
The Use of Expert Testimony on Battering and Its Effects in Criminal Cases: Examining Case Law from 1994-2016

By

Cindene Pezell, Esq.

Legal Coordinator

National Clearinghouse for the Defense of Battered Women

125 S. 9th St., Suite 302

Philadelphia, PA 19107

Website: www.ncdbw.org

Last updated: December 20, 2018

This project was partially supported by Grant No. 2011-TA-AX-K061 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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Acknowledgements

We would like to acknowledge and thank former interns Meghann Galloway and Noelle Lemon, the lead researchers and project coordinators of this paper. Staff Attorney Quetita Cavero and former interns Caroline Criste and Kelsey Singleton provided instrumental assistance in identifying and classifying the relevant data. Quetita Cavero also provided valuable feedback on report drafts and Sue Osthoff gave helpful guidance throughout the project.

Introduction

For the last several decades, expert testimony on battering and its effects has been an important tool in criminal legal cases across the country, for both the defense and prosecution, when issues involving domestic violence are involved. Expert testimony on battering and its effects not only educates fact-finders on the dynamics of domestic violence but also helps them have a more nuanced understanding about behaviors of victims of battering that might otherwise seem puzzling. This critical information can help judges and juries make more accurate assessments of facts that aren't tainted by common misconceptions and assumptions about battering and its effects.¹

Though expert testimony on battering and its effects has long been admitted in some form by every state, jurisdictions differ widely in both law and practice about the ways expert testimony is used in criminal courts. This study looks at published case law from January 1, 1994 to December 31, 2016 to examine how expert testimony on battering and its effects has been raised in criminal cases, and how courts around the country have ruled on issues regarding the use of this kind of expert testimony.

In 1994, Janet Parrish, a former National Clearinghouse for the Defense of Battered Women (NCDBW) consultant, conducted a study that resulted in the paper, *Trend Analysis: Expert Testimony on Battering and Its Effects in Criminal Cases*, which is part of the 1996 report on [The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials](#) (pp. 31 – 75).² It is important to note that while there is some overlapping data between the Parrish *Trend Analysis* and this study, the current study is not a continuation of the 1994 project. The two papers used different data sources; they also used different methodologies. Another notable difference is that while the 1994 analysis focused on *admissibility* of expert testimony on battering and its effects among the various jurisdictions, this paper

¹ For more information, see *Domestic Violence Expert Testimony: Legal Settings and Issues* by Cindene Pezzell. Available at <https://www.ncdbw.org/dv-expert-witness-legal-settings>.

² Janet Parrish's *Trend Analysis: Expert Testimony on Battering and Its Effects in Criminal Cases* was originally a report prepared in 1994 by the National Clearinghouse for the Defense of Battered Women for the National Association of Women Judges in a State Justice Institute-funded project, "Family Violence and the Courts: Exploring Expert Testimony on Battered Women" (No. A-93-018.DEF). It also appeared at 11 WIS. WOMEN'S L.J. 75, 96--97 (1996).

focused on the *use* of expert testimony on battering and its effects. However, reviewing the two papers together can certainly provide an overview of how expert testimony on battering and its effects has been used and admitted in state and federal court cases over time.

This study looked at published U.S. federal and state criminal cases, as well as civil post-conviction cases³, involving expert testimony regarding battering and its effects from 1994-2016. Cases were included in the study if the published opinion made it clear that the defense, prosecution, or both proffered expert testimony on battering at any stage of the legal proceedings, whether or not it was admitted by the trial court. The inclusion or exclusion of expert testimony need not necessarily be at issue on appeal for a case to be included in this study. Cases that had more than one published decision (such as an appeals court decision and a high court decision) were counted separately in this study.

Three hundred sixty-six (366) cases⁴ were coded on 34 items related to expert testimony on battering and its effects, including

- How the expert testimony was used in criminal court
- How courts ruled when expert testimony was proffered by either the defense the prosecution, or both, including its admission/exclusion at trial
- Which party proffered the testimony
- Whether it was general or person-specific testimony
- The content of the expert testimony
- The purpose of the proffered expert testimony
- Court-imposed limits on the admissibility of expert testimony
- Other factors (see Appendix A for complete list).

This study also examined the admissibility standards of expert testimony on battering and its effects in in each jurisdiction. Seventeen states have enacted statutes that specifically govern the

³ Although post-conviction/habeas decisions are technically civil in nature, they examine constitutional issues that arise in state and federal criminal cases.

⁴ Appendix E includes a listing of these 366 cases by state.

admissibility of expert testimony on battering and its effects. Most of those statutes appear in states' evidence codes, though sometimes they are written into affirmative defense statutes or procedural rules (See Appendix B). In the other states and in federal courts without a specific battering statute, the admission of expert testimony is covered by the standard rules of evidence that govern the admissibility of expert testimony.

Method

Using the WestlawNext legal database and the LexisAdvance database, published federal and state criminal cases, as well as civil habeas cases, from January 1, 1994 – December 31, 2016 were identified using the following search terms:

- “batter! w/3 effect! or syndrome”
- “domestic violence” w/p expert

These search terms were designed to capture most, if not all, cases in which expert testimony on battering and its effects was mentioned. From these results, cases were individually reviewed and excluded if expert testimony was not raised at trial, on appeal, or during a pre or post-trial motion. Cases were then assigned to coders with advanced legal training. All coders were trained on collecting and classifying the relevant data, and reviews were conducted periodically throughout the coding process. At the completion of the coding process, data input was checked for accuracy and consistency.

Limitations

While the purpose of this study was to examine the ways expert testimony is being used in American criminal courts, this study can only give us a partial picture. As was true in Parrish's *Trend Analysis*, this project raises at least as many questions as it answers due, in part, to some of the limitations on the quantity and quality of the information we were able to gather. More specifically:

- This study only includes published case law. Unpublished cases and cases in which there was no appeal (such as cases that resulted in acquittals and cases in which the defendant opted not to appeal) are not reflected here.

- There may be relevant decisions that were not included in this study, as the legal databases we used are not static; in other words, cases may or may not always be included in their searchable databases. In addition, it is possible there are relevant cases that were not captured by the search terms listed above.
- Some case law decisions contained a great deal of discussion about the use of expert testimony, while other opinions had very little discussion, and therefore could not be coded to the same level of detail. Although control checks were done throughout the coding process, there may be some variation in the ways that coders classified certain data. For example, some instances of sexual assault may have been coded as both physical and sexual assault by certain coders, but only sexual assault by others.

Given these limitations, practitioners intending to cite the materials referenced in this study should look to the individual statutes and decisions to determine the legal principles they represent.

What we learned

Battering and its effects is still an appropriate area for expert testimony

In criminal cases in state and federal court systems, both the prosecution and the defense sometimes introduce expert testimony on battering and its effects to support their trial theories. Unlike some of the earliest court rulings on this kind of expert testimony – in cases which precede those in this study – courts consistently recognized in their more recent decisions that battering and its effects was an appropriate subject for expert testimony, as it was not an area with which an ordinary lay person has expertise.

Approximately 83% (304) of the decisions in this study arose from state courts, and 17% decisions (62) were from federal courts; 21 federal decisions originated in federal court, and the other 41 were habeas corpus decisions, originating in state courts and appealed to federal courts on constitutional issues. Every state published at least one relevant case. Of the states, Georgia published

the most cases (43). Of the total federal cases (62), the Ninth Circuit published the most decisions (19) and the Second, Third and Fifth Circuits published the least with one decision each. Every state and federal jurisdiction published at least one case in which expert testimony on battering and its effects was used in some way (See appendix C).

Despite the enormous – and impactful – efforts by anti-domestic violence advocates and others to educate the public about intimate partner battering during the 22 years covered in this study (1994-2016), courts continued to recognize the difficulties of lay people to really understand the complex experiences of victims of battering. We identified only one case in which the trial court found that knowledge of battering and its effects was within the knowledge base of ordinary lay people; this case was reversed on appeal.⁵ In addition, no jurisdiction that previously ruled battering and its effects generally admissible had reversed its position.

“Battered Women Syndrome” language persists in published case law

Many experts, advocates, and other anti-domestic violence professionals have long ago stopped using the term “battered women’s syndrome” (BWS) when discussing the effects of battering.⁶ Among other critiques, the BWS framework focused solely on a victim’s psychological state, whereas the more accurate phrase “battering and its effects” encompasses “information about a woman’s active survival strategies and about her acute understanding of her partner’s violence... [expert witnesses give] the jury information about what the defendant did to try to stop, reduce, resist, cope with, and escape from her

⁵ Commonwealth v. Crawford, 429 Mass. 60 (1999).

⁶ “‘Battered woman syndrome’ (BWS), a construct introduced in the 1970s by psychologist Lenore Walker, is sometimes used in an attempt to explain common experiences and behaviors of women who have been battered by their intimate partners (Walker, 1989; Walker, 2006). However, through more than three decades of accumulated empirical research, we have come to recognize major limitations in both the original and revised conceptualizations of BWS, as well as with the term itself (Osthoff & Maguigan, 2005). The use of BWS to describe the experience of women who have been victimized by intimate partner violence or to explain their response to such violence and abuse is both misleading and potentially harmful. As currently defined, the construct of BWS has several important limitations: (1) BWS is often not relevant to the central issues before the court in a specific case, (2) BWS lacks a standard and validated definition, (3) BWS does not reflect current research findings necessary to adequately explain either the experience of individuals who have been battered or their behavior in response to battering, and (4) BWS can be unnecessarily stigmatizing (Biggers, 2005; Ferraro, 2003).” Dutton, M. A. (2009, August). Update of the “Battered Woman Syndrome” Critique. Harrisburg, PA: VAWnet, a project of the National Resource Center on Domestic Violence/Pennsylvania Coalition Against Domestic Violence. Retrieved 12/14/2018, from: <http://www.vawnet.org>.

abuser's violence. Rather than emphasize a woman's pathology or mental failings, the testimony helps the jurors see her often creative responses to very difficult circumstances in the past."⁷ Despite the increasing understanding by practitioners of the problematic nature of using a BWS framework, this language persists in published case law. Fortunately, relatively few court opinions included in the study reflected the outdated misunderstanding that, to be considered a battered woman, a victim must have experienced a "cycle of abuse," resulting in "learned helplessness" which were two components of BWS (see footnote 4).

Defense use of expert testimony on battering and its effects

Use in self-defense cases

Throughout the 22 years of the study, when defendants introduced expert testimony to support their defense theories, it was most often in cases in which they argued that they acted in self-defense against their abusive partners. Forty-nine percent (181) of the cases in the study involved expert testimony raised and/or admitted by the defense, and 77 of these were self-defense cases (42.5%). The expert evidence in these cases was most often defendant-specific, and the defendants were overwhelmingly female. Thirty-seven states (74%) had at least one published case reflecting defense use of expert testimony in a self-defense case.

When introduced to support theories other than self-defense

While self-defense was the most common defense theory in cases in which expert testimony was raised by the defense, it was also raised to support other defenses and defense theories, such as duress, insanity, and insufficiency of evidence.

The defense introduced/attempted to introduce expert testimony under a theory other than self-defense in 104 cases (57% of defense-use cases); 22 of these were federal cases and 82 were state

⁷ Osthoff, S. & Maguigan, H. (2005). Explaining without pathologizing: testimony on battering and its effects. In D. R. Loseker, J. Gelles & M. M. Cavanaugh (Eds.), *Current controversies on family violence* (pp. 225-240). Thousand Oaks, CA: SAGE Publications, Inc. doi: 10.4135/9781483328584.n14

cases. In 12 of these cases, the defense theory was not clear. In 27 of these 104 cases, both the defense and the prosecution introduced/attempted to introduce expert testimony.

When introduced in duress cases

Thirty-eight (21%) of defense-use cases in the study involved a claim of duress; 14 of these cases were federal and 24 were from state courts. All of the duress cases involved female defendants. In 25 duress cases, the defense did or would have introduced expert testimony. In 13 of these duress cases, expert testimony was proffered by the defense but precluded by the court. The courts excluded the evidence for various reasons including relevance and helpfulness to the jury. It was usually unclear from the decisions whether the courts in those cases thought that expert testimony on battering and its effects was always irrelevant to a duress defense, or whether their rationale was limited to the specific circumstances of the case before them. Only one court explicitly found that the evidence to support a duress defense was precluded under state law.⁸ In two duress cases, both the defense and the prosecution introduced expert testimony.

When introduced in insanity cases

There are 10 cases in the study in which the defendants presented insanity defenses. In six of these cases, both the defense and the prosecution introduced or tried to introduce expert testimony on battering and its effects. In three cases, only the defense introduced expert testimony about battering.⁹

Types of charges

Generally, expert testimony proffered by the defense was more common in cases in which the defendant faced severe penalties than in lower level cases. Homicide was by far the most common charge in the 181 cases where defendants introduced, or attempted to introduce, expert testimony

⁸ Graham v. State, 239 Ga. App. 429 (1999).

⁹ A defendant's experiences of abuse alone are insufficient to satisfy any legal standard by which a defendant might be found not guilty by reason of insanity. Insanity cases involving battered defendants usually involve additional expert testimony about whether the defendant can appreciate the difference between right and wrong, conform her conduct to the requirements of the law, and/or form the intent to commit the crime for which she/he is charged.

about battering and its effects (130 cases or 72%). Assault (both misdemeanor and felony) was the second most common charge in cases where defendants introduced, or attempted to introduce, expert testimony, with 24 cases (15%).

Although many states had seen increasing numbers of people – particularly victims of battering – being prosecuted for parental kidnapping, this study includes only one such case. The lack of parental kidnapping cases in the study is perhaps due to the fact that many parental kidnapping cases were resolved through plea negotiations. As there are few issues that can be appealed after a plea, those cases are much less likely to result in published decisions, which are the only cases included in this study. Other charges in cases in which the defense introduced or attempted to introduce expert testimony included

- Drug charges
- Robbery
- Burglary
- Economic crime charges
- Kidnapping/false imprisonment
- Sexual assault
- Crimes against children (including abuse, neglect, and sexual abuse)
- Firearms charges

When introduced in death penalty cases

There were 19 capital homicide cases in this study. Of these, nine cases involved female defendants. Six of these nine female defendants introduced expert testimony at trial. Five received the death penalty after trial. In only one case, the defense neither presented nor attempted to present expert testimony; this defendant received a death sentence. The two female defendants who were precluded from presenting expert testimony on battering and its effects received relief on appeal (one

received a remand because of the trial court's refusal to allow an expert; the other case was reversed on other grounds) and neither was sentenced to death.

Of the ten death penalty cases involving male defendants, four cases included expert testimony on battering and its effects introduced or attempted to be introduced by the defense. The court prohibited the expert testimony in three of those cases; the exclusions of expert testimony in all of these cases were upheld on appeal. Seven of ten male defendants received the death penalty, one of whom presented expert testimony and one of whom attempted to but was precluded by the court.

Trial court exclusion

Trial courts excluded proffered defense expert testimony in 35% of defense-use cases (63). Most often, these cases were not self-defense cases (44 defense-use cases or 24%). The court prohibited the defendant from introducing proffered expert testimony in 19 self-defense cases (11%). Trial court exclusions of expert testimony are discussed in further detail below (see "Other Findings," below).

Person-specific testimony

About two-thirds (114 or 63%) of the 181 cases in which the defense used expert testimony reflect person-specific testimony. Experts who give person-specific testimony opine about circumstances specific to the defendant, and generally evaluate the defendant; they often write a report, which may be submitted to the court by the defense. In 31 cases (17%), the defense introduced or attempted to introduce general testimony on battering and its effects, which is not specific to the particular case or person, and does not involve the evaluation of the defendant by the expert. In these cases, the defense may have had strategic reasons to present general testimony (such as preventing a government adverse expert from having access to the defendant), but no pattern or prevailing rationale could be gleaned from the data in this study. There were also several defense-use cases (36, or 20%) in which it was unclear whether the expert testimony was general or person-specific.

Significance of number of defense-use decisions

As noted above, 181 (49%) of the 366 cases in this study involved defense use of expert testimony on battering and its effects. Based on our work at the National Clearinghouse, we know that during the time of the study, many victim defendants raised, or attempted to raise, their experiences of abuse in criminal court, in order to help ensure that factfinders evaluated their cases disavowed of misconceptions about victims of domestic violence. Because victim defendants were often not successful in doing so, particularly in non-homicide cases, we thought we would see a higher number of appeals involving defense-use or attempted use of expert testimony. We were not surprised that in most of those cases, the testimony was offered in support of a self-defense theory, that it was most often defendant-specific, and that the defendants were overwhelmingly female. Both the study and our experience show that lack of expert testimony or exclusion of expert testimony is detrimental for battered defendants who request it. Improper exclusion of expert testimony is always an important issue to raise on appeal, and we would like to see it raised much more often. However, even when the issue does get raised on appeal, the lack of relief remains problematic for battered defendants.

