

# **Mock Trial**

## ***U.S. v. Dominique Stephens***

A woman admits to shooting and killing her husband and is charged with first degree murder. She asserts that she acted in self-defense after suffering years of severe physical and emotional abuse. (This is an updated version of U.S. v. Martha Monroe)

**Developed by the D.C. Street Law Clinic  
at Georgetown University Law Center**

**Distributed by Street Law, Inc.**

*This trial may be used and duplicated for non-commercial academic use.*



Later, at the station, Mrs. Stephens waived her right to counsel and to remain silent. Detective Hughes questioned her, after which Detective Hughes wrote up a statement. Mrs. Stephens signed it. The prosecution charges Mrs. Stephens with the First Degree Murder of her husband, Donovan Stephens.

Dominique Stephens admits that she shot her husband, but now, through her attorney, asserts that she acted in self defense. Mrs. Stephens now claims that for the entire time of her marriage to Donovan Stephens she has been the victim of severe and continual physical and emotional abuse from him; she says the last time he beat her, he almost killed her. She claims that because of this continued abuse, she is suffering from battered woman syndrome, and that she shot her husband because she had a reasonable belief that even though her husband was asleep, her life was in imminent danger. She claims she had no choice but to kill him.

In order to prove battered women syndrome the defense must prove the presence of severe and frequent physical and emotional abuse, leading to a condition of learned helplessness. Symptoms of learned helplessness can include financial dependence on the batterer, forced isolation from family and friends, and extreme fear of retaliation if escape is attempted.

Battered Woman Syndrome is a condition that has been recognized fairly recently in the law as a way to help prove that a defendant acted in self defense. The syndrome occurs in women who have been subjected to lengthy periods of abuse from their husbands or boyfriends. The abuse is often life-threatening, and usually increases in severity and frequency. A woman in such a situation tries to figure out what the cause of the abuse is (is it something she has done?) and what she can do to prevent it. Over a period of time, she realizes that the battering is

unpredictable, and can be triggered by anything or nothing. There is no way she can tell when the next beating will occur, or how to prevent it, although she may try everything she can think of. This unpredictability of the situation leads to the development of a condition of "learned helplessness," in which the victim, after repeated attempts to stop the abuse, actually "learns" that there is nothing she can do - and no way she can escape.

"Learned helplessness" causes women suffering from Battered Woman Syndrome to feel that they are totally unable to control their situation, change it or escape from it. They believe that they cannot escape, that the batterer will find them wherever they go and that they will be tortured even more. Moreover, such women are usually financially dependent on the men who abuse them, and are unable to leave or support themselves and their children if they do leave. The situation is worsened by the fact that the batterers force the women to isolate themselves from their family and friends, prohibiting visits, and even go so far as to put a lock on the phone, or remove it completely. Regardless, women suffering from Battered Woman Syndrome cling to the hope that the abuse will stop, and believe their partners when they say they will change and not hit them again.

The prosecution claims that Mrs. Stephens is not suffering from battered woman syndrome. Although the prosecution does not dispute the fact that Mrs. Stephens was abused by her deceased husband, it contends that Mrs. Stephens premeditated the murder of her husband on the night of his death.

A trial date has been set and the following witnesses will be called:

For the United States

Detective Dana Hughes, Metropolitan Police Department

Tony Williams, Former Director, New Columbia Domestic Violence Shelter

Jordan Bright, Dominique Stephens' sibling

For Defendant, Dominique Stephens

Dominique Stephens, Defendant

Sidney Miller, M.D., Physician, New Columbia Hospital Center

Dr. Bobby Phoenix, expert on Battered Woman Syndrome

Evidence to be Presented at Trial

Metropolitan Police Department Statement

New Columbia Hospital Records

Picture of the pistol used to kill Donovan Stephens

Stipulations

The parties stipulate that Dr. Bobby Phoenix is an expert on battered woman syndrome. However, the defense must establish Dr. Phoenix's expertise in court in order to introduce her expert testimony at trial.

## **Controlling Law**

### **Statutory Law**

#### **New Columbia Code § 22-2401. Murder in the first degree - Purposeful killing;**

Whoever, being of sound memory and discretion, kills another purposely, either of deliberate and premeditated malice or by means of poison...is guilty of murder in the first degree.

#### **New Columbia Code § 22-2403. Murder in the second degree.**

- (a) Whoever with malice aforethought, except as provided in Sec. 22-2401, kills another, is guilty of murder in the second degree.
- (b) In the District of Columbia, second degree murder is a lesser included offense of first degree murder, and under an indictment charging first degree murder, the defendant may be found guilty of the necessarily included offense of second degree murder.

### **Punishment**

#### **New Columbia Code § 22-2404. Penalty for murder in first and second degrees.**

- (a) A person convicted of murder in the first degree shall be sentenced to a minimum of 30 years from the date of the commencement of the sentence.
- (b) Whoever is guilty of murder in the second degree shall be sentenced to a period of incarceration of not more than life, except that the court may impose a prison sentence in excess of 40 years only in accordance with § 24-203.1(b-2).

New Columbia Code § 22-2405. **Penalty for manslaughter.**

Whoever is guilty of manslaughter shall be sentenced to a period of imprisonment not exceeding 30 years.

### **Self Defense**

In New Columbia, the standard for self-defense is that the accused, given his or her situation, had a reasonable belief that his or her life was in imminent danger. The trier of fact (judge or jury) must put itself in the shoes of the defendant, and determine what was reasonable for the person who committed the act to believe at the time the act was committed.

"A belief or response which may be unnecessary in retrospect may nonetheless have been reasonable in the heat of the moment, and a person in no real danger at all may nevertheless reasonably believe otherwise, and may then lawfully act in self-defense." Thomas v. United States (New. Col. App. 1984)

"In homicide cases where the defendant claims self defense, expert testimony regarding battered woman syndrome is admissible in order to establish:

1. That the syndrome exists, and what its definition and characteristics are;
2. That the defendant was suffering from the syndrome; and
3. That a person suffering from battered woman syndrome may reasonably have

perceptions, fears and beliefs that would not be reasonable in others.

