

Groups: Crime of passion defense should be abolished

By Adelita Medina

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HACKENSACK, N.J. —

Domestic violence prevention organizations are applauding the conviction of a businessman who murdered his former lover on her wedding day, a case that divided the Dominican community in New York and New Jersey and raised the controversial issue of whether the defense of "crime of passion" mitigated a murder.

Domestic violence experts say that every year as many as 1,500 women are murdered by their intimate partners, and about 4.8 million intimate partner rapes and physical assaults are perpetrated against U.S. women each year.

On Oct. 23, a jury rejected a "crime of passion" defense when it convicted Agustin Garcia of the murder of Gladys Ricart on Sept. 26, 1999. He shot her as she stood in her wedding dress and surrounded by her wedding party, preparing for the nuptials at her home in Ridgely, N.J.

Had the jury accepted Garcia's defense, he would have been convicted of the lesser crime of "passion provocation" manslaughter.

"Finally justice was done," said Juan Ricart, brother of the slain woman. "All the lies that Garcia and his lawyers told for two years and one month are over. They tried to destroy the morality and reputation of my sister, but we won because truth prevailed."

The jury may have made the right decision, but throughout the two years between the crime and the trial, many in New York defended Garcia's actions, not questioning his assertion that he was led to a state of high emotional duress because he was unaware that Ricart was marrying someone else.

And, through statements made in the courtroom and at press conferences, the defense lawyers tried to discredit Ricart, asserting that she was to blame for her own death because she had provoked Garcia, with whom she had a six-year relationship, into killing her by marrying someone else.

Witnesses testified during the three-week trial that Garcia had been abusive toward Ricart and had stalked her for months before he killed her. The prosecution also played an audiotape of a 911 call on Aug. 12, 1999,

just weeks before the murder, when Ricart called police and told them Garcia was throwing rocks at her windows and trying to get inside her house. On the same day, Ricart declined to seek a restraining order against Garcia because she did not want to cause him and his children embarrassment.

The sensational case demonstrated how little we know about domestic violence, how women still are blamed for allegedly inviting violence and how the notion of crime of passion as a defense—which should have been discarded long ago—is being used. The fact that a judge could allow such a defense speaks volumes for the need for judicial education.

Ex-Lover & Stalker Entered Her Home With Handgun & Extra Bullets

Defense attorney Edward Jerejian did not dispute that Garcia barged into Ricart's home carrying a gun in his briefcase and extra shells in his pocket. He shot her three times, once in the head at close range as she lay on the floor.

Jerejian urged the jury, however, to consider the defendant's state of mind. The defense had argued that

Ricart had played emotional mind games with Garcia, a respected businessman in the Dominican community. She told him of her wedding on the night before.

"All of a sudden—that rush of betrayal. It had a recipe for disaster, for tragedy," Jerejian said.

The accusations and innuendos were carried as truths by some media outlets, causing further grief to Ricart's family and successfully manipulating public sentiment and misinforming many people about the nature of domestic violence.

At least some in the New York and New Jersey communities who became familiar with the case, mostly men it seems, gave credence to the portrait of Garcia as a spurned lover, with the right to avenge his wounded pride and blemished honor. Some people spoke about Ricart as the traitor who may have invited her own death.

In New York's Dominican neighborhoods, six candidates for New York City council were questioned about the case and the validity of a crime of passion defense. Most hesitated to condemn the crime.

Judge Permitted 'Crime

of Passion' Defense

The defense was emboldened last April by Judge William Meehan's ruling that they could use a crime of passion defense. Although the prosecution, the family and domestic violence prevention advocates who followed the case were almost certain that the jury would find Garcia guilty, they nonetheless feared that if he were convicted of the lesser charge of "passion provocation" manslaughter, it would set a dangerous precedent that would place women at risk nationwide.

"We are thankful that Garcia was found guilty of murder because no one has the right to take the life of a woman just because she decides to create a future free of violence," said Mireya Cruz, who heads Nuevo Amanecer, a Manhattan-based domestic violence prevention project.

"We hope this sends a message to other abusive men that they cannot get away with violence."

Garcia faces life imprisonment for the killing when Judge Meehan sentences him on Feb. 1. The minimum sentence is 30 years without possibility of parole, reduced to 28 for the two years he has

already served.

Prosecutor Urges Violence Victims to Take Legal Action Against Abusers

At the post-conviction press conference, Fred Schwanwede, first assistant prosecutor of Bergen County, urged victims of domestic violence to take legal action against their abusers.

"If Gladys had obtained a restraining order she might be alive today," he said, adding, "If he was guilty of anything, it was of being too kind-hearted." The Committee for Justice for Gladys Ricart was created to maintain a constant presence at the trial and provide commentary to the media about domestic violence. The coalition consists of Nuevo Amanecer, Alianza Dominicana, National Dominican Women's Caucus, National Latino Alliance for the Elimination of Domestic Violence, Northern Manhattan Improvement Corporation, Violence Intervention Program, and the Washington Heights and Inwood Coalition Against Domestic Violence.

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