Because trial judges have so much discretion and power, defense attorneys who seek to introduce expert testimony on battering and its effects should not take the admission of the testimony for granted, and should be prepared to articulate a well-reasoned proffer. But efforts to improve outcomes for battered defendants have to be broader than appeals. We would also like to see more defense counsel exploring the use of expert testimony in cases where they know or suspect their clients are battered. In addition, most communities could benefit from a larger pool of available qualified experts. And in some communities, legislative reforms might improve outcomes for battered defendants.

Prosecution use of expert testimony on battering and its effects

When used to explain common victim behavior

The prosecution raised, or attempted to raise, expert testimony in 201 cases (55%) of the 366 cases in this study. In this context, expert testimony on battering and its effects is usually introduced by the prosecution to explain common victim behavior – usually of the complainant – in cases in which defendants are being prosecuted for acts of violence against their partners. Defendants in the prosecution-use cases in this study were almost always men.

There were some cases (see “Person-specific testimony,” below) in which the prosecution offered expert testimony for other purposes (such as to show the accused fit the “profile” of a batterer) but this was rare and likely disallowed by the courts.

Most common charges

Felony and misdemeanor assault were the most common lead charges in cases where the prosecution introduced expert testimony (107 cases or 53%). The next most common lead charge in prosecution-use cases was homicide (55 cases or 27%). There were 39 prosecution use cases (19%) that included a sexual assault charge (whether or not it was the lead charge).

Defenses raised

When the prosecution introduced expert testimony, the most common defense theory was insufficiency of evidence, i.e., that the prosecution had not successfully proved all elements of the charged crimes beyond a reasonable doubt (118 cases or 59%). Of the prosecution-use cases, there were only six cases (3%) in which only the prosecution introduced expert testimony and the defendant argued self-defense; there were 21 self-defense cases (10% of the prosecution-use cases) in which both the prosecution and the defense introduced expert testimony.

Trial court exclusion

This study reflects only three cases in which the prosecution was prevented by the trial court from presenting expert testimony.¹⁰ It is possible that courts may have excluded or limited prosecution expert testimony on battering and its effects much more often than this study reflects, since those cases are unlikely to show up in published case law, as the prosecution is not permitted to appeal acquittals. This study includes interlocutory appeals, which are published much less commonly than cases on direct appeal. The three cases included in the study in which the court refused to admit expert testimony proffered by the prosecution all arise from interlocutory appeals by the government.

Person-specific testimony

The prosecution presented expert testimony that was person-specific in 27 cases (13% of prosecution-use cases), which we found to be a surprisingly large number of cases.¹¹ In our experience, courts generally disallow person-specific testimony on behalf of the prosecution as it tends to invade the jury's fact-finding province, impermissibly vouch for the veracity of the complainant, and improperly opine on the guilt of the defendant.

In addition, prosecutors don't often attempt to present person-specific expert testimony because doing so may open the door to evaluation of their witness by the defense. Seven cases (26%) in which person-specific expert testimony was offered on behalf of the prosecution were overturned on appeal because of improper expert testimony (such as when the expert testimony was deemed to constitute inadmissible character evidence of the accused).

The surprising number of cases in which person-specific testimony was offered by the prosecution perhaps hints at continued efforts to present testimony that was traditionally considered inadmissible/improper because it bolsters the credibility of the complainant and/or because it opines on

¹⁰ This number reflects cases in which only the prosecution attempted to present expert testimony.

¹¹ This number does not include cases in which the defense also presented expert testimony. In cases where both the prosecution and the defense used person specific expert testimony battering and its effects, it is usually because in some jurisdictions, prosecutors are entitled to have the defendant evaluated by their own expert if the defense intends to present person-specific expert testimony.

the guilt of the defendant. Some practitioners may find this concerning, as expert testimony is intended to help the factfinder reach a just result, not replace its judgment.

Hybrid witnesses

Nine cases (4%) in which the prosecution presented expert testimony involved “hybrid” witnesses; fact witnesses (such as police officers who observed injuries) who were also asked to present expert testimony. In three cases involving a hybrid witness (1%), the defense did not object to the admission of the person-specific testimony and in three other cases involving a hybrid witness (1%), the appellate court acknowledged that the admission of the person-specific testimony was erroneous, but was found to be harmless.

Defense and prosecution use by gender

Though the gender of complainants and defendants is addressed to some extent in above sections, some may find it helpful to look specifically at the similarities and differences between women and men with regards to ways that expert testimony was used. Of the 366 cases in the study, 195 involve male defendants (53%) and 171 involve female defendants (47%). There were no decisions in the study in which it appeared from the text of the decision that the complainant or the defendant was a gender other than male or female.

Defense use by gender

Of the 171 cases that involved a female defendant, the defense introduced or attempted to introduce expert testimony in 146 (85%) of those cases. In 54 of those cases (37%), the defense proffered expert testimony, but it was not admitted at the trial level. Almost two-thirds (74% or 108) of those cases were homicide cases. Approximately half (49% or 72) of those cases involved a self-defense claim.

Unlike cases involving women defendants, there were relatively few cases that involved male defendants in which the defense introduced or attempted to introduce expert testimony on battering and its effects. Nineteen percent (35) of the 181 defense-use cases involved male defendants. In 9 (26%) of those 35 cases, the trial court excluded the expert testimony. Twenty two (63%) of the defense- use cases involving male defendants included a homicide charge, and 14 (40%) included a claim of self-defense.

Prosecution use by gender

For the most part, prosecutors didn't use expert testimony when the defendant was a woman. There was only one case (<1%) in which only the prosecution presented expert testimony against a female defendant, and one case (<1%) in which the prosecution raised expert testimony but the court didn't allow it. Of the 171 cases that involved female defendants, there were 29 cases (17%) in which both the prosecution and the defense presented expert testimony. It is likely that the prosecution experts in these cases were adverse experts, who were introduced in response to notice that the defense was using an expert.¹²

Most of the cases in which the prosecution used or attempted to use expert testimony were cases with a male defendant (166 cases or 83%). In 135 of these cases (81%), the complainant/decedent was a current or former intimate partner.

Other Findings

Prosecution use vs. defense use

Prosecution use of expert testimony on battering and its effects appeared more often than defense use in the published case law in this study, despite the fact that the first cases (in years preceding the decisions in this study) in which expert testimony was used were defense-use cases in

¹² There were an additional four prosecution-use opinions involving female defendants; those cases aren't included in the discussion, as the opinions are unclear about what evidence was admitted by the court and what evidence was precluded.

which victims of battering were facing criminal charges in order to help factfinders understand how victims' realities, perceptions, and decisions are informed by their experiences of abuse.

Forty-two states and the District of Columbia have at least one published case reflecting prosecution use of expert testimony, and we found no blanket prohibition on prosecution use of expert testimony in any jurisdiction. Thirty-five states have at least one published case reflecting defense use of expert testimony. Like prosecution testimony, expert testimony on battering and its effects on behalf of the defense appears to be admissible in every jurisdiction in at least some circumstances, as it was when Parrish's *Trend Analysis* was published.¹³

Cases involving current or former intimate partners

Approximately 70% of the cases in the study involved allegations that one party in a current or former intimate relationship harmed the other (255 cases). These charges were most often related to the use of physical or sexual violence, but sometimes included property crimes.

Cases involving child complainants/decedents

Approximately 11% (40) of the cases in this study involved child complainants and decedents. In these cases, 21 defendants were women and 17 were men. Given the number of victim defendants we see at NCDPW who are charged with crimes against their children, we wouldn't have been surprised had this number been even higher. Expert testimony on battering and its effects is often particularly crucial in cases where victims are charged with actions – like violence against children – that can make it hard for factfinders to consider the role that battering may have played in the allegations against the defendant.

Nine cases, all of whom involved female defendants, were prosecuted under a “failure to protect” theory. More specifically, defendants in these cases were prosecuted for not preventing their abusive partners from harming or killing the complainants/decedents, and/or for not seeking appropriate medical interventions for their children. No male defendants were prosecuted for “failing

¹³ See footnote 2.

to protect” the complainant(s)/decedent(s). These numbers comport with the cases we hear about at NCDBW. It is very rare for us to hear about a man being accused of failing to protect his children from their abusive mother.

Use in drug and economic offense cases

Eighteen cases in the study involved neither a complainant nor a decedent, as the defendants in those cases were charged with drug and economic offenses (5%). Sixteen of these 18 cases involved female defendants, and 15 of these 16 defendants introduced or attempted to introduce expert testimony. Although a relatively small number of cases involved drug and economic crimes, it is useful to note that expert testimony on battering and its effects was sometimes needed, even when the criminal allegations did not appear to be connected with domestic violence.

States with specific statutes vs. those without

As mentioned earlier, 17 states¹⁴ have enacted statutes that specifically govern the admissibility of expert testimony on battering and its effects. The cases in this study didn’t reflect a significant difference in the frequency of the use of expert testimony between states that have specific statutes governing expert testimony on battering and its effects and those that do not. There were slightly more published cases arising out of states that do have an expert statute (184, or just over 50%). In addition, there doesn’t seem to be much of a difference in the frequency of trial courts excluding expert testimony between jurisdictions that have a statute (35 cases from ten states, excluding habeas cases) and jurisdictions that do not (33 cases from 14 state and federal jurisdictions).

Expert statutes have been used to limit the scope of the admissibility of expert testimony. For example, this study includes cases from Indiana and Georgia in which judges ruled expert testimony inadmissible according to the parameters of their expert statutes. However, this study also reflects that in states such as Michigan, which has no expert statute, the scope of admissible expert testimony has

¹⁴ NCDBW has identified 17 states that have a statute which specifically governs the admission of expert testimony on battering and its effects. These statutes may be found in criminal or procedural codes, or in court rules. See Appendix B.

been limited by appellate court opinions. Thus, this study reveals no straightforward answer on whether the admission of expert testimony is expanded by the presence of a statute governing its admission. Given this reality, it's important for those considering legislative reforms about expert testimony look closely at their own jurisdictions to see what might be effective.

Reliability standards

The admission of all expert testimony is governed by rules that differ from jurisdiction to jurisdiction. A party may seek to keep out the other's expert testimony by challenging its relevance or reliability, and they most often do so according to the standards articulated in Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 (1993) and refined in subsequent cases. Judges who evaluate expert testimony under Daubert make their decisions based on several factors, including whether the proposed testimony has been tested, whether it has been subject to peer review, whether there is a known error rate, and whether the expert applied the subject of the testimony appropriately to the facts of the case. Some states have not adopted the Daubert standards, and follow the older "general acceptance" test outlined in Frye v. United States, 293 F. 1013 (D.C. Cir. 1923), under which judges determine whether a proposed expert's testimony is generally accepted in that expert's scientific community. Still other states follow their own unique evidentiary rules. See Appendix D for a list of the reliability standards of each state.

There seems to be little to no difference in the use of expert testimony between Frye and Daubert states, and/or between those that use their own reliability standard of the admissibility of expert testimony. In fact, we identified only one case in which the court was explicit that they might reach a different result about admissibility under a different evidentiary standard.¹⁵ We also found one case in which the court found that the reliability of expert testimony on battering and its effects on the

¹⁵ In Brewington v State, the Florida court of appeals opined that expert testimony on battering and its effects should be excluded in failure to protect cases, but that they might reach a different result if they applied Daubert (which was set by the Florida legislature to go into effect later that year). Brewington v. State, 980 S. 3d 628 (Fl. Ct. App. 2012).

specific issue of mens rea hadn't been established by the defense.¹⁶ Additionally, we found one case in which a portion of the expert's proffered testimony on "self-defeating personality disorder" was not found to be sufficiently scientifically reliable.¹⁷

Other exclusions by trial court

Most trial court exclusions of proffered expert testimony are for reasons other than reliability. There were 66 cases in the study which the defense argued that their proffered expert testimony was improperly excluded (18%). Though it wasn't always clear why a trial court excluded an expert, only one case had to do with the proffered experts' lack of expertise.¹⁸ When it was clear from the decision as to why a trial court disallowed expert testimony, it was often because they found the evidence to be irrelevant (13 cases or 20%), or the court felt the defense did not lay a sufficient foundations for admission of the evidence (13 cases or 20%).

Cases overturned or altered on appeal

About 25% (88) of the cases in this study were reversed on one or more issues, though the basis for reversal was often unrelated to expert testimony. For example, problems with jury instructions was the most commonly raised appellate issue in these 366 cases, and the most common issue raised in cases where appellate courts granted relief (37 cases or 10%).

Six cases were reversed because of improper admission of expert testimony by the prosecution; all of the defendants in these cases were men. Ten cases were overturned because the trial court excluded expert testimony proffered by the defense; all defendants in these cases were women. There were six cases that were reversed due to counsel's failure to explore and/or proffer expert testimony on battering and its effects. These six cases represent only about 7% of the 89 cases in the study in which the defense appealed based on ineffective assistance of counsel (IAC), though not all claims of IAC were due to counsel's failure to use an expert.

¹⁶ State v. Sorah, 2007 Ohio 5898 (2007).

¹⁷ United States v. Weis, 891 F. Supp. 2d 1007_(N. Dist. Il. 2012).

¹⁸ Commonwealth v. Everett, 2016 PA. Dist. & Cnty. Dec. LEXIS 13.

Professional backgrounds of experts

The profession of the expert witness was clear in only 198 cases (60%). Where the profession of the expert was known, psychologists were the most frequently utilized experts; they were involved in 92 cases (25% of all the cases in the study). Community-based advocate experts were involved in only 20 cases (5.5% of all the cases in the study). Other experts' professional backgrounds included social workers who were involved in 30 cases (8%) and psychiatrists who were involved in 41 cases (11%).

Conclusion

There is still much to learn about the use of expert testimony on battering and its effects and how its use has changed over time. As noted earlier, this project raises at least as many questions as it answers due, in part, to some of the limitations on the quantity and quality of the information we were able to gather. Nonetheless, the study provides valuable information about how cases involving expert testimony ended up in appellate courts, who was involved in those cases, who was offering the testimony, for what kinds of cases, and what happened to those cases. It is our hope that anti-domestic violence professionals can use this information – and build upon it – to learn about and improve the ways that expert testimony is being used to increase justice for survivors in their communities.

Appendices

Appendix A: Coding Factors

Appendix B: State Statutes about Expert Testimony on Battering

Appendix C: Cases per State and Federal Circuit

Appendix D: Standards of Reliability per Jurisdiction

Appendix E: Listing of Cases in *The Use of Expert Testimony on Battering and Its Effects in Criminal Cases by State*

Appendix A: Coding Factors

The 366 cases in the study were coded on the 35 factors listed below. Some factors included an “other” option allowing the coder to explain or clarify the response or enter in an answer not available for selection. Not all factors yielded information which was helpful for use in this paper.

