

In the Supreme Court

R v Salome

Mr Andrew Salome ("the Deceased") and Mrs Rachel Salome ("the Appellant") had been married for fifteen years. It was known that the marital relationship between the two was violent. On two prior occasions the Deceased had faced charges under s.47 of the Offences Against the Person Act 1861 although these charges were subsequently dropped. In September 2015 further charges were brought under s.18 of the Offences Against the Person Act 1861 but the Appellant refused to give evidence at trial and thus the case was again dropped by the Crown.

On 17 December 2015 the couple attended a Christmas party held by the Deceased's employers. The Appellant was aware that her husband was having sexual liaisons with numerous colleagues, and in particular he was actively having an affair with his assistant, Miss Belinda Monty. Mr Salome was not discreet about his relationship with Miss Monty and would often use his extra-marital activities to humiliate his wife in public. Thus on arrival, he left his wife and spent the evening dancing and drinking heavily with his assistant. As a result, the Appellant danced with various other men in the room which led to the deceased slowly becoming enraged. Eventually, Mr Salome approached her and publicly started an argument in which he hit her across the face. He then dragged her by the arm out of the party, drunkenly shouting as they went.

They returned home at approximately 1.30am on 18 December 2015. The Deceased continued to shout at the Appellant, calling her a "cheap tart". He then held her up against a wall and told her he was going to kill her. After a struggle, the Appellant managed to hide in the downstairs bathroom where she waited for her husband to pass out from the alcohol. When she was certain he was asleep, she retrieved her licensed shotgun, which she normally used for pheasant shooting. She approached where he was sleeping at approximately 5.00am. He then started to wake and so the Appellant shot him in the chest, killing him instantly.

Mrs Rachel Salome was charged with murder. At her trial she raised twin defences of self-defence and loss of control. In relation to the loss of control defence, the Appellant argued that the relevant qualifying trigger existed either on the basis that Mrs Salome's loss of control was "attributable to D's fear of serious violence from V against D or another identified person" (Coroners and Justice Act 2009, s.55(3)) or that it "was attributable to something said or done or both which (a) constituted circumstances of an extremely grave character, and (b) caused D to have a justifiable sense of being seriously wronged" (Coroners and Justice Act 2006, s.55(4)). In support of her defence, the defence adduced psychiatric evidence that Mrs Salome was suffering from battered woman's syndrome at the relevant time, which would make her much more likely to lose control in a stressful situation.

The trial judge took the view that, because the Deceased was asleep when he was approached by the Appellant, and because the Appellant had gone into the bedroom seeking out the Deceased, there was no evidence upon which a reasonable jury could find that the force employed by the Appellant was sufficiently imminent to be either necessary or proportionate, and withdrew the defence from the jury.

In relation to the defence of loss of control, the judge directed the jury that Mrs Salome's loss of control had to be judged according to an objective standard, and that, if they accepted that Mrs Salome was suffering from battered woman's syndrome at the relevant time, this could not be taken into account.

Following the judge's direction, the jury convicted Mrs. Salome of murder. Her appeal was subsequently dismissed by the Court of Appeal who gave leave to appeal to the Supreme Court.

Mrs. Salome now appeals to the Supreme Court on the following grounds:

1. Whilst the issues of imminence and lack of withdrawal are relevant to the issues of whether the use of defensive force is necessary or proportionate, they are not a prerequisite for the defence of self-defence to apply. Therefore the learned trial judge had erred when he withdrew the defence of self-defence from the jury.

2. The learned trial judge erred in ruling that Appellant's battered woman's syndrome could not be taken into account when the jury were making their determinations in relation to the objective standard of the loss of control defence.