The expert may not testify as to whether the defendant actually acted out of a reasonable belief of danger, which is the ultimate issue to be decided only by the trier of fact (judge or jury.)" United States v. O'Brien (N.C. App. 2005)

### **Case Law**

"An intentional murder is in the first degree if it is committed with premeditation in cold blood. It is murder in the second degree if it is committed on impulse or in the sudden heat of passion. Premeditation may be proved by demonstrating that the accused acted with consideration and reflection upon the preconceived designed to kill; turning it over in the mind, giving it a second thought." Austin v. United States, (New. Col. Cir. 2002)

"Manslaughter is the unlawful killing of a human being without malice. Malice is defined as a condition of the mind that prompts a person to do a wrongful act without regard for the life and safety of others." United States v. Morris (New. Col. Cir., 2003)

"Legal provocation can reduce the offense of murder to manslaughter. What constitutes legal provocation is generally left up to the trier of fact (judge or jury) to determine, but it may be defined as a situation that might induce a reasonable person in the heat of passion to lose some self-control and commit the act on impulse and without reflection." Hurt v. United States (New. Col. 2001)

**Affidavit of Dana Hughes, Detective, Metropolitan Police Department:**

My name is Dana Hughes. I am a Detective with the Metropolitan Police Department in New Columbia. I have been a police officer for 17 years and a detective for the past six years.

On June 17, 2009, I received a call on my car radio that someone had been shot at 1799 Lamont Street, N.W. The call came in at 10:33 p.m. I radioed back that I was in the area and could respond, and asked for backup.

I arrived at 1799 Lamont Street, N.W. at 10:38 p.m. A crowd had gathered in front of the house, and as I approached the front door, an unidentified woman said to me that people in the neighborhood were always calling the police about fights between Mr. and Mrs. Stephens, and that "this time Donovan finally went and done it".

I knocked on the door and it was opened by the defendant, Dominique Stephens. She was dressed in her bed clothes. I identified myself as a police detective and she led me upstairs to a bedroom. On the bed was an adult male lying face down, covered with a light blanket. The blanket had three holes in it and had some bloodstains on it.

I examined the man on the bed, and determined that he was dead. He had been shot. I asked her what happened and she said, "I shot my husband." She then pointed to a dresser standing across the room from the bed, on which I found a .32 caliber pistol which had recently been fired. I read Mrs. Stephens her Miranda rights and placed her under arrest.

As we walked downstairs, two children came out of one of the other bedrooms. They were crying, and ran to Mrs. Stephens. I asked if they were her children, and if there was anyone who could take care of them. Mrs. Stephens appeared to be very disoriented and didn't answer.

She was just sort of gazing off into the distance. I repeated the question, and she responded that now that it was all over, she wouldn't have to worry about them anymore. She was shaking and started crying.

At that point another person arrived at the house. She identified herself as Jordan Bright, Mrs. Stephens's sibling. Jordan said "I was afraid something had happened so I came over to check everything out." Jordan agreed to take care of the children while Mrs. Stephens was unable to do so herself.

After placing Mrs. Stephens in the police cruiser, I returned to the house and conducted a search. There were no signs in the house of a struggle, although Mrs. Stephens appeared to have several bruises on her face. I asked her where they came from, and she said she had been in an accident. She refused my offer to secure medical attention for her, saying that she did not need to see a doctor.

Later, at the station, I had the opportunity to see the record of the call to 911 that came in. It turned out that it was Mrs. Stephens who made the call. I again advised Mrs. Stephens of her Miranda rights, and asked her if she would be willing to answer some questions. She agreed. After questioning her, I wrote up a statement, which she signed.

Some weeks later, in doing some paperwork for the case, I came across police records indicating that there had been several complaints filed by neighbors which described fights between Mr. and Mrs. Stephens and screams coming from the house. According to the police reports, officers responded each time, but no one at the house ever filed any charges.

I know that now she's claiming she killed him in self defense because of battered woman

syndrome. In my opinion, it's just a new excuse for committing murder. She never said anything about being beaten to me. I saw some bruises on her, but she said she was fine, and how am I supposed to tell one bruise from another? Anyway, there's not much the police or the courts can do in cases like that. At some point in time the woman has to decide to leave.

**Affidavit of Tony Williams, former Director, Washington Women's Shelter:**

My name is Tony Williams. I was the Director of the New Columbia Domestic Violence Shelter from February 2007 until April 2009. Sometime in December 2008, right around Christmas, I was taking calls on our hotline, and got a call from a woman who said that she had been beaten by her husband since they were married and that she was afraid that he was going to beat her again when he got home that night. She said she had nowhere to go.

We kept our address a secret so that the men who were battering the women in the shelter couldn't find them, so I gave her an address where she could meet me, and I went to pick her up. When I met her she told me her name was Cynthia. I now know that the woman who came to the shelter with her two young children that evening was Dominique Stephens. When I saw her she was covered with bruises, and had what looked like burn marks on her right arm.

We went back to the shelter and I let her get cleaned up and put her kids down to sleep. We spent most of the rest of the night talking. She said that her husband had been abusing her for years and that she couldn't take it anymore, especially since he had started threatening the kids. She said she was never going back. She seemed very much like the other abused women I have worked with: terrified, lonely, insecure, with very low self esteem, but she was also angry enough to have left, and seemed determined not to go back.

We have a space problem at the shelter, and women can stay there on an emergency basis only for three days. We try to arrange other places for them to go. After Mrs. Stephens's three days were up, we set up a place for her at another shelter for women. I know it wasn't the most inviting place to spend the holidays, but it was clean and she would have been safe there until

she could figure out what to do next. She was very reluctant to go, and asked if she could stay at our place a few more days.

She really didn't want to take her kids to the other shelter, and I knew she was anxious about what she would do next, and how she was going to live. It's true that she wouldn't be eligible for Aid to Families with Dependent Children, which would help pay rent, or even food stamps as long as she was legally married to her husband. I would have okayed her staying with us if we had the room, because I was afraid she might return home, but there were several women coming in that night - Christmas is a very bad time for abused women.

The morning Mrs. Stephens was supposed to leave our shelter, she was acting really strange. I suspected that she had spoken to her husband from the way her mood had changed - she seemed so happy all of a sudden. I finally got her talk to me, and she said that she had talked with Donovan, and that "everything was all right." She'd be going home for Christmas, that he had stopped drinking, and that she'd be fine. I tried to talk her out of it, but she insisted. Just then a commotion broke out in one of the other rooms that I had to take care of. When I returned, Mrs. Stephens and her children were gone.

I always felt particularly bad about her leaving us and going back home. While she was here, I had the opportunity to give her some informal aptitude tests - she scored fairly high. I told her that I was sure that we could get her some training and a job if she would stick it out. I know it's tough and a lot of women in the same situation go back home, but in my opinion, she didn't seem so helpless - not as much as other women I've seen.

**Affidavit of Jordan Bright, Dominique Stephens's sibling:**

I am Dominique Stephens's sibling. I am a teller at the Washington Savings Bank and earn \$425 a week. I am divorced, and have no children. On June 17, 2009, about 10:15 p.m., Dominique called me up. She sounded very upset and angry. I asked her what was wrong, and she told me that her husband Donovan had come home drunk again and screaming about everything. I asked her where he was then, and she said that he had gone in to take a nap.