1. Jurisdiction

- State (select state)
- Federal (select circuit)

2. Evidentiary standard

- Daubert
- Frye
- Other

3. Case name

4. Case citation

5. Published?

- Yes
- No

Note: Only published cases were included in this study

6. Relevant statute about expert testimony on battering and its effects

- Yes
- No

7. Gender of defendant

- Male
- Female
- Transgender Identifying as male
- Transgender Identifying as female

Note: there were no cases in the study which identified defendants or complainants as transgender

8. Type of case

- Criminal
- Civil

Note: We only included criminal cases, except post-conviction and habeas corpus cases

9. Criminal charge (select/list all that apply)

- Homicide
- Assault
- Battery
- Kidnapping - parental
- Kidnapping
- Sexual assault
- Other

10. If homicide, what charge?

- First degree murder
- Second degree murder
- Voluntary manslaughter
- Involuntary manslaughter
- Other

11. Evidence of prior battering introduced (select/list all that apply)

- None
- Unclear
- Physical abuse
- Emotional abuse
- Using a weapon
- Economic abuse
- Sexual abuse

12. If yes, examples of physical abuse introduced (select/list all that apply)

- Punching
- Slapping
- Pushing
- Kicking
- Strangulation
- Biting
- Other

13. If yes, type of weapon used?

- Gun
- Knife
- Other

14. If yes, examples of emotional abuse given (select/list all that apply)

- Threats of future violence
- Threats of violence towards a third party
- Other

15. If yes, examples of sexual abuse given (select/list all that apply)

- Rape or sexual assault by intimate partner
- Forced to perform sexual acts on a third party
- Other

16. Hospitalization required as a result of battering

- Yes
- No

17. History of protective order

- Yes, in effect at the time of the offense
- Yes, expired at the time of the offense
- No indication

18. Protective order against

- Defendant
- Decedent/complainant
- N/A

19. What type of defense was presented at trial?

- Self- defense
- Duress
- Diminished capacity
- Insanity
- Consent
- Not guilty- no affirmative defense (insufficiency of evidence)
- Other
- Unclear

20. Expert testimony introduced

- Yes
- No, not raised
- Raised, but not admitted
- Other

21. Who introduced, or attempted to introduce expert testimony?

- Prosecution
- Defense
- Both

22. What type of professional testified or would have testified?

- Psychologist
- Therapist
- Psychiatrist
- Social Worker
- Community-based Advocate
- Community-based Program Director
- Medical Doctor
- Other

23. Name of expert(s)

24. What did the experts testify to? (Select/list all that apply)

- Battered Woman Syndrome (specific use of “syndrome” type language)
- Behavior toward batterer
- Behavior toward police officers
- Emotional responsiveness
- Failure/ inability to leave or likelihood to return to batterer
- Cycle of violence
- Power and control
- Separation assault
- Assessment of danger
- Recantation/ inconsistent statements
- False confessions
- Overstatement of responsibility
- PTSD
- Other

25. Was the testimony general or specific to a party?

- General
- Specific

26. Was the defendant examined by the expert?

- Yes
- No
- Unclear

27. Relationship of deceased/ complainant to defendant

- Husband
- Wife
- Boyfriend
- Girlfriend
- Relative (non-nuclear)
- Parent
- Child
- Unknown/unclear
- Other

28. Outcome at trial

- Guilty
- Guilty but mentally ill
- Not guilty
- Not guilty by reason of insanity
- Other
- Unknown/unclear

Note: If the decision was about a non-trial proceeding, such as a motion, the result was coded in the “other” category

29. Guilty of (select/list all that apply)

- Most serious offense
- Lesser offense

30. Death penalty?

- Capital case- not sentenced to death
- Capital case- sentenced to death
- Non – capital case

31. Issue on appeal (select/list all that apply)

- Ineffective assistance of counsel
- Improper introduction of expert
- Improper exclusion of expert
- Improper jury instruction
- Improper testimony given by expert
- Improper testimony given by non-expert
- Improper statements made by prosecutor
- Unknown/unclear
- Other

32. Outcome of published opinion (select/list all that apply)

- Judgment reversed
- Judgment affirmed
- Counsel found ineffective
- Counsel was not found ineffective
- Habeas petition granted
- Habeas petition denied
- Affirmed in part and reversed in part
- Other

33. Important quotes by expert about effects of battering

34. Important quotes by judge about effects of battering

Appendix B: State Statutes about Expert Testimony on Battering

Seventeen states have enacted statutes that specifically govern the admissibility of expert testimony on battering and its effects. Most of those statutes appear in states' evidence codes, though sometimes they appear in affirmative defense statutes or procedural rules.

Cite	Where in Code	Date Passed/ Enacted	Date Updated
California			
Cal Evid Code § 1107	Evidence Code	1991	January 1, 2005
<p>(a) In a criminal action, expert testimony is admissible by either the prosecution or the defense regarding intimate partner battering and its effects, including the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence, except when offered against a criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.</p> <p>(b) The foundation shall be sufficient for admission of this expert testimony if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness. Expert opinion testimony on intimate partner battering and its effects shall not be considered a new scientific technique whose reliability is unproven.</p> <p>(c) For purposes of this section, "abuse" is defined in Section 6203 of the Family Code, and "domestic violence" is defined in Section 6211 of the Family Code and may include acts defined in Section 242, subdivision (e) of Section 243, Section 262, 273.5, 273.6, 422, or 653m of the Penal Code.</p> <p>(d) This section is intended as a rule of evidence only and no substantive change affecting the Penal Code is intended.</p> <p>(e) This section shall be known, and may be cited, as the Expert Witness Testimony on Intimate Partner Battering and Its Effects Section of the Evidence Code.</p> <p>(f) The changes in this section that become effective on January 1, 2005, are not intended to impact any existing decisional law regarding this section, and that decisional law should apply equally to this section as it refers to "intimate partner battering and its effects" in place of "battered women's syndrome."</p>			
Florida			
Fla. R. Crim. P. 3.201	Rules of Criminal Procedure	October 21, 1993	N/A
<p>(a) Battered-Spouse Syndrome. When in any criminal case it shall be the intention of the defendant to rely on the defense of battered-spouse syndrome at trial, no evidence offered by the defendant for the purpose of establishing that defense shall be admitted in the case unless advance notice in writing of the defense shall have been given by the defendant as hereinafter provided.</p> <p>(b) Time for Filing Notice. The defendant shall give notice of intent to rely on the defense of battered-spouse syndrome no later than 30 days prior to trial. The notice shall contain a statement of particulars showing the nature of the defense the defendant expects to prove and the names and addresses of the witnesses by whom the defendant expects to show battered-spouse syndrome, insofar as possible.</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
Georgia			
O.C.G.A. § 16-3-21	Affirmative Defense	April 28, 1993	2001
<p>(a) A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other's imminent use of unlawful force; however, except as provided in Code Section 16-3-23, a person is justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony.</p> <p>(b) A person is not justified in using force under the circumstances specified in subsection (a) of this Code section if he:</p> <p>(1) Initially provokes the use of force against himself with the intent to use such force as an excuse to inflict bodily harm upon the assailant;</p> <p>(2) Is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony;</p> <p>or</p> <p>(3) Was the aggressor or was engaged in a combat by agreement unless he withdraws from the encounter and effectively communicates to such other person his intent to do so and the other, notwithstanding, continues or threatens to continue the use of unlawful force.</p> <p>(c) Any rule, regulation, or policy of any agency of the state or any ordinance, resolution, rule, regulation, or policy of any county, municipality, or other political subdivision of the state which is in conflict with this Code section shall be null, void, and of no force and effect.</p> <p>(d) In a prosecution for murder or manslaughter, if a defendant raises as a defense a justification provided by subsection (a) of this Code section, the defendant, in order to establish the defendant's reasonable belief that the use of force or deadly force was immediately necessary, may be permitted to offer:</p> <p>(1) Relevant evidence that the defendant had been the victim of acts of family violence or child abuse committed by the deceased, as such acts are described in Code Sections 19-13-1 and 19-15-1, respectively; and</p> <p>(2) Relevant expert testimony regarding the condition of the mind of the defendant at the time of the offense, including those relevant facts and circumstances relating to the family violence or child abuse that are the bases of the expert's opinion</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
Indiana			
Burns Ind. Code Ann. § 35-41-3-11	Affirmative Defense	1997	N/A
<p>Sec. 11. (a) As used in this section, “defendant” refers to an individual charged with any crime involving the use of force against a person.</p> <p>(b) This section applies under the following circumstances when the defendant in a prosecution raises the issue that the defendant was at the time of the alleged crime suffering from the effects of battery as a result of the past course of conduct of the individual who is the victim of the alleged crime:</p> <p>(1) The defendant raises the issue that the defendant was not responsible as a result of mental disease or defect under section 6 of this chapter, rendering the defendant unable to appreciate the wrongfulness of the conduct at the time of the crime.</p> <p>(2) The defendant claims to have used justifiable reasonable force under section 2 of this chapter. The defendant has the burden of going forward to produce evidence from which a trier of fact could find support for the reasonableness of the defendant's belief in the imminence of the use of unlawful force or, when deadly force is employed, the imminence of serious bodily injury to the defendant or a third person or the commission of a forcible felony.</p> <p>(c) If a defendant proposes to claim the use of justifiable reasonable force under subsection (b)(2), the defendant must file a written motion of that intent with the trial court not later than:</p> <p>(1) twenty (20) days if the defendant is charged with a felony; or</p> <p>(2) ten (10) days if the defendant is charged only with one (1) or more misdemeanors; before the omnibus date. However, in the interest of justice and upon a showing of good cause, the court may permit the filing to be made at any time before the commencement of the trial.</p> <p>(d) The introduction of any expert testimony under this section shall be in accordance with the Indiana Rules of Evidence.</p>			
Kentucky			
KRS § 503.050	Affirmative Defense	July 14, 1992	July 6, 2006
<p>(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.</p> <p>(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, sexual intercourse compelled by force or threat, felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055.</p> <p>(3) Any evidence presented by the defendant to establish the existence of a prior act or acts of domestic violence and abuse as defined in KRS 403.720 by the person against whom the defendant is charged with employing physical force shall be admissible under this section.</p> <p>(4) A person does not have a duty to retreat prior to the use of deadly physical force.</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
Louisiana			
LA C.E. Art. 404	Evidence Code	January 1, 1989	August 1, 2016
<p>A. Character evidence generally. Evidence of a person's character or a trait of his character, such as a moral quality, is not admissible in a civil or criminal proceeding for the purpose of proving that he acted in conformity therewith on a particular occasion, except:</p> <p>(1) Character of accused. Evidence of a pertinent trait of his character, such as a moral quality, offered by an accused, or by the prosecution to rebut the character evidence; provided that such evidence shall be restricted to showing those moral qualities pertinent to the crime with which he is charged, and that character evidence cannot destroy conclusive evidence of guilt.</p> <p>(2) Character of victim. (a) Except as provided in Article 412, evidence of a pertinent trait of character, such as a moral quality, of the victim of the crime offered by an accused, or by the prosecution to rebut the character evidence; provided that in the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of his dangerous character is not admissible; provided further that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible; or</p> <p>(b) Evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;</p> <p>(3) Character of witness. Evidence of the character of a witness, as provided in Articles 607, 608, and 609.</p> <p>B. Other crimes, wrongs, or acts. (1) Except as provided in Article 412, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.</p> <p>(2) In the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of the victim's prior threats against the accused or the accused's state of mind as to the victim's dangerous character is not admissible; provided that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible.</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
Maryland			
MD CTS & JUD PRO § 10-916	Evidence Code	July 1, 1991	October 1, 1996
<p>(a) Definitions.</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) “Battered Spouse Syndrome” means the psychological condition of a victim of repeated physical and psychological abuse by a spouse, former spouse, cohabitant, or former cohabitant which is also recognized in the medical and scientific community as the “Battered Woman’s Syndrome”.</p> <p>(3) “Defendant” means an individual charged with:</p> <p>(i) First degree murder, second degree murder, manslaughter, or attempt to commit any of these crimes; or</p> <p>(ii) Assault in the first degree.</p> <p>Evidence and expert testimony</p> <p>(b) Notwithstanding evidence that the defendant was the first aggressor, used excessive force, or failed to retreat at the time of the alleged offense, when the defendant raises the issue that the defendant was, at the time of the alleged offense, suffering from the Battered Spouse Syndrome as a result of the past course of conduct of the individual who is the victim of the crime for which the defendant has been charged, the court may admit for the purpose of explaining the defendant's motive or state of mind, or both, at the time of the commission of the alleged offense:</p> <p>(1) Evidence of repeated physical and psychological abuse of the defendant perpetrated by an individual who is the victim of a crime for which the defendant has been charged; and</p> <p>(2) Expert testimony on the Battered Spouse Syndrome.</p>			
Massachusetts			
MA ST 233 § 23F	Evidence Code	April 14, 1994	December 27, 1996
<p>In the trial of criminal cases charging the use of force against another where the issue of defense of self or another, defense of duress or coercion, or accidental harm is asserted, a defendant shall be permitted to introduce either or both of the following in establishing the reasonableness of the defendant's apprehension that death or serious bodily injury was imminent, the reasonableness of the defendant's belief that he had availed himself of all available means to avoid physical combat or the reasonableness of a defendant's perception of the amount of force necessary to deal with the perceived threat:</p> <p>(a) evidence that the defendant is or has been the victim of acts of physical, sexual or psychological harm or abuse;</p> <p>(b) evidence by expert testimony regarding the common pattern in abusive relationships; the nature and effects of physical, sexual or psychological abuse and typical responses thereto, including how those effects relate to the perception of the imminent nature of the threat of death or serious bodily harm; the relevant facts and circumstances which form the basis for such opinion; and evidence whether the defendant displayed characteristics common to victims of abuse.</p> <p>Nothing in this section shall be interpreted to preclude the introduction of evidence or expert testimony as described in clause (a) or (b) in any civil or criminal action where such evidence or expert testimony is otherwise now admissible.</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
Missouri			
§ 563.033 R.S.Mo.	Affirmative Defense	1987	August 28, 2014
<p>1. Evidence that the actor was suffering from the battered spouse syndrome shall be admissible upon the issue of whether the actor lawfully acted in self-defense or defense of another.</p> <p>2. If the defendant proposes to offer evidence of the battered spouse syndrome, he shall file written notice thereof with the court in advance of trial. Thereafter, the court, upon motion of the state, shall appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to intellectually disabled or mentally ill individuals, who are neither employees nor contractors of the department of mental health for the purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or his designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to intellectually disabled or mentally ill individuals designated by the director, or his designee, for the purpose of examining the defendant. No private psychiatrist, psychologist, or physician shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that if the order directs the director of the department of mental health to have the accused examined, the director, or his designee, shall determine the reasonable time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses.</p> <p>3. No statement made by the accused in the course of any such examination and no information received by any physician or other person in the course thereof, whether such examination was made with or without the consent of the accused or upon his motion or upon that of others, shall be admitted in evidence against the accused on the issue of whether he committed the act charged against him in any criminal proceeding then or thereafter pending in any court, state or federal.</p>			
Nevada			
Nev. Rev. Stat. Ann. § 48.061	Evidence Code	June 30, 1993	October 1, 2015
<p>1. Except as otherwise provided in subsection 2, evidence of domestic violence and expert testimony concerning the effect of domestic violence, including, without limitation, the effect of physical, emotional or mental abuse, on the beliefs, behavior and perception of the alleged victim of the domestic violence that is offered by the prosecution or defense is admissible in a criminal proceeding for any relevant purpose, including, without limitation, when determining:</p> <p>(a) Whether a defendant is excepted from criminal liability pursuant to subsection 8 of NRS 194.010, to show the state of mind of the defendant.</p> <p>(b) Whether a defendant in accordance with NRS 200.200 has killed another in self-defense, toward the establishment of the legal defense.</p> <p>2. Expert testimony concerning the effect of domestic violence may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.</p> <p>3. As used in this section, “domestic violence” means the commission of any act described in NRS 33.018.</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
Ohio			
ORC Ann. § 2901.06	Crimes- Procedure section	November 5, 1990	N/A
<p>A) The general assembly hereby declares that it recognizes both of the following, in relation to the “battered woman syndrome:”</p> <p>(1) That the syndrome currently is a matter of commonly accepted scientific knowledge;</p> <p>(2) That the subject matter and details of the syndrome are not within the general understanding or experience of a person who is a member of the general populace and are not within the field of common knowledge.</p> <p>(B) If a person is charged with an offense involving the use of force against another and the person, as a defense to the offense charged, raises the affirmative defense of self-defense, the person may introduce expert testimony of the “battered woman syndrome” and expert testimony that the person suffered from that syndrome as evidence to establish the requisite belief of an imminent danger of death or great bodily harm that is necessary, as an element of the affirmative defense, to justify the person's use of the force in question. The introduction of any expert testimony under this division shall be in accordance with the Ohio Rules of Evidence.</p>			
Ohio			
ORC Ann. § 2945.371	Affirmative Defense	1996	October 12, 2016
<p>[Note: Subsection F discusses “battered woman syndrome.”]</p> <p>(A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.</p> <p>(B) If the court orders more than one evaluation under division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court shall inform the defendant that the defendant may have independent expert evaluation and that, if the defendant is unable to obtain independent expert evaluation, it will be obtained for the defendant at public expense if the defendant is indigent.</p> <p>C) If the court orders an evaluation under division (A) of this section, the defendant shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order a defendant who has been released on bail or recognizance to submit to an evaluation under this section. If a defendant who has been released on bail or recognizance refuses to submit to a complete evaluation, the court may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by the department of mental health and addiction services or the department of developmental disabilities where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days.</p> <p>(D) A defendant who has not been released on bail or recognizance may be evaluated at the defendant's place of detention. Upon the request of the examiner, the court may order the sheriff to transport the defendant to a program or facility operated or certified by the department of mental health and addiction services or the department of developmental disabilities, where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the defendant to the place of detention after the evaluation. A municipal court may make an order under this division only upon the request of a certified forensic</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
<p>center examiner.</p> <p>(E) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged.</p> <p>(F) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome."</p> <p>(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the following:</p> <p>(1) The examiner's findings;</p> <p>(2) The facts in reasonable detail on which the findings are based;</p> <p>(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable:</p> <p>(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense;</p> <p>(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, whether the defendant presently is mentally ill or has an intellectual disability and, if the examiner's opinion is that the defendant presently has an intellectual disability, whether the defendant appears to be a person with an intellectual disability subject to institutionalization by court order;</p> <p>(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment;</p> <p>(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or has an intellectual disability, the examiner's recommendation as to the least restrictive placement or commitment alternative, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community.</p> <p>(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.</p> <p>(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a person with an intellectual disability subject to institutionalization by court order, the court shall order the defendant to undergo a separate intellectual disability evaluation conducted by a psychologist designated by the director of developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate intellectual disability evaluation conducted under this division. The psychologist appointed under this division to conduct the separate intellectual disability evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate intellectual disability evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate intellectual disability evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
<p>of the Revised Code regarding that defendant until a report of the separate intellectual disability evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.</p> <p>(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.</p> <p>(J) No statement that a defendant makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.</p> <p>(K) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.</p>			
Oklahoma			
22 Okl. St. § 40.7	Criminal Procedure	September 1, 1992	N/A
<p>In an action in a court of this state, if a party offers evidence of domestic abuse, testimony of an expert witness concerning the effects of such domestic abuse on the beliefs, behavior and perception of the person being abused shall be admissible as evidence.</p>			
Oregon			
ORS § 40.172	Evidence Code	October 4, 1997	N/A
<p>(1) In any proceeding, any party may introduce evidence establishing a pattern, practice or history of abuse of a person and may introduce expert testimony to assist the fact finder in understanding the significance of such evidence if the evidence:</p> <p>(a) Is relevant to any material issue in the proceeding; and</p> <p>(b) Is not inadmissible under any other provision of law including, but not limited to, rules regarding relevance, privilege, hearsay, competency and authentication.</p> <p>(2) This section may not be construed to limit any evidence that would otherwise be admissible under the Oregon Evidence Code or any other provision of law.</p> <p>(3) As used in this section, "abuse" has the meaning given that term in ORS 107.705.</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
South Carolina			
S.C. Code Ann. § 17-23-170	Criminal Procedure	January 12, 1995	N/A
<p>(A) Evidence that the actor was suffering from the battered spouse syndrome is admissible in a criminal action on the issue of whether the actor lawfully acted in self-defense, defense of another, defense of necessity, or defense of duress. This section does not preclude the admission of testimony on battered spouse syndrome in other criminal actions. This testimony is not admissible when offered against a criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.</p> <p>(B) Expert opinion testimony on the battered spouse syndrome shall not be considered a new scientific technique the reliability of which is unproven.</p> <p>(C) Lay testimony as to the actions of the batterer and how those actions contributed to the facts underlying the basis of the criminal charge shall not be precluded as irrelevant or immaterial if it is used to establish the foundation for evidence on the battered spouse syndrome.</p> <p>(D) The foundation shall be sufficient for the admission of testimony on the battered spouse syndrome if the proponent of the evidence establishes its relevancy and the proper qualifications of the witness.</p> <p>(E) A defendant who proposes to offer evidence of the battered spouse syndrome shall file written notice with the court before trial.</p>			
Texas			
Tex. Code Crim. Proc. Art. 38.36	Criminal Procedure	September 1, 1994	September 1, 2003
<p>(a) In all prosecutions for murder, the state or the defendant shall be permitted to offer testimony as to all relevant facts and circumstances surrounding the killing and the previous relationship existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the offense.</p> <p>(b) In a prosecution for murder, if a defendant raises as a defense a justification provided by Section 9.31, 9.32, or 9.33, Penal Code, the defendant, in order to establish the defendant's reasonable belief that use of force or deadly force was immediately necessary, shall be permitted to offer:</p> <p>(1) relevant evidence that the defendant had been the victim of acts of family violence committed by the deceased, as family violence is defined by Section 71.004, Family Code; and</p> <p>(2) relevant expert testimony regarding the condition of the mind of the defendant at the time of the offense, including those relevant facts and circumstances relating to family violence that are the basis of the expert's opinion.</p>			
Virginia			
VA Code Ann. § 19.2-270.6	Evidence Code	July 1,1993	N/A
<p>In any criminal prosecution alleging personal injury or death, or the attempt to cause personal injury or death, relevant evidence of repeated physical and psychological abuse of the accused by the victim shall be admissible, subject to the general rules of evidence.</p>			

