

Kate Rush-Cook

Testimony

September 8, 2010

Good Morning and thank you for allowing me to share my court experience with you today. I am hoping that this will help you to understand what I, as a rape victim, went through during my trial. I was victimized once by my rapist and subsequently by the court system. My experience could have had a completely different outcome had expert testimony been permitted.

In 1993, I was kidnapped, terrorized, robbed and raped. The day my trial began, I came to the courthouse dressed in a business suit, high heels, nails painted and my long hair twisted up in the back. I was told that I had to change my clothing to appear more "victim like" to the jury. That request confused me. My rapist was on trial, but I was made to feel as if I had to prove my innocence. My rapist was a known drug dealer. The defense stated that as a result of the death of my best friend earlier in the year that I had turned to drugs and prostitution in an effort to forget about her. The defense even asked where I had bought my underwear and what color they were. It is a myth that rape victims who dress provocatively are asking to be raped and even deserve it.

A jury member saw me laugh (outside the courtroom) prior to deliberations. I was with my mother and friends at lunch and laughed at joke that my mother told me. It is a myth that rape victims should appear to be "broken" or else they are lying about their experience.

I will never forget the last day of my trial. I came to the court house dressed in my "victim-like" clothing. I was wearing tan pin-striped pants, a cream turtleneck, and a cream crochet sweater with my long hair pulled up on the sides. The joke of the day with the victim witness coordinator, my mother and my friends was that if I had some glasses, I would look like a librarian. During the trial, I was using a locked employee bathroom because I had been attacked by my rapist's family on the first day of the trial. After lunch that last day, I was in the locked bathroom with my mother. Closing arguments were to start after lunch and I was a bundle of nerves. I was crying and my mother was comforting me. She told me, "After today, you won't have to wear these librarian clothes anymore; you can go back to wearing your funky clothes and being Katie"; a perfectly innocent conversation. During the course of these events, a woman entered the bathroom. She used the restroom, washed her hands and left without giving us a second glance. When I re-entered the courtroom with my mother, I saw the woman from the bathroom speaking to the defense attorney. When court reconvened, I was called to the witness stand again. The defense attorney asked my about using the locked bathroom and about the conversation that I had with

my mother. The conversation was twisted around to give it a different connotation. I was asked if I knew the woman from the bathroom, which I did not. He asked me if she had been in the bathroom when I was in there, I answered yes. He said, "So, you know her?" I answered just because I saw her in the bathroom, does not mean that I know her. I was dismissed from the witness stand without so much as an objection from the District Attorney or comment from the judge. The woman from the bathroom was then called to the stand. She recounted a story that was twisted and made to sound as if I was not telling the truth. Closing arguments were given and the jury was charged. Forty five minutes later, the jury acquitted my rapist. The District Attorney asked the jury why they made that decision and found that there were two reasons; two jurors saw me laughing at lunch and the line of questioning concerning the bathroom incident called MY credibility into question.

I had no physical injuries because I did what I needed to do in order to survive the horrific situation that I was in. I complied with every one of my rapists demands and was in genuine fear for my life. Many times jurors want to see physical injuries or proof that you fought your attacker. The fact is that many victims do not have physical injuries, but the mental health of the victim is forever altered.

It is also a myth that all rape victims behave the same way regardless of the circumstances surrounding the rape. There are many reactions to rape and not every victim will respond in the same way. Some victims will go on to develop Post-Traumatic Stress Disorder, as I did, while others will not.

It is these myths and beliefs that can be dispelled by using expert testimony in rape cases. Jurors are lay persons who have had these societal beliefs engrained into them. Only experts provide evidence to the contrary.

Rape is the only crime where the victim is on trial. We don't ask a burglary victim to prove that their home was burglarized. Nor do we ask a mugging victim to prove that they were mugged. So why is the crime of rape so different?

Rapists also have one of the highest rates of recidivism. Many of the cases are pled down or acquitted. Many times because a jury does not understand the behaviors/actions of the victim. By using expert testimony we would enable the jury to make a more informed decision. It is my hope that these decisions will result in more convictions.

My rapist was acquitted. He reoffended. Perhaps his other victims could have been saved had expert testimony been allowed at my trial.