I was a little surprised to hear from her - she hadn't called me in a long time, and the last few times I'd called her, she'd been very distant, and rushed me off the phone. And then she just stopped calling me at all. She had even begun to make up excuses for us not to get together or see each other. That was almost a year ago. I thought it was strange, because we'd always been very close, but I just figured that she didn't want to have anything to do with me or the rest of the family anymore, because she was acting the same way toward them. But she knows that she could always call me up if she needed anything.

I'd heard about Donovan's temper from Dominique on and off for years. When they were first married, Dominique used to complain that Donovan hit her. It didn't seem like such a big deal to me - I never saw him hit her, and I told her that a lot of husbands hit their wives now and then. I think that's the way it is between men and women. It's still the wife's job to make a marriage work, and to listen to her husband. I always asked her if she had done anything to provoke Donovan, but she always said that she hadn't. Whenever I saw Donovan he was as sweet as can be. I never saw him do anything to her, or even yell at her. I remember a couple of time I saw her with bruises - it was a while ago now. Once she said they were from beatings, but

the other times she said she had fallen or something.

Anyway, on that night, June 17, she sounded pretty emotional, so I said why not come over here? I was ready to come in the car and get her, if that's what she wanted. I was even willing to put up with those two kids of hers, and support her if I had to - after all, she is my sister. She said she couldn't, that it would only make things worse and that it was too late. What could I do? I couldn't force her to come - besides, if Donovan was a crazy as she says, I didn't want to get in his way.

So we talked for a little while longer, and then she said that she'd be all right and that she had to go. She said that Donovan would wake up soon. Then she said, "I have to fix things now, while he's asleep. This is my chance." I thought that was a pretty strange thing to say, but I figured she meant that she needed the time to straighten the house up before he woke up. Later, when I thought about it, it sounded peculiar, so I decided I better go over and see what was going on. As soon as I got to the house and saw the police cars out in front, I knew she had killed him. I guess she was in a bad situation, but she wasn't helpless, and I don't think she should have killed him.

### **Affidavit of Dominique Stephens, Defendant:**

I married to Donovan Stephens five years ago when I was 18. We have two children, Jonathan, age four and Stephanie, age two.

Donovan started to beat me almost as soon as we were married. The first time it happened, we were home alone. He came home drunk and started complaining about the dinner I had cooked. When I said that it tasted all right to me, he slapped me across the mouth. That happened a couple of times. Once, after Jonathan was born, Donovan got mad when he came home and Jonathan was crying. He got angry at all the noise, and told me it was my fault he couldn't find work, that I was supposed to keep things quiet and neat in the house and that's why he was always getting fired from jobs. He hit me in the head and I fell against the coffee table and chipped one of my front teeth.

Since then he beat me at least once a week, although sometimes more often than that. He always blamed me for what was wrong in his life. I could never predict when the next beating would occur, but it was much more likely to happen when he'd been drinking. Sometimes the beatings weren't so bad, just a slap or two, but sometimes they were terrible. And over the years, they got worse and worse. He would tie me up and punch me, or lock me in the closet and go out. I was always so terrified when he did that - what would happen if there were a fire? How would I get out, and what would happen to the kids? I begged him not to do that, but it only made him madder.

Every time he came home, I was afraid there would be a beating. I tried to keep everything in the house nice, and I always fed the kids and put them to bed before he got there,

so that they wouldn't bother him, but he always found something to get mad about. He would fly into a rage and start beating me over nothing. Some of the beatings were so bad I had to go to the hospital - I bet I've been there 10 times at least. Once he beat me so bad my whole arm was purple - I used it to protect myself from him kicking me in the stomach. It took weeks to get better. Another time he beat me for four hours and dislocated three fingers on my left hand. I went to the hospital that time, but I told them that I had fallen down a flight of stairs.

After that things got better for awhile. But after a month or so, the beatings started again. He blamed me if Steph cried too much, or if the house was a mess, and beat me. The beatings got much worse, and once or twice, I really thought he was going to kill me or the children. I ran away to a women's shelter after he started threatening to hurt Jonathan. It was okay there, but I could only stay three days, and after that they wanted me to go to another shelter. I went around to look at it - it was awful. It was right around Christmas time, in 2008, I think, and I couldn't bear the thought of being in a place like that with my kids on Christmas. Anyway, what was I supposed to live on? I couldn't get food stamps or welfare, because I was still married to Donovan and they would take his income into consideration. So I called Donovan, and he was very sorry, and said that we should give it another chance. Sometimes he could be nice. I felt that maybe things would change, it being Christmas and all, and anyway, where else could I go? I had no money, and no choice. The woman at the first shelter, Terry, gave me some tests and told me she would help me get a job, but who would hire me? So I went back home.

As soon as I got in the house, he started beating me. He threw me down on the floor and started kicking me in the head. The kids were screaming, and he picked them up and took them

upstairs. I panicked, not knowing what he was going to do to them, so I ran upstairs after them. When I got upstairs, he turned to me and said that next time I wouldn't be the only one who got it.

From that time, I lived in a state of terror. I never knew when the next beating would take place. I was scared for me and the kids. Several times he caught me on the phone, and told me that I shouldn't make any plans to leave because he knew where I'd go, and he'd find me and the kids. It's true that Jordan offered me a place to stay, but that would be the first place Donovan would look for me. Anyway, Jordan can't support me and what would I do then? I think Donovan must have known that Jordan offered me a place, because after that Donovan told me that I couldn't have anything to do with my family anymore - I couldn't call them or see them. I know they thought I neglected them, but I was afraid. Donovan even put a lock on the phone so I couldn't make any calls.

The last couple of beatings were real bad. On June 12, I went to the hospital, with bruises all over my body, and the doctor convinced me to speak to the police. I agreed, then changed my mind. I was scared what would happen if Donovan found out. I thought he would kill me. The last time he beat me, about a week before he died, he almost did kill me. He was drunk and started punching me in the face and ribs. Then he began to choke me and I passed out. I don't know why he stopped, but when I woke up, he was gone. I got myself to the hospital, and Dr. Miller told me I was lucky to be alive.

The night before he died, we had a fight. He didn't hit me, and I didn't know why, but I was scared. He went into the garage and came back with his pistol. He took it out of the case

and loaded it in front of me staring at me the whole time. He pointed it at me and said that he wasn't fooling around anymore, that next time he would take care of me for good. I was terrified. When he left, I went and got the gun and hid it in the kitchen.

