, 13 Cal.4th 1073, 1088-1089.)

6 In the trial of *People v. Aris* (*supra*), Dr. Walker testified that Battered Women’s
7 Syndrome is recognized as a type of post-traumatic stress disorder, which is listed and defined
8 in the Diagnostic and Statistical Manual of Mental Disorders (DSM-III), and which happens to
9 anyone exposed to the degree and kind of trauma, such as a natural disaster or combat, that
10 would be expected to cause psychological problems.” (*People v. Aris*, *supra*, 215 Cal.App.3d,
11 at p. 1194.)

12 The rules regarding the admissibility of expert testimony are well settled:

13 First, the decision of a trial court to admit expert testimony “will not be
14 disturbed on appeal unless a manifest abuse of discretion is shown.”
15 (*People v. Kelly* (1976) 17 Cal.3d 24, 39, and cases cited.) Second, “the
16 admissibility of expert opinion is a question of degree. The jury need not
17 be wholly ignorant of
18 the subject matter of the opinion in order to justify its admission; if that
19 were the test, little expert opinion testimony would ever be heard.
20 Instead, the statute declares that even if the jury has some knowledge of
21 the matter, expert opinion may be admitted whenever it would ‘assist’
22 the jury. It will be excluded only when it would add nothing at all to the
23 jury’s common fund of information, i.e., when ‘the subject of inquiry is
24 one of such common knowledge that men of ordinary education could
25 reach a conclusion as intelligently as the witness’” (*People v. McDonald*
26 (1984) 37 Cal.3d 351, 357). (*People v. McAlpin*, *supra*, 53 Cal. 3d 1289
27 at pp. 1299-1300.)

28 In 1991 the Legislature enacted Evidence Code Section 1107 to specifically
authorize the courts to admit evidence of Battered Women’s Syndrome in any case in which it
is relevant. Evidence Code Section 1107 provides in pertinent part:

(a) In a criminal action, expert testimony is admissible by either the

prosecution or the defense regarding Battered Women's Syndrome, including the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence, except when offered against a criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.

(b) The foundation shall be sufficient for admission of this expert testimony if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness. Expert opinion testimony on Battered Women's Syndrome shall not be considered a new scientific technique whose reliability is unproven. (Emphasis added.)

Even before the Legislature specifically made evidence of Battered Women's Syndrome admissible under Evidence Code section 1107, the Court of Appeal upheld the admissibility such evidence under Evidence Code Section 801. (*People v Aris, supra*, 215 Cal.App.3d 1178.)

Evidence Code Section 801 provides:

If a witness is testifying as an expert, his/her testimony in the form of an opinion is limited to such an opinion as is

(a) related to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of; and

(b) Based on matter (including his special knowledge, skill, experience, training, and education) perceived by or personally known to the witness or made known to him at or before the hearing, whether or not admissible, that is of a type that reasonably may be relied upon by an expert in forming an opinion upon the subject to which his testimony relates, unless an expert is precluded by law from using such matter as a basis for his opinion.

Since the Legislature enacted section 1107, courts have admitted expert testimony of Battered Women's Syndrome under both sections 1107 and 801. (*People v. Humphrey, supra*, 13 Cal.4th 1073, 1088.)

It is important to note that courts have routinely recognized the relevance of

1 Battered Women's Syndrome in cases in which domestic violence was *not* charged. For
2 example, in the case of *People v. Day, supra*, 2 Cal.App.4th 405, 415-417, the Court of Appeal
3 held in a trial before the enactment of Evidence Code section 1107 that defense counsel was
4 incompetent *for not* presenting expert testimony on the behavior of victims of domestic
5 violence to defend against the charge of murder.

6 II.

7 THE ADMISSION OF EXPERT TESTIMONY ON
8 BATTERED WOMEN'S SYNDROME WILL ASSIST
9 THE TRIER OF FACT IN UNDERSTANDING THE
10 BEHAVIOR OF, AND IN EVALUATING THE
11 CREDIBILITY OF, [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
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20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
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11 CREDIBILITY OF, [REDACTED]

12 [REDACTED]
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25 [REDACTED]
26 [REDACTED]
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28 [REDACTED]

1 [REDACTED]
2 [REDACTED] mjfacts.com mjfacts.com
3 The common characteristics of Battered Women's Syndrome are distinctive.
4 Battered women tend to stay in the abusive relationship, they are trained to be the
5 peacekeepers, they feel they are responsible to make relationships work. They generally are
6 taught to be optimistic and hopeful, terminating the relationship usually has adverse economic
7 consequences. Leaving the relationship may be very dangerous, and the battered woman is
8 aware of the danger. Threats to kill the battered woman or to abscond with the children if she
9 leaves are typical. The woman loses self-esteem, is fearful, and does not have the
10 psychological energy to leave, resulting in "learned helplessness" and "a kind of psychological
11 paralysis." (See *People v. Brown* (2004) 215 Cal.4th 892, 899; *People v. Aris*, *supra*, 215
12 Cal.App.3d 1178, 1194.) [REDACTED]
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17 CONCLUSION

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21 These are also the features of this case.

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25 facts.com mjfacts.com mjfacts.com
26 This expert testimony will be general in nature and will not be fact-dependent. It
27 will be used solely to de-bunk general myths and misperceptions about the behavior of victim's
28 of domestic violence. A proposed instruction for the jury's guidance in this area (CALJIC

1 9.35.1) is attached.

2 The People respectfully request that expert testimony on Battered Women's
3 Syndrome be admitted at trial.

4
5 DATED: January 17, 2005

6 Respectfully submitted,

7 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

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10 BY: 

11 GORDON AUCHINCLOSS
12 Senior Deputy District Attorney
13 Attorneys for Plaintiff
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STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss

Executed at Santa Barbara, California on this 8 day of January, 2005.

Cris Linz.

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2 **SERVICE LIST**
3

4 THOMAS A. MESEREAU, JR.
5 Collins, Mesereau, Reddock & Yu, LLP
6 1875 Century Park East, No. 700
7 Los Angeles, CA 90067
8 FAX: (310) 284-3122
9 Attorney for Defendant Michael Jackson
10

11 ROBERT SANGER, ESQ.
12 Sanger & Swysen, Lawyers
13 233 E. Carrillo Street, Suite C
14 Santa Barbara, CA 93001
15 FAX: (805) 963-7311
16 Co-counsel for Defendant
17

18 BRIAN OXMAN, ESQ.
19 Oxman & Jaroscak, Lawyers
20 14126 E. Rosecrans Blvd.,
21 Santa Fe Springs, CA 90670
22 Co-counsel for Defendant
23
24
25
26
27
28