Cite	Where in Code	Date Passed/ Enacted	Date Updated
Wyoming			
Wyo. Stat. § 6-1-203	General	1993	N/A
<p>(a) The “battered woman syndrome” is defined as a subset under the diagnosis of Post-Traumatic Stress Disorder established in the Diagnostic and Statistical Manual of Mental Disorders III--Revised of the American Psychiatric Association.</p> <p>(b) If a person is charged with a crime involving the use of force against another, and the person raises the affirmative defense of self-defense, the person may introduce expert testimony that the person suffered from the syndrome, to establish the necessary requisite belief of an imminent danger of death or great bodily harm as an element of the affirmative defense, to justify the person's use of force.</p>			

Appendix C: Cases Per State and Federal Circuits

The charts below include all the cases in the study broken down by the number from each state or federal circuit. The study included 366 cases; 304 were state cases and 62 were federal cases. State cases appear first, and then the federal cases.

The percent column is the percent of total cases in the study per state or federal circuit.

Cases per State

State	# of cases	% of total cases in study
Alabama	5	1.4%
Alaska	3	0.8%
Arizona	3	0.8%
Arkansas	1	0.3%
California	23	6.3%
Colorado	7	1.9%
Connecticut	8	2.2%
Delaware	1	0.3%
District of Columbia	3	0.8%
Florida	9	2.5%
Georgia	43	11.7%
Hawaii	2	0.5%
Idaho	4	1.1%
Illinois	3	0.8%
Indiana	6	1.6%
Iowa	5	1.4%
Kansas	2	0.5%
Kentucky	2	0.5%
Louisiana	2	0.5%
Maine	2	0.5%
Maryland	3	0.8%
Massachusetts	10	2.7%
Michigan	4	1.1%
Minnesota	5	1.4%
Mississippi	1	0.3%
Missouri	2	0.5%
Montana	6	1.6%
Nebraska	1	0.3%
Nevada	3	0.8%
New Hampshire	2	0.5%
New Jersey	12	3.3%
New Mexico	3	0.8%

New York	26	7.1%
North Carolina	4	1.1%
North Dakota	2	0.5%
Ohio	17	4.6%
Oklahoma	1	0.3%
Oregon	4	1.1%
Pennsylvania	6	1.6%
Rhode Island	1	0.3%
South Carolina	3	0.8%
South Dakota	2	0.5%
Tennessee	1	0.3%
Texas	16	4.4%
Utah	3	0.8%
Vermont	4	1.1%
Virginia	4	1.1%
Washington	5	1.4%
West Virginia	6	1.6%
Wisconsin	3	0.8%
Wyoming	10	2.7%

Total State Cases	304	
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Federal Cases per Circuit

Federal Circuit	# of cases	% of total cases in study
1st Circuit	2	0.5%
2nd Circuit	1	0.3%
3rd Circuit	1	0.3%
4th Circuit	2	0.5%
5th Circuit	1	0.3%
6th Circuit	7	1.9%
7th Circuit	4	1.1%
8th Circuit	12	3.3%
9th Circuit	19	5.2%
10th Circuit	6	1.6%
11th Circuit	3	0.8%
DC Circuit	4	1.1%
Total federal cases	62	

Appendix D: Standards of Reliability per Jurisdiction

Below are very brief summaries of the Frye and Daubert standards of reliability as discussed in the *Trend Analysis* in the section on Reliability Standards (under “Other Findings”) and a listing of each state’s standard. Not all state’s reliability standards exactly match either Daubert or Frye, but if they were substantially similar to either of them, they were coded accordingly, and not labeled “other.” Federal courts follow Daubert.

Standards of Admissibility

<i>Frye</i>	<i>Daubert</i>
Expert testimony must have gained “general acceptance” by professionals in the relevant field	Methodology or reasoning behind the testimony must be “scientifically valid.” Factors to consider include (but are not limited to) <ul style="list-style-type: none"> • Acceptance in field • Peer review • Publication • Known error rates

State	Daubert, Frye, or Other
Alabama	Frye
Alaska	Frye until 1999, Daubert
Arizona	Frye until 2012, Daubert
Arkansas	Daubert
California	Frye
Colorado	Frye until 1997, Daubert
Connecticut	Daubert
Delaware	Daubert
District of Columbia	Frye
Florida	Frye until 2013, Daubert (courts haven’t adopted yet)
Georgia	Other
Hawaii	Daubert
Idaho	Other until 1998, Daubert
Illinois	Frye
Indiana	Daubert
Iowa	Daubert
Kansas	Frye until 2014, Daubert
Kentucky	Daubert
Louisiana	Daubert
Maine	Daubert
Maryland	Frye
Massachusetts	Daubert
Michigan	Daubert
Minnesota	Frye
Mississippi	Daubert
Missouri	Other until 2017, Daubert

Montana	Daubert
Nebraska	Daubert
Nevada	Other
New Hampshire	Frye until 2002, Daubert
New Jersey	Frye
New Mexico	Daubert
New York	Frye
North Carolina	Other
North Dakota	Daubert
Ohio	Daubert
Oklahoma	Daubert
Oregon	Daubert
Pennsylvania	Frye
Rhode Island	Daubert
South Carolina	Other
South Dakota	Daubert
Tennessee	Frye
Texas	Daubert
United States	Daubert
Utah	Other
Vermont	Daubert
Virginia	Other
Washington	Frye
West Virginia	Daubert
Wisconsin	Other until 2011, Daubert
Wyoming	Daubert

Appendix E: Listing of Cases in *The Use of Expert Testimony on Battering and Its Effects in Criminal Cases by State*

Please note: If you would this chart sorted in another way (by year, by case name, etc.) and you don't have an easy way to do that, please contact the National Clearinghouse and we will be happy to help you get this information in the order you wish.

State	Case	Short Cite	Full Cite	Year
AK	Bingaman v. State	76 P.3d 398 (Alaska Ct. App. 2003)	Bingaman v. State, 76 P.3d 398 (Alaska Ct. App. 2003)	2003
AK	Brunson v. State	349 Ark. 300 (2002)	Brunson v. State, 79 S.W.3d 304, 349 Ark. 300, 2002 Ark. LEXIS 361 (Ark. June 13, 2002)	2002
AK	Haube v. State	2015 Alas. App. LEXIS 193 (2015)	Haube v. State, 2015 Alas. App. LEXIS 193 (Alaska Ct. App. Nov. 25, 2015)	2015
AK	Russell v. State	934 P.2d 1335 (Alaska Ct. App. 1997)	Russell v. State, 934 P.2d 1335, 1997 Alas. App. LEXIS 10 (Alaska Ct. App. Mar. 28, 1997)	1997
AL	Bonner v. State	740 So.2d 439 (Ala. Crim. App.1998)	Bonner v. State, 740 So. 2d 439, 1998 Ala. Crim. App. LEXIS 42 (Ala. Crim. App. Feb. 13, 1998)	1998
AL	Harrington v. State	858 So.2d 278 (Ala. Crim. App. 2002)	Harrington v. State, 858 So. 2d 278, 2002 Ala. Crim. App. LEXIS 230 (Ala. Crim. App. Oct. 25, 2002)	2002
AL	Harris v. State	947 So.2d 1079 (Ala. Crim. App. 2004)	Harris v. State, 947 So. 2d 1079, 2004 Ala. Crim. App. LEXIS 203 (Ala. Crim. App. Oct. 29, 2004)	2004
AL	Partain v. State	47 So.3d 282 (Ala. 2015)	Partain v. State, 47 So. 3d 282, 2008 Ala. Crim. App. LEXIS 143 (Ala. Crim. App. Aug. 29, 2008)	2008
AL	Talley v. State	687 So.2d 1261 (Ala. Crim. App. 1996)	Talley v. State, 687 So. 2d 1261, 1996 Ala. Crim. App. LEXIS 225 (Ala. Crim. App. Sept. 27, 1996)	1996
AZ	State v. Haskie	240 Ariz. 269 (2016)	State v. Haskie, 240 Ariz. 269, 378 P.3d 446, 2016 Ariz. App. LEXIS 175, 743 Ariz. Adv. Rep. 4 (Ariz. Ct. App. July 19, 2016)	2016

AZ	State v. Mott	183 Ariz. 191 (1995)	State v. Mott, 183 Ariz. 191, 901 P.2d 1221, 1995 Ariz. App. LEXIS 106, 189 Ariz. Adv. Rep. 35 (Ariz. Ct. App. Apr. 28, 1995)	1995
AZ	State v. Mott	187 Ariz. 536 (1997)	State v. Mott, 187 Ariz. 536, 931 P.2d 1046, 1997 Ariz. LEXIS 4, 234 Ariz. Adv. Rep. 7 (Ariz. Jan. 16, 1997)	1997
CA	Doe v. Superior Court	39 Cal. App. 4th 538 (1995)	Doe v. Superior Court, 39 Cal. App. 4th 538, 45 Cal. Rptr. 2d 888, 1995 Cal. App. LEXIS 1027, 95 Cal. Daily Op. Service 8276, 95 Daily Journal DAR 14242 (Cal. App. 2d Dist. Oct. 23, 1995)	1995
CA	In re Nourn	145 Cal. App. 4th 820 (2006)	In re Nourn, 145 Cal. App. 4th 820, 52 Cal. Rptr. 3d 31, 2006 Cal. App. LEXIS 1940, 2006 Cal. Daily Op. Service 11409, 2006 Daily Journal DAR 16223	2006
CA	In re Walker	147 Cal. App. 4th 533 (2007)	In re Walker, 147 Cal. App. 4th 533, 54 Cal. Rptr. 3d 411, 2007 Cal. App. LEXIS 155, 2007 Cal. Daily Op. Service 1304, 2007 Daily Journal DAR 1682	2007
CA	People v. Ayers	125 Cal. App. 4th 988 (2005)	People v. Ayers, 125 Cal. App. 4th 988, 23 Cal. Rptr. 3d 242, 2005 Cal. App. LEXIS 50, 2005 Cal. Daily Op. Service 420, 2005 Daily Journal DAR 515 (Cal. App. 5th Dist. Jan. 13, 2005)	2005
CA	People v. Battle	198 Cal. App. 4th 50 (2011)	People v. Battle, 198 Cal. App. 4th 50, 129 Cal. Rptr. 3d 828, 2011 Cal. App. LEXIS 1035 (Cal. App. 3d Dist. Aug. 9, 2011)	2011
CA	People v. Brown	33 Cal. 4th 892 (2004)	People v. Brown, 33 Cal. 4th 892, 94 P.3d 574, 16 Cal. Rptr. 3d 447, 2004 Cal. LEXIS 7078, 2004 Daily Journal DAR 9396 (Cal. Aug. 2, 2004)	2004

CA	People v. Brown	96 Cal. App. 4th Supp. 1 (2001)	People v. Brown, 96 Cal. App. 4th Supp. 1, 117 Cal. Rptr. 2d 738, 2001 Cal. App. LEXIS 3961, 2002 Cal. Daily Op. Service 2309 (Cal. App. 1st Dist. Dec. 19, 2001)	2001
CA	People v. Callahan	124 Cal. App. 4th 198 (2004)	People v. Callahan, 124 Cal. App. 4th 198, 21 Cal. Rptr. 3d 226, 2004 Cal. App. LEXIS 1939, 2004 Cal. Daily Op. Service 10280, 2004 Daily Journal DAR 13961 (Cal. App. 2d Dist. Nov. 18, 2004)	2004
CA	People v. Chavez	89 Cal. App. 4th 806 (2001)	People v. Chavez, 89 Cal. App. 4th 806, 107 Cal. Rptr. 2d 552, 2001 Cal. App. LEXIS 413, 2001 Cal. Daily Op. Service 4481, 2001 Daily Journal DAR 5446 (Cal. App. 2d Dist. May 31, 2001)	2001
CA	People v. Coffman	34 Cal. 4th 1 (2004)	People v. Coffman and Marlow, 34 Cal. 4th 1, 96 P.3d 30, 17 Cal. Rptr. 3d 710, 2004 Cal. LEXIS 7590, 2004 Daily Journal DAR 10339, 2004 Cal. Daily Op. Service 7642 (Cal. Aug. 19, 2004)	2004
CA	People v. Dowdell	227 Cal. App. 4th 1388 (2014)	People v. Dowdell, 174 Cal. Rptr. 3d 547, 227 Cal. App. 4th 1388, 2014 Cal. App. LEXIS 635, 2014 WL 3533427 (Cal. App. 6th Dist. July 17, 2014)	2014
CA	People v. Erickson	57 Cal. App. 4th 1391 (1997)	People v. Erickson, 57 Cal. App. 4th 1391, 67 Cal. Rptr. 2d 740, 1997 Cal. App. LEXIS 778, 97 Cal. Daily Op. Service 7717, 97 Daily Journal DAR 12365 (Cal. App. 5th Dist. Sept. 26, 1997)	1997
CA	People v. Gadlin	78 Cal. App. 4th 587 (2000)	People v. Gadlin, 78 Cal. App. 4th 587, 92 Cal. Rptr. 2d 890, 2000 Cal. App. LEXIS 124, 2000 Cal. Daily Op. Service 1449, 2000 Daily Journal DAR 1993 (Cal. App. 2d Dist. Feb. 24, 2000)	2000