On June 17th, Donovan came home in a very bad mood. Jonathan was asleep, but Stephanie and I were up watching television. I had cleaned the whole house and made dinner, hoping that he wouldn't start hitting me, but as soon as he saw me and Steph he began complaining that he never got any peace and quiet around the house. He went in the kitchen and came out with a drink. I think he was drunk already by the way he was acting. I went upstairs to put Stephanie down, and when I came back to the living room, he was mad. He began to threaten me. Then he left the house, saying that he needed to have some fun and be treated right. When he came back, he started beating me and screaming that he wasn't going to let me treat him that way and that I'd be sorry. He started to go for his gun, but staggered and fell down. He was pretty drunk. He said he was going to lie down. Then he turned and said to me, "I'll teach you a lesson you'll never forget." Then he made a gun with his fingers and pretended to shoot me. He said, "Bang. You're dead. D-E-A-D. You and the two brats."

I was terrified. I know that when he got up he would kill us. He almost did the last time. I had hidden his gun, because I was afraid he'd try to kill me. The phone was still locked, so I pried the lock off with a screwdriver and called Jordan, but there wasn't much Jordan could do to help. I knew Donovan would kill me. I only had one choice to save my life and my children's lives, so I took his gun and killed him.

By the time I got to the police station, I was terribly confused and upset. The detective

did most of the talking and then wrote up a statement. It's true I signed the confession Detective Hughes wrote up, but I was so upset I could barely even understand it. He didn't ask me anything about how Donovan treated me, and I didn't say anything about it. After I spoke to my lawyer, I realized the mistake that I made. The statement I'm making now is the actual way it happened.

**Affidavit of Sidney Miller, M.D.,  
Director, Emergency Medical Services, New Columbia Hospital Center:**

I have worked in the Emergency Room at New Columbia Hospital Center for the past three and one half years. Over that time I have seen Dominique Stephens personally six times. In addition, I have examined her hospital records, which indicate that she has been seen at the hospital emergency room an additional five times.

All her visits to the hospital have been because of physical injuries she has suffered. I am not an expert on battering or battered woman syndrome, but I can tell you that her injuries seem consistent with having been severely beaten and abused, even though she always claimed that she either fell, or bumped against something in the dark, or was in some other kind of accident. We can't know for sure.

We see a lot of that kind of thing in the emergency room, and when we suspect a beating, we try to convince the woman to speak to a counselor or the police. Obviously, we can't insist on that, and when the woman refuses, as Mrs. Stephens has always done, there is little we can do. If child abuse is suspected the hospital staff must file a complaint with the police. This is not the case for domestic violence. We are not able to file a complaint ourselves; the decision to press charges has to be the woman's. I have personally tried to persuade Mrs. Stephens to get help, but she always denied that there was a problem.

This pattern of denial is something we see quite often. Women who come into the hospital with bruises rarely admit that their husbands or boyfriends are battering them, so her behavior was not at all unusual, although she did agree that one time to speak to the police.

The last time I saw Mrs. Stephens, June 12, she had been beaten very severely, and I told

her that she was lucky to be alive. There was evidence of her having been choked, and she told me that she had actually passed out, which means that she was suffering from oxygen deprivation. There were bruises all over her body, including her face, and she had a broken rib. This was clearly the worst condition I had seen her in - nothing before struck me as life-threatening, but this time, I thought she could have died.

It was after the last beating, that she finally agreed to see a police officer. I sent for the officer, and went to look after some other patients. The officer told me that when she arrived, Mrs. Stephens denied having asked to see her, and stated that she did not need any help, that she had been injured falling off a step ladder.

**Affidavit of Dr. Bobby Phoenix, expert on battered woman syndrome:**

I am the Executive Director of the National Center for Women's studies, specializing in the issue of abused and battered women and men. I have a Ph.D. in Psychology from Georgetown University, where I teach courses in the Psychology of Women in the graduate and medical schools. I have been involved in studying, writing and lecturing about domestic violence since the mid-1990's.

My responsibilities at the Center include directing the research and counseling programs for battered women, and training staff to work with battered women. I write and speak across the country to advocate that the law should take battered women syndrome into account in cases like this. I also provide paid consultation and expert testimony services to defendants such as Dominique Stephens - my fee is \$1500.

I have studied the records of this case, and conducted a one-hour examination of the defendant, Dominique Stephens, about one month after her husband died. In my opinion, she is suffering from battered woman syndrome. Although the syndrome is called "battered woman syndrome" men who are abused by their same sex partners have also been diagnosed with this disorder. Since the defendant in this case is a woman, I will direct my testimony to emphasize the effects of the syndrome on women. This syndrome is part of a pattern of behavior which includes constant, severe physical and emotional abuse by a man against his wife or girlfriend. The abuse usually gets worse and worse as time goes by.

This abuse takes many forms, both physical and emotional. There is actual beating, choking, burning, and sometimes restraining and locking the woman up. Many times the

husband will apologize after a beating and promise never to do it again, but the beatings always continue.

Over a period of time, the constant abuse can lead to a condition known as "learned helplessness." In such cases, the battered women become convinced that they are unable to change or improve their situation. They can't figure out why they are being beaten, or how to stop it. They see themselves as having no control or choice in their own lives. This leads to distortions in their perceptions and behavior. For example a battered woman might try to figure out what actions of hers were causing the battering - over a period of time, the battering continues, and the woman learns that she is unable to control, prevent or avoid the abuse. Eventually, she just stops trying.

Learned helplessness is the result of the beatings, the isolation that men force on the women, financial dependence, and fear that if they leave, the men will find them and abuse them more severely.

The question comes up then, why do women stay with men who beat them? Statistics show that between 80 and 90 percent of abused women neither leave the abusive relationship nor make it end. This is a very complex question, but we are beginning to understand something about it. Some women want to believe the promises their partners make because of the commitment they have made to the relationship. Others are under intense familial or religious pressures to stay with their husbands. And of course learned helplessness makes it impossible for a woman suffering from battered woman syndrome to see the choices that are available to her. It's important to realize that women suffering from battered woman syndrome are unable to

see the options in a situation the way other people do.

Other researchers have focused on the more concrete reasons that battered women feel they cannot leave violent relationships. These include economic dependence, difficulty of finding shelter or a means of support, and fear of losing children through custody battles. Reasons like these could lead a woman to seek ways to ensure her survival within a relationship rather than try to leave it.

Dominique Stephens exhibited all the characteristics of battered woman syndrome. She was certainly abused over a long period of time. She had come to perceive herself as helpless. This was the result of the isolation Donovan had forced on her, the fact that she would not have been able to take care of herself and her children financially, and the fear of retaliation if she tried to leave.

