

Case Brief

Crim law, homicide, voluntary manslaughter

Hughes, 2/14/15

Identity of Case

People v. Berry, 556 P.2D 777 (Cal. 1976)

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Summary of Facts/Procedural History

Berry and his wife got married, immediately she went on a trip to Israel and came back telling him that she had met someone else and they had slept together...the defendant testified that the following two weeks were torturous as she went back and forth on giving and withholding sex, telling him she was leaving him for this man in Israel, etc. He strangled her once, and she was hospitalized. While she was in the hospital he visited with a friend, then went back to their apartment and waited for her for 20 hours. When she got home, she asked him if he was waiting to kill her. He (testified that) he said Yes, then no, then they started arguing and he was just trying to quiet her screaming when he ended up strangling her again with the telephone line and killed her.

At trial, defendant was found guilty of murder in the first degree. Appeals on the basis that he should've been given a jury instruction for voluntary manslaughter. His psychologist testified that he had, from the time of his mother, been subjected to women who tormented him constantly, and that her behavior provoked him to an enraged reaction.

Statement of the Issue

Was defendant entitled to jury instructions for voluntary manslaughter (i.e. he didn't premeditate or intend, his actions were provoked).

Holding

There was sufficient evidence to give the defendant's voluntary manslaughter instructions to the jury.

Reasoning

Prosecutor argued against the instructions because there was a 20 hour cooling/premeditation period. But that is a question that should've gone to the jury...(yeah that's stupid).

Traditionally this sort of provocation defense is utilized by men who beat their wives/girlfriends. Oops.

Evaluation