CA	People v. Gomez	72 Cal. App. 4th 405 (1999)	People v. Gomez, 72 Cal. App. 4th 405, 85 Cal. Rptr. 2d 101, 1999 Cal. App. LEXIS 499, 99 Cal. Daily Op. Service 3804, 99 Daily Journal DAR 4877 (Cal. App. 2d Dist. May 21, 1999)	1999
CA	People v. Gonzales	51 Cal. 4th 894 (2011)	People v. Gonzales, 51 Cal. 4th 894, 253 P.3d 185, 126 Cal. Rptr. 3d 1, 2011 Cal. LEXIS 5437 (Cal. June 2, 2011)	2011
CA	People v. Humphrey	13 Cal. 4th 1073 (1996)	People v. Humphrey, 13 Cal. 4th 1073, 921 P.2d 1, 56 Cal. Rptr. 2d 142, 1996 Cal. LEXIS 4222, 96 Daily Journal DAR 10609, 96 Cal. Daily Op. Service 6509 (Cal. Aug. 29, 1996)	1996
CA	People v. Kovacich	201 Cal. App. 4th 863 (2011)	People v. Kovacich, 201 Cal. App. 4th 863, 133 Cal. Rptr. 3d 924, 2011 Cal. App. LEXIS 1531 (Cal. App. 3d Dist. Dec. 7, 2011)	2011
CA	People v. Morgan	58 Cal. App.4th (1997)	People v. Morgan, 58 Cal. App. 4th 1210, 1997 Cal. App. LEXIS 885, 68 Cal. Rptr. 2d 772, 97 Cal. Daily Op. Service 8360, 97 Daily Journal DAR 13497 (Cal. App. 1st Dist. Sept. 29, 1997)	2010
CA	People v. Pescador	14 Cal. Rptr. 3d 165 (2004)	People v. Pescador, 14 Cal. Rptr. 3d 165, 119 Cal. App. 4th 252, 2004 Cal. App. LEXIS 872, 2004 Cal. Daily Op. Service 4935, 2004 Daily Journal DAR 6748 (Cal. App. 3d Dist. June 8, 2004)	2004
CA	People v. Riggs	44 Cal. 4th 248 (2008)	People v. Riggs, 44 Cal. 4th 248, 187 P.3d 363, 79 Cal. Rptr. 3d 648, 2008 Cal. LEXIS 8244 (Cal. July 10, 2008)	2008
CA	People v. Romero	149 Cal. App. 4th 29 (2007)	People v. Romero, 149 Cal. App. 4th 29, 56 Cal. Rptr. 3d 678, 2007 Cal. App. LEXIS 460, 2007 Daily Journal DAR 4175, 2007 Cal. Daily Op. Service 3324 (Cal. App. 4th Dist. Mar. 29, 2007)	2007

CA	People v. Salinas	106 Cal. App. 4th 993 (2003)	People v. Salinas, 106 Cal. App. 4th 993, 131 Cal. Rptr. 2d 313, 2003 Cal. App. LEXIS 328, 2003 Cal. Daily Op. Service 2062, 2003 Daily Journal DAR 2572 (Cal. App. 5th Dist. Mar. 5, 2003)	2003
CA	People v. Sandoval	164 Cal. App. 4th 994 (2008)	People v. Sandoval, 79 Cal. Rptr. 3d 634, 164 Cal. App. 4th 994, 2008 Cal. App. LEXIS 1043 (Cal. App. 3d Dist. July 11, 2008)	2008
CA	People v. Williams	78 Cal. App. 4th 1118 (2000)	People v. Williams, 78 Cal. App. 4th 1118, 93 Cal. Rptr. 2d 356, 2000 Cal. App. LEXIS 161, 2000 Cal. Daily Op. Service 1835, 2000 Daily Journal DAR 2503 (Cal. App. 2d Dist. Mar. 6, 2000)	2000
CA	Varela v. Johnson	2014 U.S. Dist. (E.D. Cal. 2014) LEXIS 54433	Varela v. Johnson, 2014 U.S. Dist. LEXIS 54433 (E.D. Cal. Apr. 17, 2014)	2014
CO	People v. Darbe	62 P.3d 1006 (Colo. App. 2002)	People v. Darbe, 62 P.3d 1006 (Colo. App. 2002)	2002
CO	People v. Garcia	28 P.3d 340 (Colo. 2001)	People v. Garcia, 28 P.3d 340, 2001 Colo. LEXIS 508 (Colo. June 25, 2001)	2001
CO	People v. Johnson	74 P.3d 349 (Colo. 2002)	People v. Johnson, 74 P.3d 349, 2002 Colo. App. LEXIS 1815 (Colo. Ct. App. Oct. 24, 2002)	2002
CO	People v. Lafferty	1999 Colo. J. C.A.R. 4682 (1999)	People v. Lafferty, 9 P.3d 1132, 1999 Colo. App. LEXIS 222, 1999 Colo. J. C.A.R. 4682 (Colo. Ct. App. Aug. 5, 1999)	1999
CO	People v. Rodriguez	209 P.3d 1151 (Colo. App. 2008)	People v. Rodriguez, 209 P.3d 1151, 2008 Colo. App. LEXIS 2138 (Colo. Ct. App. Dec. 11, 2008)	2008
CO	People v. Ruibal	2015 COA 55 (2015)	People v. Ruibal, 2015 COA 55, 2015 Colo. App. LEXIS 686 (Colo. Ct. App. May 7, 2015)	2015
CO	People v. Wallin	167 P.3d 183 (Colo. App. 2007)	People v. Wallin, 167 P.3d 183, 2007 Colo. App. LEXIS 1299 (Colo. Ct. App. July 12, 2007)	2007

CT	State v. Cardany	35 Conn. App. 728 (1994)	State v. Cardany, 646 A.2d 291, 35 Conn. App. 728, 1994 Conn. App. LEXIS 336 (Conn. App. Ct. Aug. 30, 1994)	1994
CT	State v. Jose G.	290 Conn. 331 (2009)	State v. Jose G., 290 Conn. 331, 963 A.2d 42, 2009 Conn. LEXIS 14 (Conn. Feb. 10, 2009)	2009
CT	State v. Morquecho	138 Conn. App. 841 (2012)	State v. Morquecho, 138 Conn. App. 841, 54 A.3d 609, 2012 Conn. App. LEXIS 497 (Conn. App. Ct. Oct. 30, 2012)	2012
CT	State v. Niemeyer	258 Conn. 510 (2001)	State v. Niemeyer, 258 Conn. 510, 782 A.2d 658, 2001 Conn. LEXIS 463 (Conn. Nov. 6, 2001)	2001
CT	State v. Niemeyer	55 Conn. App. 447 (1999)	State v. Niemeyer, 55 Conn. App. 447, 740 A.2d 416, 1999 Conn. App. LEXIS 408 (Conn. App. Ct. Oct. 26, 1999)	1999
CT	State v. Pereira	72 Conn. App. 107 (2002)	State v. Pereira, 72 Conn. App. 107, 806 A.2d 51, 2002 Conn. App. LEXIS 463 (Conn. App. Ct. Sept. 3, 2002)	2002
CT	State v. Vega	259 Conn. 374 (2002)	State v. Vega, 259 Conn. 374, 788 A.2d 1221, 2002 Conn. LEXIS 56 (Conn. Feb. 12, 2002)	2002
CT	State v. Yusuf	70 Conn. App. 594 (2002)	State v. Yusuf, 70 Conn. App. 594, 800 A.2d 590, 2002 Conn. App. LEXIS 349 (Conn. App. Ct. July 2, 2002)	2002
DE	Wonnum v. State	942 A.2d 569 (Del. 2007)	Wonnum v. State, 942 A.2d 569, 2007 Del. LEXIS 558 (Del. Dec. 26, 2007)	2007
FL	Alexander v. State	121 So. 3d 1185 (Fla. Dist. Ct. App. 1st Dist. 2013)	Alexander v. State, 121 So. 3d 1185, 2013 Fla. App. LEXIS 15243, 38 Fla. L. Weekly D 2067, 2013 WL 5354419 (Fla. Dist. Ct. App. 1st Dist. Sept. 26, 2013)	2013
FL	Brewington v. State	98 So. 3d 628 (Fla. Dist. Ct. App. 2d Dist. 2012)	Brewington v. State, 98 So. 3d 628, 2012 Fla. App. LEXIS 14811, 37 Fla. L. Weekly D 2111, 2012 WL 3822109 (Fla. Dist. Ct. App. 2d Dist. Sept. 5,	2012

			2012)	
FL	Coday v. State	946 So.2d 988 (Fla. 2006)	Coday v. State, 946 So. 2d 988, 2006 Fla. LEXIS 2533, 31 Fla. L. Weekly S 714 (Fla. Oct. 26, 2006)	2006
FL	Howard v. State	698 So.2d 923 (Fla. Dist. Ct. 1997)	Howard v. State, 698 So. 2d 923, 1997 Fla. App. LEXIS 10135, 22 Fla. L. Weekly D 2140 (Fla. Dist. Ct. App. 4th Dist. Sept. 10, 1997)	1997
FL	Hunt v. State	753 So.2d 609 (Fla. Dist. Ct. App. 2000)	Hunt v. State, 753 So. 2d 609, 2000 Fla. App. LEXIS 1470, 25 Fla. L. Weekly D 457 (Fla. Dist. Ct. App. 5th Dist. Feb. 18, 2000)	2000
FL	State v. Spence	658 So. 2d 660 (1995)	State v. Spence, 658 So. 2d 660, 1995 Fla. App. LEXIS 8261, 20 Fla. L. Weekly D 1751 (Fla. Dist. Ct. App. 3d Dist. Aug. 2, 1995)	1995
FL	Weiland v. State	701 So. 2d 562 (1997)	Weiland v. State, 701 So. 2d 562, 1997 Fla. App. LEXIS 7866, 22 Fla. L. Weekly D 1707 (Fla. Dist. Ct. App. 2d Dist. July 11, 1997)	1997
FL	Weiland v. State	732 So. 2d 1044 (1999)	Weiland v. State, 732 So. 2d 1044, 1999 Fla. LEXIS 367, 24 Fla. L. Weekly S 124 (Fla. Mar. 11, 1999)	1999
FL	Williams v. State	779 So. 2d 314 (1999)	Williams v. State, 779 So. 2d 314, 1999 Fla. App. LEXIS 11951, 24 Fla. L. Weekly D 2079 (Fla. Dist. Ct. App. 2d Dist. Sept. 8, 1999)	1999
GA	Adame v. State	244 Ga. App. 257 (2000)	Adame v. State, 244 Ga. App. 257, 534 S.E.2d 817, 2000 Ga. App. LEXIS 626, 2000 Fulton County D. Rep. 2348 (Ga. Ct. App. May 18, 2000)	2000

GA	Alvarado v. State	257 Ga. App. 746 (2002)	Alvarado v. State, 572 S.E.2d 18, 257 Ga. App. 746, 2002 Ga. App. LEXIS 1228, 2002 Fulton County D. Rep. 2857 (Ga. Ct. App. Sept. 24, 2002)	2002
GA	Bishop v. State	271 Ga. 291 (1999)	Bishop v. State, 271 Ga. 291, 519 S.E.2d 206, 1999 Ga. LEXIS 622, 99 Fulton County D. Rep. 2534 (Ga. July 6, 1999)	1999
GA	Brower v. State	334 Ga. App. 262 (2015)	Brower v. State, 779 S.E.2d 32, 334 Ga. App. 262, 2015 Ga. App. LEXIS 612 (Ga. Ct. App. Oct. 27, 2015)	2015
GA	Brown v. State	325 Ga. App. 237 (2013)	Brown v. State, 750 S.E.2d 453, 325 Ga. App. 237, 2013 Ga. App. LEXIS 889, 2013 Fulton County D. Rep. 3634, 2013 WL 5951948 (Ga. Ct. App. Nov. 8, 2013)	2013
GA	Cain v. State	288 Ga. App. 535 (2007)	Cain v. State, 654 S.E.2d 456, 288 Ga. App. 535, 2007 Ga. App. LEXIS 1241, 2007 Fulton County D. Rep. 3742 (Ga. Ct. App. Nov. 21, 2007)	2007
GA	Chester v. State	473 S.E.2d 759 (Ga. 1996)	Chester v. State, 1996 Ga. LEXIS 1163, 473 S.E.2d 759 (Ga. May 6, 1996)	1996
GA	Demery v. State	287 Ga. 805 (2010)	Demery v. State, 287 Ga. 805, 700 S.E.2d 373, 2010 Ga. LEXIS 610, 2010 Fulton County D. Rep. 3045 (Ga. Sept. 20, 2010)	2010
GA	Durham v. State	281 Ga. 208 (2006)	Durham v. State, 281 Ga. 208, 636 S.E.2d 513, 2006 Ga. LEXIS 832, 2006 Fulton County D. Rep. 3195 (Ga. Oct. 16, 2006)	2006
GA	Evans v. State	259 Ga .App. 9 (2002)	Evans v. State, 259 Ga. App. 9, 576 S.E.2d 27, 2002 Ga. App. LEXIS 1609 (Ga. Ct. App. Dec. 17, 2002)	2002
GA	Gipson v. State	332 Ga. App. 309 (2015)	Gipson v. State, 772 S.E.2d 402, 332 Ga. App. 309, 2015 Ga. App. LEXIS 293 (Ga. Ct. App. May 6, 2015)	2015

GA	Graham v. State	239 Ga. App. 429 (1999)	Graham v. State, 239 Ga. App. 429, 521 S.E.2d 249, 1999 Ga. App. LEXIS 1025, 99 Fulton County D. Rep. 3023 (Ga. Ct. App. July 29, 1999)	1999
GA	Grano v. State	265 Ga. 346 (1995)	Grano v. State, 265 Ga. 346, 455 S.E.2d 582, 1995 Ga. LEXIS 164, 95 Fulton County D. Rep. 1310 (Ga. Apr. 10, 1995)	1995
GA	Hall v. State	272 Ga. App. 204 (2005)	Hall v. State, 272 Ga. App. 204, 612 S.E.2d 44, 2005 Ga. App. LEXIS 249, 2005 Fulton County D. Rep. 877 (Ga. Ct. App. Mar. 15, 2005)	2005
GA	Hawks v. State	223 Ga. App. 890 (1996)	Hawks v. State, 223 Ga. App. 890, 479 S.E.2d 186, 1996 Ga. App. LEXIS 1321, 96 Fulton County D. Rep. 4424 (Ga. Ct. App. Dec. 9, 1996)	1996
GA	Hinds v. State	296 Ga. App. 80 (2009)	Hinds v. State, 296 Ga. App. 80, 673 S.E.2d 598, 2009 Ga. App. LEXIS 136, 2009 Fulton County D. Rep. 527 (Ga. Ct. App. Feb. 13, 2009)	2009
GA	Horne v. State	333 Ga. App. 353 (2015)	Horne v. State, 773 S.E.2d 467, 333 Ga. App. 353, 2015 Ga. App. LEXIS 360 (Ga. Ct. App. June 23, 2015)	2015
GA	Jenkins v. State	219 Ga. App. 339 (1995)	Jenkins v. State, 219 Ga. App. 339, 465 S.E.2d 296, 1995 Ga. App. LEXIS 1029, 96 Fulton County D. Rep. 133 (Ga. Ct. App. Dec. 5, 1995)	1995
GA	Johnson v. State	266 Ga. 624 (1996)	Johnson v. State, 266 Ga. 624, 469 S.E.2d 152, 1996 Ga. LEXIS 177, 96 Fulton County D. Rep. 1611 (Ga. Apr. 29, 1996)	1996
GA	McLaughlin v. State	338 Ga. App. 1 (2016)	McLaughlin v. State, 789 S.E.2d 247, 338 Ga. App. 1, 2016 Ga. App. LEXIS 424 (Ga. Ct. App. July 12, 2016)	2016