Mrs. Stephens thought for a time that her battering would stop. She tried to make it stop and failed. She tried to leave, but the shelter was available to her for only three days, and she didn't want to go to the other shelter. She was completely dependent on her husband for support, although my immediate impression of her is that she is an intelligent woman who should be able to make her own living after getting some training. After she returned home (which is typical of battered women who leave) it became clear that the abuse was going to continue and she became less and less able to deal with it rationally. She felt unable to tell the police. She was incapable of seeing the choices available to her.

In my opinion, Mrs. Stephens was definitely suffering from battered woman syndrome. When she was faced with her husband's actions on June 17, the syndrome led her to shoot him,

because at that time she had a reasonable belief that her life was in immediate danger.

# EVIDENCE

METROPOLITAN POLICE DEPARTMENT

Waiver of Rights

NAME OF PERSON IN CUSTODY: DOMINIQUE STEPHENS

PLACE OF INTERROGATION: METROPOLITAN POLICE STATION

TIME OF INTERROGATION: 12:15 am, June 18, 2009

THIS IS TO BE READ, IN FULL, BY THE OFFICER

At this time it is my duty to inform you of the rights you possess during questioning. Under law, you cannot be compelled to answer, and you have the right to refuse to answer any question asked of you. If you do answer such questions, the answers given by you can be used against you in a trial in a court of law at some later date. Do you understand this?

ANSWER (to be recorded in suspect's own words) yes

You are also entitled to talk to a lawyer before answering any questions and to have him present in the event that you decide to answer questions. This means that if you have a lawyer of your own and desire to talk with him or her, or to have him or her present, you may telephone or otherwise contact him or her before answering any questions. If you do not have the money to hire a lawyer, you are entitled to have a lawyer appointed without cost to talk with you, before answering any questions, and to have him present in the event that you desire to answer any questions. Do you understand this?

ANSWER yes

You can decide at any time not to answer any questions or make any statements. Do you understand this?

ANSWER yes

Knowing these rights, are you willing to answer questions without the presence of a lawyer or do you refuse to answer any questions?

ANSWER I'll answer the questions

## VOLUNTARY STATEMENT

My name is Dominique Stephens. I live at 1799 Lamont Street, N.W., New Columbia 20010. I am 23 years old.

I have been married for five years to Donovan Stephens. We have two children, Jonathan, age four, and Stephanie, age two.

On the evening of June 17, 2009, I was home, preparing dinner for my children and waiting for my husband Donovan to come home. Jonathan had come home from school early that day with a fever and a cold. I put him to bed and sat up watching T.V. with Stephanie on my lap. Donovan came home around 9:15 p.m. He was drunk, as usual, and started complaining about the house, and dinner was cold and everything. He was yelling about everything, so loud that he started the baby crying, and that woke up Jonathan, who started to cry also.

I tried to calm Donovan down, and give him his supper, but he said he wasn't hungry and that he couldn't eat what I had cooked, and that he was going to sleep, but that when he woke up, he was going to straighten me and the kids out. It took me almost an hour to get the kids back into bed. When I finally finished, I was exhausted and mad that I had to put up with so much from him. I decided that I couldn't go through it anymore; I knew that when he woke up he would be mad as hell, and start yelling at me and wake the kids up and everything, so I went upstairs to talk to him.

When I saw him lying on the bed asleep, I got furious. He gets everybody riled up, and then he goes to sleep. I'm the one that has to handle everything in the house, with the kids and all, and he just messes things up and then takes a nap. I got furious. I realized that he was never

going to change, and that the best thing to do would be to end it.

I went to the cabinet where I had hidden the pistol the night before, and took it out. It was already loaded. I went back into the bedroom, took another look at him and shot him three times in the back. Then I called 911.



**NEW COLUMBIA HOSPITAL CENTER** Emergency Medical Services

DATE	SYMPTOMS/DIAGNOSIS	TREATMENT/COMMENTS	SIG.
12/25/07	Bruises on her face and arms of body - cuts and abrasions	Cleaned and dressed wounds	Doctor Miller
5/8/08	Bruises on left side of body - cuts and abrasions	Cleaned and dressed wounds	Doctor Miller
8/12/08	Pains and bruises on chest - x-ray indicates fractured ribs - no other injuries	Taped ribs - pain medication - possible beating referred to counselor	Doctor Smith
12/20/08	Left wrist severe sprain - joint swelling - No fracture	Taped wrist and elbow - provided sling - patient reports accident - injury is inconsistent with explanation. Referred to counselor for battered women	Doctor Miller
2/15/09	Bruises, lacerations, scratches, rope burn	Tetanus shot, x-rays, cleaned and dressed wounds - patient again denies being beaten.	Doctor Miller
6/1/09	Patient complains of accidental burns on left arm and torso - caused by immersion in scalding water.	Prescribed pain medication	Doctor Miller
6/12/09	Bruises on neck, patient complains of passing out - pain in chest area, general bruising on face and body	Patient has been severely beaten. Patient denies injuries result of beating - referred to battered wife counselor. Possible internal injuries due to lack of oxygen; broken rib; cleaned and dressed wounds, taped ribs.	Doctor Miller

[This Page Intentionally Left Blank]

**2010 MOCK TRIAL  
TOURNAMENT RULES**

The annual Mock Trial Tournament is governed by the rules set forth below. These rules are designed to ensure excellence in presentation and fairness in judging all trials.

### **TEAM PRESENTATIONS**

1. The official mock trial materials, consisting of the Statement of Stipulated Facts, Affidavits, Relevant Statutes and Case Law, and Pieces of Evidence, comprise the sole source of information for testimony. The Stipulated Facts and any additional stipulations may not be disputed at trial.
2. Each witness is bound by the facts in the given Affidavit. All participants agree that the Affidavits are signed and sworn affidavits. Affidavits may not be introduced as evidence, but may be used for impeachment. Fair additions which (a) are consistent with facts contained in the witness affidavits and (b) do not materially give an advantage to the testifying party are permitted. If a witness is asked a question on cross-examination which is not dealt with in the witness's statement, the witness may invent an answer favorable to that witness's position. Students may read other cases, materials, or articles in preparation for the mock trial. However, they may only cite the materials given, and they may only introduce into evidence those documents given in the official mock trial packet.
3. If a witness testifies in contradiction of a fact in the Affidavit during direct examination, there is no objection for “violating the rules of the mock trial.” The opposition must show the contradiction on cross-examination through correct use of the affidavit for impeachment. If a witness testifies in contradiction of a fact on cross-examination, the cross examining attorney should show the contradiction

through impeachment also. This procedure is spelled out in the Simplified Rules of Evidence.