GA	Mobley v. State	269 Ga. 738 (1998)	Mobley v. State, 269 Ga. 738, 505 S.E.2d 722, 1998 Ga. LEXIS 868, 98 Fulton County D. Rep. 3108 (Ga. Sept. 14, 1998)	1998
GA	Moorer v. State	290 Ga. App. 216 (2008)	Moorer v. State, 290 Ga. App. 216, 659 S.E.2d 422, 2008 Ga. App. LEXIS 286, 2008 Fulton County D. Rep. 989 (Ga. Ct. App. Mar. 10, 2008)	2008
GA	Muse v. State	293 Ga. 647 (2013)	Muse v. State, 748 S.E.2d 904, 293 Ga. 647, 2013 Ga. LEXIS 726, 2013 Fulton County D. Rep. 2949, 2013 WL 5303233 (Ga. Sept. 23, 2013)	2014
GA	Nguyen v. State	234 Ga. App. 185 (1998)	Nguyen v. State, 234 Ga. App. 185, 505 S.E.2d 846, 1998 Ga. App. LEXIS 1179, 98 Fulton County D. Rep. 3433 (Ga. Ct. App. Sept. 1, 1998)	1998
GA	Nguyen v. State	271 Ga. 475 (1999)	Nguyen v. State, 271 Ga. 475, 520 S.E.2d 907, 1999 Ga. LEXIS 734, 99 Fulton County D. Rep. 3416 (Ga. Sept. 20, 1999)	1999
GA	O'Connell v. State	294 Ga. 379 (2014)	O'Connell v. State, 754 S.E.2d 29, 294 Ga. 379, 2014 Ga. LEXIS 64, 2014 Fulton County D. Rep. 145 (Ga. Jan. 21, 2014)	2014
GA	Olarte v. State	273 Ga. App. 96 (2005)	Olarte v. State, 273 Ga. App. 96, 614 S.E.2d 213, 2005 Ga. App. LEXIS 419, 2005 Fulton County D. Rep. 1345 (Ga. Ct. App. Apr. 22, 2005)	2005
GA	Parrish v. State	237 Ga. App. 274 (1999)	Parrish v. State, 237 Ga. App. 274, 514 S.E.2d 458, 1999 Ga. App. LEXIS 358, 99 Fulton County D. Rep. 1423 (Ga. Ct. App. Mar. 11, 1999)	1999
GA	Pena v. State	297 Ga. 418 (2015)	Pena v. State, 774 S.E.2d 652, 297 Ga. 418, 2015 Ga. LEXIS 496 (Ga. June 29, 2015)	2015

GA	Pendergrass v. State	273 Ga. 300 (2001)	Pendergrass v. State, 273 Ga. 300, 540 S.E.2d 598, 2001 Ga. LEXIS 40, 2000 Fulton County D. Rep. 192 (Ga. Jan. 8, 2001)	2001
GA	Pennie v. State	271 Ga. 419 (1999)	Pennie v. State, 271 Ga. 419, 520 S.E.2d 448, 1999 Ga. LEXIS 671, 99 Fulton County D. Rep. 3335 (Ga. Sept. 13, 1999)	1999
GA	Pickle v. State	280 Ga. App. 821 (2006)	Pickle v. State, 280 Ga. App. 821, 635 S.E.2d 197, 2006 Ga. App. LEXIS 894, 2006 Fulton County D. Rep. 2417 (Ga. Ct. App. July 14, 2006)	2006
GA	Sedlak v. State	275 Ga. 746 (2002)	Sedlak v. State, 275 Ga. 746, 571 S.E.2d 721, 2002 Ga. LEXIS 911, 2002 Fulton County D. Rep. 2987 (Ga. Oct. 15, 2002)	2002
GA	Selman v. State	267 Ga. 198 (1996)	Selman v. State, 267 Ga. 198, 475 S.E.2d 892, 1996 Ga. LEXIS 704, 96 Fulton County D. Rep. 3389 (Ga. Sept. 23, 1996)	1996
GA	Sheppard v. State	285 Ga. 36 (2009)	Sheppard v. State, 285 Ga. 36, 673 S.E.2d 852, 2009 Ga. LEXIS 45, 2009 Fulton County D. Rep. 436 (Ga. Feb. 9, 2009)	2009
GA	Sherrell v. State	317 Ga. App. 571 (2012)	Sherrell v. State, 317 Ga. App. 571, 731 S.E.2d 790, 2012 Ga. App. LEXIS 770, 2012 Fulton County D. Rep. 2809, 2012 WL 3854870 (Ga. Ct. App. Sept. 6, 2012)	2012
GA	Smith v. State	268 Ga. 196 (1997)	Smith v. State, 486 S.E.2d 819, 268 Ga. 196, 1997 Ga. LEXIS 426, 97 Fulton County D. Rep. 2590 (Ga. July 14, 1997)	1997
GA	State v. Thomas	275 Ga. 167 (2002)	State v. Thomas, 275 Ga. 167, 562 S.E.2d 501, 2002 Ga. LEXIS 320, 2002 Fulton County D. Rep. 1163 (Ga. Apr. 15, 2002)	2002
GA	Turner v. State	272 Ga. 441 (2000)	Turner v. State, 272 Ga. 441, 531 S.E.2d 354, 2000 Ga. LEXIS 428, 2000 Fulton County D. Rep. 2041 (Ga. May 30, 2000)	2000

GA	Walker v. State	251 Ga. App. 479 (2001)	Walker v. State, 251 Ga. App. 479, 553 S.E.2d 634, 2001 Ga. App. LEXIS 933, 2001 Fulton County D. Rep. 2560 (Ga. Ct. App. Aug. 7, 2001)	2001
GA	Ware v. State	273 Ga. 16 (2000)	Ware v. State, 273 Ga. 16, 537 S.E.2d 657, 2000 Ga. LEXIS 771, 2000 Fulton County D. Rep. 3954 (Ga. Oct. 23, 2000)	2000
GA	Watson v. State	278 Ga. 763 (2004)	Watson v. State, 278 Ga. 763, 604 S.E.2d 804, 2004 Ga. LEXIS 999, 2004 Fulton County D. Rep. 3591 (Ga. Nov. 8, 2004)	2004
GA	Works v. State	301 Ga. App. 108 (2009)	Works v. State, 686 S.E.2d 863, 301 Ga. App. 108, 2009 Ga. App. LEXIS 1327, 2009 Fulton County D. Rep. 3846 (Ga. Ct. App. Nov. 17, 2009)	2009
HI	State v. Clark	83 Haw. 289 (1996)	State v. Clark, 926 P.2d 194, 83 Haw. 289, 1996 Haw. LEXIS 141 (Haw. Oct. 3, 1996)	1996
HI	State v. Ito	85 Haw. 44 (1997)	State v. Ito, 85 Haw. 44, 49, 936 P.2d 1292, 1297 (Ct. App. 1997)	1997
IA	State v. Arreola-Dominguez	842 N.W.2d 680 (Iowa Ct. App. 2013)	State v. Arreola-Dominguez, 2013 Iowa App. LEXIS 1297, 842 N.W.2d 680, 2013 WL 6700310 (Iowa Ct. App. 2013)	2013
IA	State v. Frei	831 N.W.2d 70 (Iowa 2013)	State v. Frei, 831 N.W.2d 70, 2013 Iowa Sup. LEXIS 22, 2013 WL 869512 (Iowa Mar. 8, 2013)	2013
IA	State v. Griffin	564 N.W.2d 370 (Iowa 1997)	State v. Griffin, 564 N.W.2d 370, 1997 Iowa Sup. LEXIS 154 (Iowa May 21, 1997)	1997
IA	State v. Newell	710 N.W.2d 6 (Iowa 2006)	State v. Newell, 710 N.W.2d 6, 2006 Iowa Sup. LEXIS 17 (Iowa Feb. 10, 2006)	2006
IA	State v. Rodriguez	636 N.W.2d 234 (Iowa 2001)	State v. Rodriguez, 636 N.W.2d 234, 2001 Iowa Sup. LEXIS 212 (Iowa Nov. 15, 2001)	2001
ID	State v. Davis	127 Idaho 62 (1995)	State v. Davis, 896 P.2d 970, 127 Idaho 62, 1995 Ida. LEXIS 63 (Idaho May 24, 1995)	1995

ID	State v. Fordyce	151 Idaho 868 (2011)	State v. Fordyce, 151 Idaho 868, 264 P.3d 975 (Ct. App. 2011)	2011
ID	State v. Patron	154 Idaho 558 (2013)	State v. Parton, 154 Idaho 558, 300 P.3d 1046, 2013 Ida. LEXIS 37, 2013 WL 427438 (Idaho Feb. 1, 2013)	2013
ID	State v. Varie	135 Idaho 848 (2001)	State v. Varie, 135 Idaho 848, 26 P.3d 31, 2001 Ida. LEXIS 58 (Idaho May 30, 2001)	2001
IL	People v. Evans	271 Ill. App.3 d 495 (1995)	People v. Evans, 271 Ill. App. 3d 495, 648 N.E.2d 964, 1995 Ill. App. LEXIS 176, 208 Ill. Dec. 42 (Ill. App. Ct. 5th Dist. Mar. 24, 1995)	1995
IL	People v. Voit	355 Ill. App. 3d 1015 (2004)	People v. Voit, 825 N.E.2d 273, 355 Ill. App. 3d 1015, 2004 Ill. App. LEXIS 1481, 292 Ill. Dec. 17 (Ill. App. Ct. 1st Dist. Dec. 10, 2004)	2004
IL	People v. Williams	332 Ill. App. 3d 693 (2002)	People v. Williams, 773 N.E.2d 1238, 332 Ill. App. 3d 693, 2002 Ill. App. LEXIS 608, 266 Ill. Dec. 168 (Ill. App. Ct. 3d Dist. July 19, 2002)	2002
IN	Barrett v. State	675 N.E.2d 1112 (Ind. Ct. App. 1996)	Barrett v. State, 675 N.E.2d 1112, 1996 Ind. App. LEXIS 1734 (Ind. Ct. App. Dec. 31, 1996)	1996
IN	Iqbal v. State	805 N.E.2d 401 (Ind. Ct. App. 2004)	Iqbal v. State, 805 N.E.2d 401 (Ind. Ct. App. 2004)	2004
IN	Isaacs v. State	659 N.E.2d 1036 (Ind. 1995)	Isaacs v. State, 659 N.E.2d 1036, 1995 Ind. LEXIS 223 (Ind. Dec. 29, 1995)	1995
IN	Marley v. State	747 N.E. 2d 1123 (Ind. 2001)	Marley v. State, 747 N.E.2d 1123, 2001 Ind. LEXIS 473 (Ind. May 30, 2001)	2001
IN	Odom v. State	711 N.E.2d 71 (Ind. Ct. App. 1999)	Odom v. State, 711 N.E.2d 71 (Ind. Ct. App. 1999)	1999
IN	Schmid v. State	972 N.E.2d 949 (Ind. Ct. App. 2012)	Schmid v. State, 972 N.E.2d 949, 2012 Ind. App. LEXIS 384, 2012 WL 3265022 (Ind. Ct. App. Aug. 13, 2012)	2012

KS	Lumley v. State	29 Kan. App. 2d 911 (2001)	Lumley v. State, 29 Kan. App. 2d 911, 34 P.3d 467, 2001 Kan. App. LEXIS 1047 (Kan. Ct. App. 2001)	2001
KS	State v. Meeks	301 Kan. 114 (2014)	State v. Meeks, 339 P.3d 766, 301 Kan. 114, 2014 Kan. LEXIS 690 (Kan. Dec. 19, 2014)	2014
KY	Commonwealth v. Anderson	934 S.W.2d 276, (Ky. 1996)	Commonwealth v. Anderson, 934 S.W.2d 276, 1996 Ky. LEXIS 121 (Ky. Nov. 21, 1996)	1996
KY	Springer v. Commonwealth	998 S.W.2d 439 (Ky. 1999)	Springer v. Commonwealth, 998 S.W.2d 439, 1999 Ky. LEXIS 56 (Ky. Apr. 22, 1999)	1999
LA	State v. Morrison	55 So. 3d 856 (La.App. 2 Cir. 2010)	State v. Morrison, 55 So. 3d 856, 2010 La. App. LEXIS 1602, 42,650 (La.App. 2 Cir. 11/24/10); (La.App. 2 Cir. Nov. 24, 2010)	2010
LA	State v. Sepulvado	655 So. 2d 623 (La.App. 2 Cir. 1995)	State v. Sepulvado, 655 So. 2d 623, 1995 La. App. LEXIS 1216, 26,948 (La.App. 2 Cir. 05/10/95); (La.App. 2 Cir. May 10, 1995)	1995
MA	Commonwealth v. Adkinson	80 Mass. App. Ct. 570 (2011)	Commonwealth v. Adkinson, 80 Mass. App. Ct. 570, 954 N.E.2d 564, 2011 Mass. App. LEXIS 1245 (Mass. App. Ct. Oct. 5, 2011)	2011
MA	Commonwealth v. Anestal	463 Mass. 655 (2012)	Commonwealth v. Anestal, 463 Mass. 655, 978 N.E.2d 37, 2012 Mass. LEXIS 1004 (Mass. Nov. 6, 2012)	2012
MA	Commonwealth v. Conaghan	48 Mass. App. Ct. 304 (1999)	Commonwealth v. Conaghan, 48 Mass. App. Ct. 304, 720 N.E.2d 48, 1999 Mass. App. LEXIS 1367 (Mass. App. Ct. Dec. 3, 1999)	1999
MA	Commonwealth v. Conaghan	433 Mass. 105 (2000)	Commonwealth v. Conaghan, 740 N.E.2d 956, 433 Mass. 105, 2000 Mass. LEXIS 767	2000
MA	Commonwealth v. Crawford	429 Mass. 60 (1999)	Commonwealth v. Crawford, 429 Mass. 60, 706 N.E.2d 289, 1999 Mass. LEXIS 101 (Mass. Feb. 25, 1999)	1999

MA	Commonwealth v. Fappiano	69 Mass. App. Ct. 727 (2007)	Commonwealth v. Fappiano, 69 Mass. App. Ct. 727, 871 N.E.2d 1090, 2007 Mass. App. LEXIS 902 (Mass. App. Ct. Aug. 16, 2007)	2007
MA	Commonwealth v. Hall	45 Mass. App. Ct. 146 (1998)	Commonwealth v. Hall, 45 Mass. App. Ct. 146, 696 N.E.2d 151, 1998 Mass. App. LEXIS 508 (Mass. App. Ct. July 1, 1998)	1998
MA	Commonwealth v. Morris	82 Mass. App. Ct. 427 (2012)	Commonwealth v. Morris, 974 N.E.2d 1152, 82 Mass. App. Ct. 427, 2012 Mass. App. LEXIS 247, 2012 WL 4010237 (Mass. App. Ct. Sept. 14, 2012)	2012
MA	Commonwealth v. Pike	431 Mass. 212 (2000)	Commonwealth v. Pike, 431 Mass. 212, 726 N.E.2d 940, 2000 Mass. LEXIS 171 (Mass. Apr. 13, 2000)	2000
MA	Commonwealth v. Williams	453 Mass. 203	Commonwealth v. Williams, 453 Mass. 203, 900 N.E.2d 871, 2009 Mass. LEXIS 23 (Mass. Feb. 12, 2009)	2009
MD	Addison v. State	188 Md. App. 165 (2009)	Addison v. State, 981 A.2d 698, 188 Md. App. 165, 2009 Md. App. LEXIS 147 (Md. Ct. Spec. App. Oct. 2, 2009)	2009
MD	State v. Peterson	158 Md. App. 558 (2004)	State v. Peterson, 158 Md. App. 558, 857 A.2d 1132, 2004 Md. App. LEXIS 140 (Md. Ct. Spec. App. Sept. 13, 2004)	2004
MD	Whittington v. State	147 Md. App. 496 (2002)	Whittington v. State, 147 Md. App. 496, 809 A.2d 721, 2002 Md. App. LEXIS 179 (Md. Ct. Spec. App. Oct. 31, 2002)	2002
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ME	State v. Jeskey	2016 ME 134 (2016)	State v. Jeskey, 2016 ME 134, 146 A.3d 127, 2016 Me. LEXIS 148 (Me. Aug. 16, 2016)	2016

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MI	People v. Daoust	228 Mich. App. 1 (1998)	People v. Daoust, 228 Mich. App. 1, 577 N.W.2d 179, 1998 Mich. App. LEXIS 38 (Mich. Ct. App. 1998)	1998
MI	People v. Peterson	450 Mich. 349 (1995)	People v. Peterson, 450 Mich. 349, 537 N.W.2d 857, 1995 Mich. LEXIS 1808 (Mich. 1995)	1995
MI	People v. Stevens	498 Mich. 162 (2015)	People v. Stevens, 869 N.W.2d 233, 498 Mich. 162, 2015 Mich. LEXIS 1637 (Mich. July 23, 2015)	2015
MN	State v. Foreman	680 N.W.2d 536 (Minn. 2004)	State v. Foreman, 680 N.W.2d 536, 2004 Minn. LEXIS 314 (Minn. June 10, 2004)	2004
MN	State v. Grecinger	569 N.W.2d 189 (Minn. 1997)	State v. Grecinger, 569 N.W.2d 189, 1997 Minn. LEXIS 711 (Minn. Sept. 18, 1997)	1997
MN	State v. Plantin	682 N.W.2d 653 (Minn. Ct. App. 2004)	State v. Plantin, 682 N.W.2d 653, 2004 Minn. App. LEXIS 816 (Minn. Ct. App. July 13, 2004)	2004
MN	State v. Valentine	787 N.W.2d 630 (Minn. Ct. App. 2010)	State v. Valentine, 787 N.W.2d 630, 2010 Minn. App. LEXIS 129 (Minn. Ct. App. Aug. 24, 2010)	2010
MN	State v. Vance	685 N.W.2d 713 (Minn. Ct. App. 2004)	State v. Vance, 685 N.W.2d 713, 2004 Minn. App. LEXIS 997 (Minn. Ct. App. Aug. 31, 2004)	2004
MO	Francis v. State	183 W.S.3d 288 (Mo. Ct. App. 2005)	Francis v. State, 183 S.W.3d 288, 2005 Mo. App. LEXIS 1954 (Mo. Ct. App. Dec. 27, 2005)	2005
MO	State v. Edwards	60 S.W.3d 602 (Mo. Ct. App. 2001)	State v. Edwards, 60 S.W.3d 602, 2000 Mo. App. LEXIS 427 (Mo. Ct. App. May 29, 2001)	2001
MS	Ross v. State	16 So.3d 47 (Miss. Ct. App. 2009)	Ross v. State, 16 So. 3d 47, 2009 Miss. App. LEXIS 529 (Miss. Ct. App. Aug. 11, 2009)	2009
MT	State v. Ankeny	358 Mont. 32 (2010)	State v. Ankeny, 358 Mont. 32, 2010 MT 224, 243 P.3d 391, 2010 Mont. LEXIS 349 (Mont. Oct. 26, 2010)	2010

MT	State v. Bonamarte	351 Mont. 419 (2009)	State v. Bonamarte, 351 Mont. 419, 2009 MT 243, 213 P.3d 457, 2009 Mont. LEXIS 287 (Mont. July 21, 2009)	2009
MT	State v. Castle	295 Mont. 1 (1999)	State v. Castle, 295 Mont. 1, 1999 MT 141, 982 P.2d 1035, 1999 Mont. LEXIS 147, 56 Mont. St. Rep. 558 (Mont. June 15, 1999)	1999
MT	State v. Crider	375 Mont. 187 (2014)	State v. Crider, 328 P.3d 612, 2014 MT 139, 375 Mont. 187, 2014 Mont. LEXIS 298, 2014 WL 2210463 (Mont. May 28, 2014)	2014
MT	State v. Lotter	372 Mont. 445 (2013)	State v. Lotter, 372 Mont. 445, 2013 MT 336, 313 P.3d 148, 2013 Mont. LEXIS 459, 2013 WL 5989279 (Mont. Nov. 12, 2013)	2013
MT	State v. Stringer	271 Mont. 367 (1995)	State v. Stringer, 897 P.2d 1063, 1995 Mont. LEXIS 121, 271 Mont. 367, 52 Mont. St. Rep. 473 (Mont. June 14, 1995)	1995
NC	State v. Alvarado	2008 ND 203 (2008)	State v. Alvarado, 757 N.W.2d 570, 2008 ND 203, 2008 N.D. LEXIS 225 (N.D. Nov. 19, 2008)	2008
NC	State v. Grant	343 N.C. 289 (1996)	State v. Grant, 470 S.E.2d 1, 343 N.C. 289, 1996 N.C. LEXIS 256 (N.C. May 10, 1996)	1996
NC	State v. McCoy	174 N.C. App. 105 (2005)	State v. McCoy, 620 S.E.2d 863, 174 N.C. App. 105, 2005 N.C. App. LEXIS 2289 (N.C. Ct. App. Oct. 18, 2005)	2006
NC	State v. Owen	133 N.C. App. 543 (1999)	State v. Owen, 133 N.C. App. 543, 516 S.E.2d 159, 1999 N.C. App. LEXIS 620 (N.C. Ct. App. June 15, 1999)	1999
NC	State v. Wade	155 N.C. App. 1 (2002)	State v. Wade, 155 N.C. App. 1, 573 S.E.2d 643, 2002 N.C. App. LEXIS 1606 (N.C. Ct. App. 2002)	2002
ND	State v. Paul	2009 ND 120 (2009)	State v. Paul, 769 N.W.2d 416, 2009 ND 120, 2009 N.D. LEXIS 135 (N.D. July 9, 2009)	2009

NE	State v. Cox	21 Neb. App. 757 (2014)	State v. Cox, 21 Neb. App. 757, 842 N.W.2d 822, 2014 Neb. App. LEXIS 45, 2014 WL 521095 (Neb. Ct. App. 2014)	2014
NH	State v. Dow	168 N.H. 492 (2016)	State v. Dow, 131 A.3d 389, 168 N.H. 492, 2016 N.H. LEXIS 1 (N.H. Jan. 12, 2016)	2016
NH	State v. Searles	141 N.H. 224 (1996)	State v. Searles, 141 N.H. 224, 680 A.2d 612, 1996 N.H. LEXIS 78, 57 A.L.R.5th 819 (N.H. July 24, 1996)	1996
NJ	State v. B.H.	183 N.J. 171 (2005)	State v. B.H., 183 N.J. 171, 870 A.2d 273, 2005 N.J. LEXIS 311 (N.J. Apr. 13, 2005)	2005
NJ	State v. B.H.	364 N.J. Super. 171 (2003)	State v. B.H., 364 N.J. Super. 171, 834 A.2d 1063 (Super. Ct. App. Div. 2003)	2003
NJ	State v. Barone	288 N.J. Super. 102 (1996)	State v. Barone, 288 N.J. Super. 102, 671 A.2d 1096 (Super. Ct. App. Div. 1996)	1996
NJ	State v. Brennan	183 N.J. 202 (2005)	State v. Brennan, 183 N.J. 202, 870 A.2d 292, 2005 N.J. LEXIS 310 (N.J. Apr. 13, 2005)	2005
NJ	State v. Ellis	280 N.J. Super. 533 (1995)	State v. Ellis, 280 N.J. Super. 533, 656 A.2d 25, 1995 N.J. Super. LEXIS 133 (App.Div. Apr. 5, 1995)	1995
NJ	State v. Gartland	149 N.J. 456 (1997)	State v. Gartland, 149 N.J. 456, 694 A.2d 564, 1997 N.J. LEXIS 180 (N.J. June 19, 1997)	1997
NJ	State v. Hess	207 N.J. 123 (2011)	State v. Hess, 207 N.J. 123, 23 A.3d 373, 2011 N.J. LEXIS 746 (N.J. July 21, 2011)	2011
NJ	State v. Hines	303 N.J. Super. 311 (1997)	State v. Hines, 303 N.J. Super. 311, 696 A.2d 780, 1997 N.J. Super. LEXIS 341 (App.Div. July 24, 1997)	1997
NJ	State v. O'Carroll	385 N.J. Super. 211 (2006)	State v. O'Carroll, 385 N.J. Super. 211, 896 A.2d 1125, 2006 N.J. Super. LEXIS 133 (App.Div. May 4, 2006)	2006

NJ	State v. Tierney	356 N.J. Super. 468 (2003)	State v. Tierney, 356 N.J. Super. 468, 813 A.2d 560, 2003 N.J. Super. LEXIS 12 (App.Div. Jan. 10, 2003)	2003
NJ	State v. Townsend	186 N.J. 473 (2006)	State v. Townsend, 186 N.J. 473, 897 A.2d 316, 2006 N.J. LEXIS 644 (N.J. May 15, 2006)	2006
NJ	State v. Townsend	374 N.J. Super. 25 (2005)	State v. Townsend, 374 N.J. Super. 25, 863 A.2d 380, 2005 N.J. Super. LEXIS 3 (App.Div. Jan. 3, 2005)	2005
NM	State v. Andrade	124 N.M. 690 (1997)	State v. Andrade, 124 N.M. 690, 1998-NMCA-031, 954 P.2d 755, 1997 N.M. App. LEXIS 139 (N.M. Ct. App. Dec. 15, 1997)	1997
NM	State v. Romero	139 N.M. 386 (2006)	State v. Romero, 133 P.3d 842, 139 N.M. 386, 2006-NMCA-045, 2006 N.M. App. LEXIS 17 (N.M. Ct. App. Feb. 6, 2006)	2006
NM	State v. Vasquez	148 N.M. 202 (2010)	State v. Vasquez, 148 N.M. 202, 2010-NMCA-041, 232 P.3d 438, 2010 N.M. App. LEXIS 56 (N.M. Ct. App. Mar. 2, 2010)	2010
NV	Boykins v. State	116 Nev. 171 (2000)	Boykins v. State, 995 P.2d 474, 116 Nev. 171, 2000 Nev. LEXIS 17, 116 Nev. Adv. Rep. 17 (Nev. Feb. 4, 2000)	2000
NV	Meyer v. State	119 Nev. 554 (2003)	Meyer v. State, 119 Nev. 554, 80 P.3d 447, 2003 Nev. LEXIS 80, 119 Nev. Adv. Rep. 61 (Nev. Dec. 19, 2003)	2003
NV	Walker v. State	116 Nev. 442 (2000)	Walker v. State, 116 Nev. 442, 997 P.2d 803, 2000 Nev. LEXIS 54, 116 Nev. Adv. Rep. 49 (Nev. Apr. 6, 2000)	2000
NY	People v. Bradley	919 N.Y.S.2d 744 (2011)	People v Bradley, 83 A.D.3d 1444, 919 N.Y.S.2d 744, 2011 N.Y. App. Div. LEXIS 2516, 2011 NY Slip Op 2587 (N.Y. App. Div. 4th Dep't Apr. 1, 2011)	2011

NY	People v. Hartman	926 N.Y.S.2d 746 (2011)	People v Hartman, 86 A.D.3d 711, 926 N.Y.S.2d 746, 2011 N.Y. App. Div. LEXIS 5802, 2011 NY Slip Op 5896 (N.Y. App. Div. 3d Dep't July 14, 2011)	2011
NY	People v. Jackson	20 N.Y.S.3d 352 (2015)	People v Jackson, 133 A.D.3d 474, 20 N.Y.S.3d 352, 2015 N.Y. App. Div. LEXIS 8234, 2015 NY Slip Op 08130 (N.Y. App. Div. 1st Dep't Nov. 12, 2015)	2015
NY	People v. Levasseur	19 N.Y.S.3d 277 (2015)	People v Levasseur, 133 A.D.3d 411, 19 N.Y.S.3d 277, 2015 N.Y. App. Div. LEXIS 8139, 2015 NY Slip Op 08048 (N.Y. App. Div. 1st Dep't Nov. 5, 2015)	2015
NY	People v. Thomas	25 N.Y.S.3d 500 (2016)	People v Thomas, 136 A.D.3d 1390, 25 N.Y.S.3d 500, 2016 N.Y. App. Div. LEXIS 1093, 2016 NY Slip Op 01079 (N.Y. App. Div. 4th Dep't Feb. 11, 2016)	2016
NY	People v. Bryant	717 N.Y.S.2d 136 (2000)	People v. Bryant, 278 A.D.2d 7, 717 N.Y.S.2d 136, 2000 N.Y. App. Div. LEXIS 12648 (N.Y. App. Div. 1st Dep't Dec. 5, 2000)	2000
NY	People v. Byrd	855 N.Y.S.2d 505 (2008)	People v. Byrd, 51 A.D.3d 267, 855 N.Y.S.2d 505, 2008 N.Y. App. Div. LEXIS 3283, 2008 NY Slip Op 3334 (N.Y. App. Div. 1st Dep't Apr. 15, 2008)	2008
NY	People v. Dantze	725 N.Y.S.2d 54 (2001)	People v. Dantze, 725 N.Y.S.2d 54, 2001 N.Y. App. Div. LEXIS 4743, 283 A.D.2d 438 (N.Y. App. Div. 2d Dep't May 7, 2001)	2001
NY	People v. Ellis	650 N.Y.S.2d 503 (1996)	People v. Ellis, 170 Misc. 2d 945, 650 N.Y.S.2d 503, 1996 N.Y. Misc. LEXIS 420 (N.Y. Sup. Ct. Oct. 1, 1996)	1996
NY	People v. Franklin	772 N.Y.S.2d 825 (2004)	People v. Franklin, 5 A.D.3d 219, 772 N.Y.S.2d 825, 2004 N.Y. App. Div. LEXIS 2646 (N.Y. App. Div. 1st Dep't Mar. 16, 2004)	2004

NY	People v. Hartman	883 N.Y.S.2d 361 (2009)	People v. Hartman, 64 A.D.3d 1002, 883 N.Y.S.2d 361, 2009 N.Y. App. Div. LEXIS 5722, 2009 NY Slip Op 5886 (N.Y. App. Div. 3d Dep't July 16, 2009)	2009
NY	People v. Herrera	631 N.Y.S.2d 660 (1995)	People v. Herrera, 219 A.D.2d 511, 631 N.Y.S.2d 660, 1995 N.Y. App. Div. LEXIS 9520 (N.Y. App. Div. 1st Dep't Sept. 21, 1995)	1995
NY	People v. Hodgins	715 N.Y.S.2d 814 (2000)	People v. Hodgins, 715 N.Y.S.2d 814, 2000 N.Y. App. Div. LEXIS 11675, 277 A.D.2d 911 (N.Y. App. Div. 4th Dep't Nov. 13, 2000)	2000
NY	People v. Hryckewicz	634 N.Y.S.2d 297 (1995)	People v. Hryckewicz, 221 A.D.2d 990, 634 N.Y.S.2d 297, 1995 N.Y. App. Div. LEXIS 13487 (N.Y. App. Div. 4th Dep't Nov. 15, 1995)	1995
NY	People v. Jefferson	808 N.Y.S.2d 882 (2006)	People v. Jefferson, 26 A.D.3d 798, 808 N.Y.S.2d 882, 2006 N.Y. App. Div. LEXIS 1413, 2006 NY Slip Op 823 (N.Y. App. Div. 4th Dep't Feb. 3, 2006)	2006
NY	People v. Johnson	801 N.Y.S.2d 755 (2005)	People v. Johnson, 22 A.D.3d 600, 801 N.Y.S.2d 755, 2005 N.Y. App. Div. LEXIS 10798, 2005 NY Slip Op 7554 (N.Y. App. Div. 2d Dep't Oct. 11, 2005)	2005
NY	People v. Mahabub	956 N.Y.S.2d 811 (2012)	People v. Mahabub, 38 Misc. 3d 554, 956 N.Y.S.2d 811, 2012 N.Y. Misc. LEXIS 5451, 2012 NY Slip Op 22357 (N.Y. City Crim. Ct. Nov. 30, 2012)	2012
NY	People v. Malone	693 N.Y.S.2d 390 (1999)	People v. Malone, 180 Misc. 2d 744, 693 N.Y.S.2d 390, 1999 N.Y. Misc. LEXIS 211 (N.Y. City Crim. Ct. Feb. 22, 1999)	1999
NY	People v. Nelson	1871 N.Y.S.2d 535 (2008)	People v. Nelson, 57 A.D.3d 1441, 871 N.Y.S.2d 535, 2008 N.Y. App. Div. LEXIS 10066, 2008 NY Slip Op 10323 (N.Y. App. Div. 4th Dep't Dec. 31, 2008)	2008