4. If on direct examination witness invents an answer which is likely to affect the outcome of the trial, the opposition should show this on cross-examination through correct use of the affidavit for impeachment. This procedure is spelled out in the Simplified Rules of Evidence. The scorers should consider such inventions of facts in scoring the witness' presentation.
5. Witnesses are not permitted to use notes in testifying during the trial.
6. All participants are expected to display proper courtroom decorum and collegial sportsmanlike conduct. The decisions of the judges with regard to rules challenges and all other decisions are final.
7. The trial proceedings are governed by the Simplified Rules of Evidence. Other more complex rules may not be raised in the trial.
8. During the actual trial, teachers, attorneys, other coaches, affiliated non-participating team members, parents and all other observers may not talk to, signal, or otherwise communicate with or coach their teams. Team members may communicate with each other during the trial. Instructors from opposing teams are advised to sit next to one another, if possible, and be reasonable. The purpose of this rule is to prevent last minute coaching; it is not intended as a device to disqualify an opposing team.
9. Neither team may introduce surprise witnesses nor call witnesses from the other side. All witnesses (three for each side) must take the stand, in whatever order or sequence determined by the party calling them.

10. Witnesses will not be excluded from the courtroom during the trial.
11. All teams in the tournament must consist of from three to eight attorneys, and three witnesses. Exceptions may be made by the D.C. Street Law Clinic after consultation.
12. Only students registered in their high school for the Street Law class as of February 07, 2010 will be eligible to participate in the Mock Trial Tournament unless otherwise approved by the Director.
13. Teams are expected to be present at the Superior Court for the District of Columbia by 5:30 p.m. the days of the trials. Trials will begin at 6 p.m.
14. The starting time of any trial will not be delayed for longer than 15 minutes. Incomplete teams will have to begin without their other members, or with alternates.

## **JUDGING**

1. Presiding judges for the mock trials may include Judges and Commissioners of the District of Columbia, law school faculty, members of the D.C. Bar, other attorneys, or others approved by the Director.
2. All judges receive the Guidelines for Judges, Judge's Score Sheet, the Simplified Rules of Evidence, and the Mock Trial Packet.
3. Presiding judges are asked to make a legal decision on the merits of the case, but this does not affect a team's score. The decision on team scores is made by a scoring panel, consisting of two or more scorers selected by the Street Law Staff and, in some instances, the presiding judge. The criteria for scoring are discussed

in the Guidelines for Scorers and the Score Sheet.

4. All decisions of the judges are final.

# **SIMPLIFIED RULES OF EVIDENCE**

To assure each side a fair trial, certain rules have been developed to govern the types of evidence that may be introduced, as well as the manner in which evidence may be presented. These rules are called the "rules of evidence." The attorneys and the judge are responsible for enforcing these rules. Before the judge can apply a rule of evidence, an attorney must ask the judge to do so. Attorneys do this by making "objections" to the evidence or procedure employed by the opposing side. When an objection is raised, the attorney who asked the question that is being challenged will usually be asked by the judge why the question was not in violation of the rules of evidence.

The rules of evidence used in real trials can be very complicated. A few of the most important rules of evidence have been adapted for mock trial purposes, and these are presented below.

## **Rule 1. Leading Questions:**

A "leading" question is one that suggests the answer desired by the questioner, usually by stating some facts not previously discussed and then asking the witness to give a yes or no answer.

**Example:** "So, Mr. Smith, you took Ms. Davis to a movie that night, didn't you?"

Leading questions may not be asked on direct or redirect examination. Leading questions may be used on cross-examination.

**Objection:** "Objection, Your Honor, counsel is leading the witness."

**Possible Response:** "Your Honor, leading is permissible on cross-examination," or "I'll rephrase the question." For example, the question can be rephrased: "Mr. Smith, where did you go that night? With whom did you go to the movies?" (This would not suggest the answer the

attorney desires.)

## Rule 2. Narration:

Narration occurs when the witness provides more information than the question called for.

**Example:** Question - "What did you do when you reached the front door of the house?"

Witness - "I opened the door and walked into the kitchen. I was afraid that he was in the house -- you know, he had been acting quite strangely the day before."

**Witnesses' answers must respond to the questions. A narrative answer is objectionable.**

**Objection:** "Objection, Your Honor, the witness is narrating."

**Response:** "Your Honor, the witness is telling us a complete sequence of events."

## Rule 3. Relevance:

Questions and answers must relate to the subject matter of the case; this is called "relevance."

Questions or answers that do not relate to the case are "irrelevant."

**Example:** (In a traffic accident case) "Mrs. Smith, how many times have you been married?"

**Irrelevant questions or answers are objectionable.**

**Objection:** "Your Honor, this question is irrelevant to this case."

**Response:** "Your Honor, this series of questions will show that Mrs. Smith's first husband was killed in an auto accident, and this fact has increased her mental suffering in this case."

## Rule 4. Hearsay:

"Hearsay" is something the witness has heard someone say outside the courtroom. Also, any written statement made outside the courtroom is hearsay.

**Example:** "Harry told me that he was going to visit Mr. Brown."

**Hearsay evidence is objectionable.** However, there are two exceptions to the hearsay rule for purposes of the mock trial. If an exception applies, the court will allow hearsay evidence to be introduced. **Exception: In a mock trial, hearsay evidence is allowed when the witness is repeating a statement made directly to the witness by one of the witnesses in the case. Hearsay is also allowed if one of the witnesses is repeating a statement made by an individual who is no longer alive.**

Note that this exception to the hearsay rule does not extend to witness testimony about what another person heard a witness say. This is "double hearsay."

**Example:** Mary, the plaintiff, told me that Harry, the defendant was drunk the night of the accident.

**Objection:** "Objection, Your Honor, this is double hearsay."

**Response:** "Your Honor, since Harry is the defendant, the witness can testify to a statement he heard Harry make."

For mock trials, other exceptions to the hearsay rule are not used.

## Rule 5. Firsthand Knowledge:

Witnesses must have directly seen, heard, or experienced whatever it is they are testifying about.

**A lack of firsthand knowledge is objectionable.**

**Example:** "I saw Harry drink two beers that night. I know Harry well enough to know that two beers usually make him drunk, and he seemed drunk that night, too."

**Objection:** "Your Honor, the witness has no firsthand knowledge of Harry's condition that night."

**Response:** "The witness is just generally describing her usual and actual experience with Harry."

## **Rule 6. Opinions:**

Unless a witness is qualified as an expert in the appropriate field, such as medicine or ballistics, the witness may not give an opinion about matters relating to that field. **Opinions are objectionable unless given by an expert qualified in the appropriate field.**

**Example:** (Said by a witness who is not a doctor) "The doctor put my cast on wrong. That's why I have a limp now."

**Objection:** "Objection, Your Honor, the witness is giving an opinion."

**Response:** "Your Honor, the witness may answer the question because ordinary persons can judge whether a cast was put on correctly."

**Ruling:** A judge will likely sustain this objection because it may not be within an ordinary person's knowledge to know whether an incorrectly placed cast will cause a limp.

As an exception to this rule, a lay witness may give an opinion based on common experience.

**Example:** "It looked to me like Harry was drunk that night. I've seen him drunk and have seen other drunks before."

**Objection:** "Objection, Your Honor, the witness is giving an opinion."

**Response:** "Your Honor, the witness may answer the question because ordinary persons may judge whether or not a person appeared drunk based on the witness' experience."

## **Rule 7. Opinions on the Ultimate Issue:**

Witnesses, including experts, cannot give opinions on the ultimate issue of the case: the guilt or innocence of the defendant or the liability of the parties. These are matters for the trier of fact to decide.

**Example:** "I believe that Mr. Smith was negligent in driving too fast in this case."

**Opinions on the ultimate issue in a case are objectionable.**

**Objection:** "Your Honor, the witness is giving an opinion on the ultimate issue – the negligence of Mr. Smith."

**Response:** "The witness is commenting that the driver was speeding. This is not the ultimate issue in this case."

## **Rule 8. Additional Rules of Evidence:**

1. Objections during the testimony of a witness must be made only by the direct examining and cross-examining attorneys for that witness.
2. Cross-examination is not limited to the scope of direct questioning.
3. A short redirect examination, limited to no more than two questions, will be allowed following cross-examination, if an attorney desires. Questions on redirection are limited to the scope of the cross-examination.

4. If an attorney (on direct or cross-examination) repeatedly asks a witness to discuss the exact same matter, opposing counsel may object to the question as being “asked and answered.” It is in the court’s interest to have the trial move along in a timely manner.
5. Witnesses must be treated with respect by opposing counsel. If an attorney continuously, and for no valid trial or evidentiary purpose, takes a disrespectful tone with the witness, the opposing counsel may object that the questioning attorney is “badgering the witness.”

## **Rule 9. Special Procedures:**

### **Procedure 1. Introduction of Documents or Physical Evidence:**

Sometimes the parties wish to offer as evidence letters, affidavits, contracts, or other documents, or even physical evidence such as a murder weapon, broken consumer goods, etc. Special procedures must be followed before these items can be used in trial.

#### **Step 1: Introducing the Item for Identification**

- a. An attorney says to the judge, "Your Honor, I wish to have this (letter, document, item) marked for identification as (Plaintiff's Exhibit A, Defense Exhibit 1, etc.)."
- b. The attorney takes the item to the clerk, who marks it appropriately.
- c. The attorney shows the item to the opposing counsel.
- d. The attorney shows the item to the witness and says, "Do you recognize this item marked as Plaintiff's Exhibit A?"

Witness: "Yes."

Attorney: "Can you please identify this item?"

Witness: "This is a letter I wrote to John Doe on September 1." (Or witness gives other appropriate identification.)

- e. The attorney may then proceed to ask the witness questions about the document or item.

## **Step 2. Moving the Document or Item into Evidence.**

If the attorney wishes the judge or jury to consider the document or item itself as part of the evidence and not just as testimony about it, the attorney must ask to move the item into evidence at the end of the witness examination. The attorney proceeds as follows:

- a. The attorney says, "Your Honor, I offer this (document/item) into evidence as Plaintiff's Exhibit A, and ask that the court so admit it."
- b. Opposing counsel may look at the evidence and make objections at this time.
- c. The judge rules on whether the item may be admitted into evidence.

## **Procedure 2. Impeachment**

On cross-examination, an attorney wants to show that the witness should not be believed. This is best accomplished through a process called "impeachment," which may use one of the following tactics: (1) asking questions about prior conduct of the witness that makes the witness' truthfulness doubtful (e.g., "Isn't it true that you once lost a job because you falsified expense reports?"); (2) asking about evidence of certain types of criminal convictions (e.g., "You were convicted of shoplifting, weren't you?"); or (3) showing that the witness has contradicted a prior statement, particularly one made by the witness in an affidavit. Affidavits in the Mock Trials Materials are considered to be affidavits.

In order to impeach the witness by comparing information in the affidavit to the witness' testimony, attorneys should use this procedure:

- Step 1:** Repeat the statement the witness made on direct or cross-examination that contradicts the affidavit.

**Example:** "Now, Mrs. Burke, on direct examination you testified that you were out of town on the night in question, didn't you?" (Witness responds, "Yes.")

**Step 2:** Introduce the affidavit for identification, using the procedure described in Procedure 1.

**Step 3:** Ask the witness to read from his or her affidavit the part that contradicts the statement made on direct examination.

**Example:** "All right, Mrs. Burke, will you read paragraph three?" (Witness reads, "Harry and I decided to stay in town and go to the theater.")

**Step 4:** Dramatize the conflict in the statements. (Remember, the point of this line of questioning is to demonstrate the contradiction in the statements, not to determine whether Mrs. Burke was in town or out of town.)

**Example:** "So, Mrs. Burke, you testified that you were out of town on the night in question, didn't you?" "Yes." "Yet, in your affidavit you said you were in town, didn't you?" "Yes."

**Note:** For an impeachment for a contradictory prior statement, the point is that because the witness has made two contradictory statements about a matter, the witness may not be believable on that matter. The contradiction also may cast doubt on the witness' truthfulness, generally. Impeachment does NOT disprove a statement; it only casts doubt on either statement.

### **Procedure 3. Qualifying an Expert**

Only a witness who is qualified as an expert may give an opinion as to scientific, technical, or other specialized knowledge in the area of his/her expertise. (Note: A lay witness may give an opinion about something related to one's common experience (see Rule 6). Experts **cannot** give opinions on the **ultimate issue** of the case.

Before an expert gives his/her expert opinion on a matter, the lawyer must first **qualify** the expert. There are two steps to qualify an expert. First, the lawyer must **lay a foundation** that shows the expert is qualified to testify on issues related to that expert's field of expertise. To lay a foundation, the lawyer asks the expert to describe factors such as schooling, professional training, work experience and books he/she has written that make a person an expert regarding a particular field. Second, once the witness has testified about his/her qualifications, the lawyer **asks the judge to qualify the witness as an expert in a particular field.**

**Example:** The wife of Harold Hart is suing Dr. Smith and General Hospital for malpractice. She claims they did not treat Mr. Hart for an obvious heart attack when he was brought to the hospital. Mrs. Hart's lawyer is examining his expert witness, Dr. Davis:

Q: Dr. Davis, what is your occupation?

A: I am a heart surgeon. I am Chief of Staff at the Howard University Medical Center.

Q: What medical school did you attend?

A: I graduated from Georgetown Medical School in 1978.

Q: Where did you do your internship?

A: I did a two-year internship in cardiology at John Hopkins University from 1978-1980.

Q: Did you afterwards specialize in any particular field of medicine?

A: Yes, I specialized in heart attack treatment and heart surgery.

Q: Have you published any articles or books?

A: I wrote a chapter in a medical text on heart surgery procedures after heart attacks.

Q: Describe the chapter.

A: I set out the steps for identifying heart attacks and doing open heart surgery.

Q: What professional licenses do you have?

A: I am certified by the D.C. Board of Medical Examiners to practice medicine in D.C.

Attorney #1: Your Honor, I ask that Dr. Davis be qualified as an expert in the field of medicine.

Judge: Any objection?

Attorney #2: We object. No foundation has been laid regarding Dr. Davis's ability to render an opinion as to all fields of medicine.

Judge: Objection sustained. Dr. Davis's expertise seems to be limited to certain areas of medicine.

Attorney #1: Thank you, your Honor. We ask that Dr. Davis be qualified as an expert in the field of heart surgery.

Judge: Any objections?

Attorney #2: No, your Honor.

Judge: Let the record reflect that Dr. Davis is qualified to testify as an expert in the field of heart surgery.

Once qualified, an expert may give opinions relating only to the expert's area of expertise. That is, an expert cannot give an opinion in an area outside his/her expertise.

**Example:** (Dr. Davis has been qualified as an expert on heart surgery.)

Q: Dr. Davis, what is your opinion as to Mr. Hart's cause of death?

A: The patient suffered a massive heart attack caused by clogged arteries.

Q: Dr. Davis, in your opinion, is it true as the defense contends that the patient also suffering from a rare lung disease transmitted through contact with the North American mongoose as the defense contends?

Objection: The witness is testifying outside her area of expertise.

Judge: Sustained. Please confine your opinion to matters related to care and treatment of the heart.

Q: Dr. Davis, in your opinion, how should the patient's doctors have treated him?

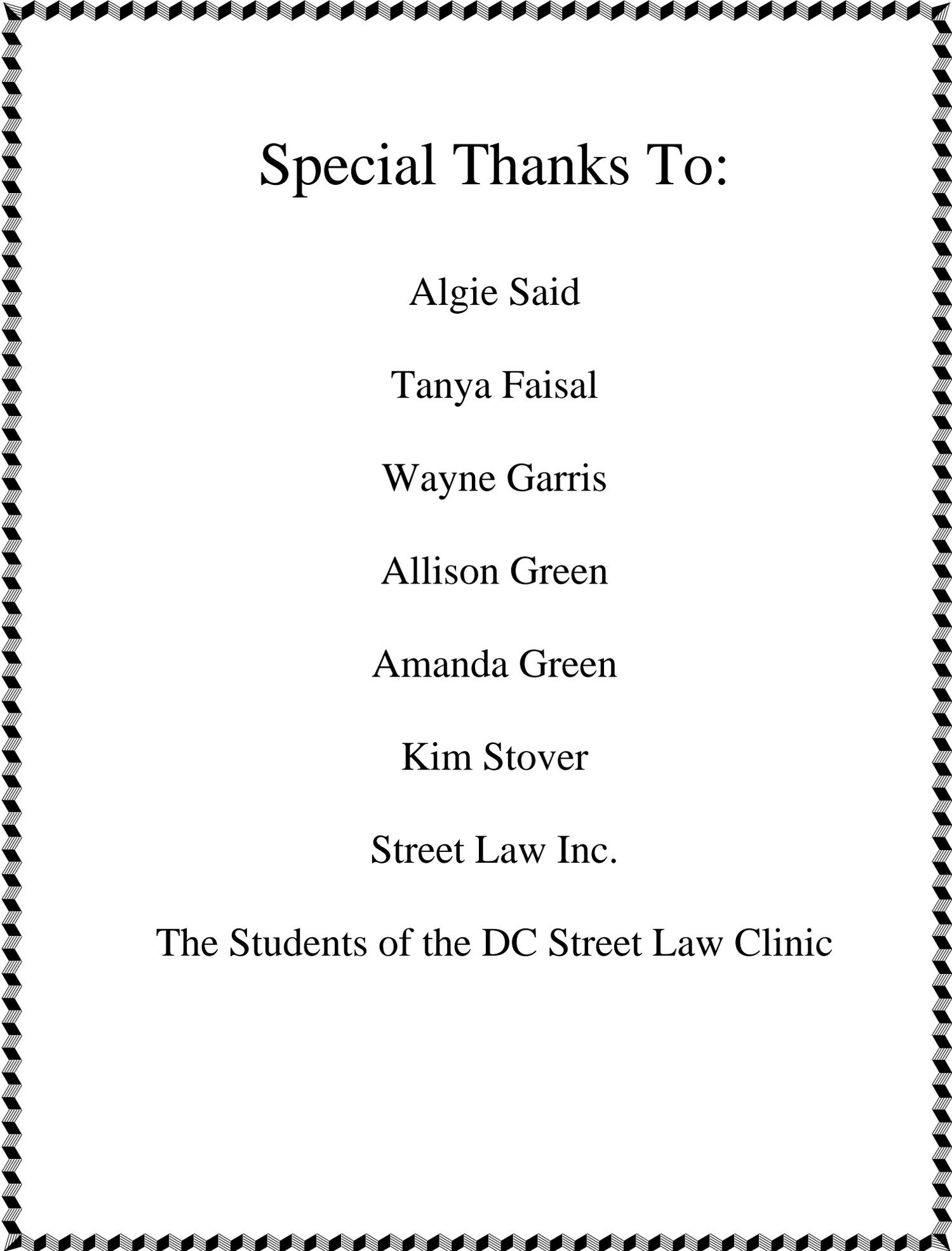
A: They should have recognized that the patient was having a heart attack based on his chest pains, purple face, difficulty breathing, and numbness in his left arm. They should have given him the proper medication and treated him in the emergency room right away.

Q: Who was at fault in this matter?

A: Dr. Smith and General Hospital were definitely negligent.

Objection: The witness is testifying to the ultimate issue of the case, which is whether Dr. Smith and General Hospital are liable for malpractice. That is a question of fact for the judge (or jury, when the case is tried before a jury) to decide.

Judge: Sustained.



# Special Thanks To:

Algie Said

Tanya Faisal

Wayne Garris

Allison Green

Amanda Green

Kim Stover

Street Law Inc.

The Students of the DC Street Law Clinic