NY	People v. Sanders	830 N.Y.S.2d 842 (2007)	People v. Sanders, 38 A.D.3d 941, 830 N.Y.S.2d 842, 2007 N.Y. App. Div. LEXIS 2254, 2007 NY Slip Op 1637 (N.Y. App. Div. 3d Dep't Mar. 1, 2007)	2007
NY	People v. Seeley	683 N.Y.S.2d 795 (1998)	People v. Seeley, 179 Misc. 2d 42, 683 N.Y.S.2d 795, 1998 N.Y. Misc. LEXIS 590 (N.Y. Sup. Ct. Oct. 30, 1998)	1998
NY	People v. Seeley	720 N.Y.S.2d 315 (2000)	People v. Seeley, 186 Misc. 2d 715, 720 N.Y.S.2d 315, 2000 N.Y. Misc. LEXIS 516 (N.Y. Sup. Ct. Nov. 22, 2000)	2000
NY	People v. Smith	779 N.Y.S.2d 853 (2004)	People v. Smith, 9 A.D.3d 745, 779 N.Y.S.2d 853, 2004 N.Y. App. Div. LEXIS 9889 (N.Y. App. Div. 3d Dep't July 22, 2004)	2004
NY	People v. Thompson	989 N.Y.S.2d 881 (2014)	People v. Thompson, 119 A.D.3d 966, 989 N.Y.S.2d 881, 2014 N.Y. App. Div. LEXIS 5485, 2014 NY Slip Op 05564, 2014 WL 3732540 (N.Y. App. Div. 2d Dep't July 30, 2014)	2014
NY	People v. White	780 N.Y.S.2d 727 (2004)	People v. White, 4 Misc. 3d 797, 780 N.Y.S.2d 727, 2004 N.Y. Misc. LEXIS 1118 (N.Y. Dist. Ct. July 19, 2004)	2004
NY	People v. Wilcox	788 N.Y.S.2d 503 (2005)	People v. Wilcox, 14 A.D.3d 941, 788 N.Y.S.2d 503, 2005 N.Y. App. Div. LEXIS 630 (N.Y. App. Div. 3d Dep't Jan. 27, 2005)	2005
OH	Socha v. Wilson	477 F.Supp.2d 809 (N.D. Ohio 2007)	Socha v. Wilson, 477 F. Supp. 2d 809, 2007 U.S. Dist. LEXIS 11836 (N.D. Ohio Feb. 20, 2007)	2007
OH	State v. Baughman	2014 Ohio 1821 (2014)	State v. Baughman, 2014-Ohio-1821, 2014 Ohio App. LEXIS 1780, 2014 WL 1759189 (Ohio Ct. App., Fairfield County Apr. 22, 2014)	2014
OH	State v. Caudill	2008 Ohio 1557 (2008)	State v. Caudill, 2008-Ohio-1557, 2008 Ohio App. LEXIS 1342, 2008 WL 852626 (Ohio Ct. App., Wood County Mar. 31,	2008

2008)

OH	State v. Cress	163 Ohio App. 3d 46 (2005)	State v. Cress, 836 N.E.2d 35, 163 Ohio App. 3d 46, 2005-Ohio-4620, 2005 Ohio App. LEXIS 4197 (Ohio Ct. App., Marion County Sept. 6, 2005)	2005
OH	State v. D'Agostino	2014 Ohio 551 (Ct. App. 2014)	State v. D'Agostino, 2014-Ohio-551, 2014 Ohio App. LEXIS 540, 2014 WL 605527 (Ohio Ct. App., Lorain County Feb. 18, 2014)	2014
OH	State v. Drew	2008 Ohio 2797 (Ct. App. 2008)	State v. Drew, 2008-Ohio-2797, 2008 Ohio App. LEXIS 2334 (Ohio Ct. App., Franklin County June 10, 2008)	2008
OH	State v. Engle	S74 Ohio St. 3d 525 (1996)	State v. Engle, 660 N.E.2d 450, 74 Ohio St. 3d 525, 1996 Ohio LEXIS 102, 1996-Ohio-179 (Ohio Feb. 14, 1996)	1996
OH	State v. Fry	125 Ohio St.3d (2010)	State v. Fry, 125 Ohio St. 3d 163, 2010-Ohio-1017, 926 N.E.2d 1239, 2010 Ohio LEXIS 726 (Ohio Mar. 23, 2010)	2010
OH	State v. Goff	128 Ohio St.3d 169 (2010)	State v. Goff, 128 Ohio St. 3d 169, 2010-Ohio-6317, 942 N.E.2d 1075, 2010 Ohio LEXIS 3291 (Ohio Dec. 30, 2010)	2010
OH	State v. Haines	112 Ohio St.3d 393 (2006)	State v. Haines, 112 Ohio St. 3d 393, 2006-Ohio-6711, 860 N.E.2d 91, 2006 Ohio LEXIS 3680 (Ohio Dec. 28, 2006)	2006
OH	State v. Harmon	2013 Ohio 2319 (Ct. App. 2013)	State v. Harmon, 2013-Ohio-2319, 2013 Ohio App. LEXIS 2247, 2013 WL 2457186 (Ohio Ct. App., Summit County June 5, 2013)	2013
OH	State v. Madison	2015 Ohio 4365 (Ct. App. 2015)	State v. Madison, 2015-Ohio-4365, 2015 Ohio App. LEXIS 4250, 2015 WL 6391100 (Ohio Ct. App., Cuyahoga County Oct. 22, 2015)	2015

OH	State v. Myers	2014 Ohio 3759 (Ct. App. 2014)	State v. Myers, 2014-Ohio-3759, 2014 Ohio App. LEXIS 3675 (Ohio Ct. App., Wood County Aug. 29, 2014)	2014
OH	State v. Renner	2013 Ohio 5463 (Ct. App. 2013)	State v. Renner, 2013-Ohio-5463, 2013 Ohio App. LEXIS 5708, 2013 WL 6576714 (Ohio Ct. App., Montgomery County Dec. 13, 2013)	2013
OH	State v. Rizer	2011 Ohio 5702 (Ct. App. 2011)	State v. Rizer, 2011-Ohio-5702, 2011 Ohio App. LEXIS 4673, 2011 WL 5299484 (Ohio Ct. App., Meigs County Oct. 27, 2011)	2011
OH	State v. Sallie	81 Ohio St.3d 637 (1998)	State v. Sallie, 81 Ohio St. 3d 673, 693 N.E.2d 267, 1998 Ohio LEXIS 1211, 1998-Ohio-343 (Ohio May 13, 1998)	1998
OH	State v. Sorah	2007 Ohio 5898 (Ct. App. 2007)	State v. Sorah, 2007-Ohio-5898, 2007 Ohio App. LEXIS 5179 (Ohio Ct. App., Clermont County Nov. 5, 2007)	2007
OH	State v. Thomas	77 Ohio St.3d 323 (1997)	State v. Thomas, 77 Ohio St. 3d 323, 673 N.E.2d 1339, 1997 Ohio LEXIS 25, 1997-Ohio-269, 67 A.L.R.5th 775 (Ohio Jan. 22, 1997)	1997
OK	Smith v. State	2006 OK CR 38 (2006)	Smith v. State, 144 P.3d 159, 2006 OK CR 38, 2006 Okla. Crim. App. LEXIS 39 (Okla. Crim. App. Sept. 15, 2006)	2006
OR	State v. Knight	160 Or. App. 395 (1999)	State v. Knight, 981 P.2d 819, 160 Ore. App. 395, 1999 Ore. App. LEXIS 729 (Or. Ct. App. May 12, 1999)	1999
OR	State v. Ogden	168 Ore. App. 249 (2000)	State v. Ogden, 6 P.3d 1110, 168 Ore. App. 249, 2000 Ore. App. LEXIS 969 (Or. Ct. App. June 7, 2000)	2000
OR	State v. Stevens	147 Ore. App. 592 (1997)	State v. Stevens, 147 Ore. App. 592, 938 P.2d 780, 1997 Ore. App. LEXIS 568 (Or. Ct. App. Apr. 30, 1997)	1997

OR	State v. Stevens	328 Ore. 116 (1998)	State v. Stevens, 328 Ore. 116, 970 P.2d 215, 1998 Ore. LEXIS 1129 (Or. Dec. 17, 1998)	1998
PA	Commonwealth v. Brennan	696 A.2d 1201 (Pa. Super. Ct. 1997)	Com. v. Brennan, 696 A.2d 1201 (Pa. Super. Ct. 1997)	1997
PA	Commonwealth v. Collazo	2015 Pa. Dist. & Cnty. Dec. LEXIS 797 (Pa. County Ct. 2015)	Commonwealth v. Collazo, 2015 Pa. Dist. & Cnty. Dec. LEXIS 797 (Pa. County Ct. Sept. 17, 2015)	2015
PA	Commonwealth v. Douglas	835 A.2d 742 (Pa. Super. Ct. 2003)	Commonwealth v. Douglas, 835 A.2d 742, 2003 PA Super 403, 2003 Pa. Super. LEXIS 3715 (Pa. Super. Ct. Oct. 28, 2003)	2003
PA	Commonwealth v. Everett	2016 Pa. Dist. & Cnty. Dec. LEXIS 13 (Pa. County Ct. 2016)	Commonwealth v. Everett, 2016 Pa. Dist. & Cnty. Dec. LEXIS 13 (Pa. County Ct. Mar. 7, 2016)	2016
PA	Commonwealth v. Riojas	2015 Pa. Dist. & Cnty. Dec. LEXIS 9066 (Pa. County Ct. 2015)	Commonwealth v. Riojas, 2015 Pa. Dist. & Cnty. Dec. LEXIS 9066 (Pa. County Ct. Jan. 2, 2015)	2015
PA	Commonwealth v. Walko	448 Pa. Super. 150 (1996)	Commonwealth v. Walko, 448 Pa. Super. 150, 670 A.2d 1153, 1996 Pa. Super. LEXIS 123 (Pa. Super. Ct. Jan. 30, 1996)	1996
RI	State v. Urena	899 A.2d 1281 (R.I. 2006)	State v. Urena, 899 A.2d 1281, 2006 R.I. LEXIS 110 (R.I. June 16, 2006)	2006
SC	State v. Butler	407 S.C. 376 (2014)	State v. Butler, 407 S.C. 376, 755 S.E.2d 457, 2014 S.C. LEXIS 75, 2014 WL 949624 (S.C. Mar. 12, 2014)	2014
SC	State v. Grubbs	353 S.C. 374 (2003)	State v. Grubbs, 353 S.C. 374, 577 S.E.2d 493, 2003 S.C. App. LEXIS 18 (S.C. Ct. App. Feb. 18, 2003)	2003
SC	State v. Hawes	399 S.C. 211 (2012)	State v. Hawes, 399 S.C. 211, 730 S.E.2d 904, 2012 S.C. App. LEXIS 201, 2012 WL 2913260 (S.C. Ct. App. July 18, 2012)	2011
SD	State v. Scott	2013 S.D. 31 (2013)	State v. Scott, 829 N.W.2d 458, 2013 SD 31, 2013 S.D. LEXIS 30, 2013 WL 1342219 (S.D. Apr. 3, 2013)	2013

SD	State v. Weaver	2002 SD 76 (2002)	State v. Weaver, 648 N.W.2d 355, 2002 SD 76, 2002 S.D. LEXIS 91 (S.D. July 2, 2002)	2002
TN	State v. Gurley	919 S.W.2d 635 (Tenn. Crim. App. 1995)	State v. Gurley, 919 S.W.2d 635, 1995 Tenn. Crim. App. LEXIS 784 (Tenn. Crim. App. Sept. 20, 1995)	1995
TX	Brewer v. State	370 S.W.3d 471 (Tex. App. 2012)	Brewer v. State, 370 S.W.3d 471 (Tex. App. 2012)	2012
TX	Dixon v. State	244 S.W.3d 472 (Tex. App. 2007)	Dixon v. State, 244 S.W.3d 472 (Tex. App. 2007)	2007
TX	Fowler v. State	958 S.W.2d 853 (Tex. App. 1997)	Fowler v. State, 958 S.W.2d 853 (Tex. App. 1997)	1997
TX	Harris v. State	133 S.W.3d 760 (Tex. App. 2004)	Harris v. State, 133 S.W.3d 760 (Tex. App. 2004)	2004
TX	Lane v. State	957 S.W.2d 584 (Tex. App. Dallas 1997)	Lane v. State, 957 S.W.2d 584, 1997 Tex. App. LEXIS 4608 (Tex. App. Dallas Aug. 28, 1997)	1997
TX	Maestas v. State	963 S.W.2d 151 (Tex. App. 1998)	Maestas v. State, 963 S.W.2d 151, 1998 Tex. App. LEXIS 917 (Tex. App. Corpus Christi Feb. 12, 1998)	1998
TX	Osby v. State	939 S.W.2d 787 (Tex. 1997)	Osby v. State, 939 S.W.2d 787, 1997 Tex. App. LEXIS 782 (Tex. App. Fort Worth Feb. 13, 1997)	1997
TX	State v. Osby	939 S.W.2d 787 (Tex. App. 1997)	Osby v. State, 939 S.W.2d 787, 1997 Tex. App. LEXIS 782 (Tex. App. Fort Worth Feb. 13, 1997)	1997
TX	Parson v. State	193 S.W.3d 116 (Tex. 2006)	Parson v. State, 193 S.W.3d 116, 2006 Tex. App. LEXIS 1901 (Tex. App. Texarkana Mar. 10, 2006)	2006
TX	Richardson v. State	906 S.W.2d 646 (Tex. App. 1995)	Richardson v. State, 906 S.W.2d 646, 1995 Tex. App. LEXIS 2114 (Tex. App. Fort Worth Aug. 31, 1995)	1995
TX	Salinas v. State	426 S.W.3d 318 (214)	Salinas v. State, 426 S.W.3d 318, 321 (Tex. App. 2014), petition for discretionary review granted (Sept. 17, 2014), rev'd, 464 S.W.3d 363 (Tex. Crim. App. 2015)	2014

TX	Schweinle v. State	893 S.W.2d 708 (Tx. App. 1995)	Schweinle v. State, 893 S.W.2d 708, 1995 Tex. App. LEXIS 253 (Tex. App. Texarkana Feb. 14, 1995)	1995
TX	Schweinle v. State	915 S.W.2d 17 (Tex. Crim. App. 1996)	Schweinle v. State, 915 S.W.2d 17, 1996 Tex. Crim. App. LEXIS 12 (Tex. Crim. App. Feb. 7, 1996)	1996
TX	Smith v. State	5 S.W.3d 673 (Tex. Crim. App. 1999)	Smith v. State, 5 S.W.3d 673, 1999 Tex. Crim. App. LEXIS 79 (Tex. Crim. App. June 23, 1999)	1999
TX	Swails v. State	986 S.W.2d 41 (Tex. App. 1999)	Swails v. State, 986 S.W.2d 41, 1999 Tex. App. LEXIS 23 (Tex. App. San Antonio Jan. 6, 1999)	1999
TX	Wright v. State	374 S.W.3d 564 (Tex. App. 2012)	Wright v. State, 374 S.W.3d 564 (Tex. App. 2012)	2012
US	Earl v. United States	932 A2d 1122 (D.C. Cir. 2007)	Earl v. United States, 932 A.2d 1122, 2007 D.C. App. LEXIS 844 (D.C. Sept. 20, 2007)	2007
US	Johnson v. United States	860 F. Supp. 2d 663 (N.D. Iowa 2012)	Johnson v. United States, 860 F. Supp. 2d 663, 2012 U.S. Dist. LEXIS 38752, 82 Fed. R. Serv. 3d (Callaghan) 128 (N.D. Iowa Mar. 22, 2012)	2012
US	Nixon v. United States	728 A.2d 582 (D.C. 1999)	Nixon v. United States, 728 A.2d 582, 1999 D.C. App. LEXIS 54 (D.C. Mar. 11, 1999)	1999
US	Nixon v. United States	736 A.2d 1031 (D.C. 1999)	Nixon v. United States, 736 A.2d 1031, 1999 D.C. App. LEXIS 204 (D.C. Sept. 2, 1999)	1999
US	United States v. Bertling	370 F.3d 818 (8th Cir. 2004)	United States v. Bertling, 370 F.3d 818, 2004 U.S. App. LEXIS 11190, 64 Fed. R. Evid. Serv. (Callaghan) 569	2004
US	United States v. Brown	891 F. Supp. 1501 (D. Kan. 1995)	United States v. Brown, 891 F. Supp. 1501, 1995 U.S. Dist. LEXIS 9412 (D. Kan. June 1, 1995)	1995
US	United States v. Ceballos	593 F. Supp. 2d 1054 (S.D. Iowa 2009)	United States v. Ceballos, 593 F. Supp. 2d 1054, 2009 U.S. Dist. LEXIS 3637 (S.D. Iowa Jan. 16, 2009)	2009

US	United States v. Dixon	413 F.3d 520 (5th Cir. Tex. 2005)	United States v. Dixon, 413 F.3d 520, 2005 U.S. App. LEXIS 11773, 67 Fed. R. Evid. Serv. (Callaghan) 630 (5th Cir. Tex. June 20, 2005)	2005
US	United States v. Faulls	821 F.3d 502 (4th Cir. 2016)	United States v. Faulls, 821 F.3d 502, 2016 U.S. App. LEXIS 8325, 100 Fed. R. Evid. Serv. (Callaghan) 389 (4th Cir. Va. May 5, 2016)	2016
US	United States v. Kenyon	481 F.3d 1054 (8th Cir. 2007)	United States v. Kenyon, 481 F.3d 1054, 2007 U.S. App. LEXIS 8175, 73 Fed. R. Evid. Serv. (Callaghan) 133	2007
US	United States v. Marenghi	893 F. Supp. 85 (D. Me. 1995)	United States v. Marenghi, 893 F. Supp. 85, 1995 U.S. Dist. LEXIS 9798 (D. Me. June 26, 1995)	1995
US	United States v. Munguia	704 F.3d 596 (9th Cir. Cal. 2012)	United States v. Munguia, 704 F.3d 596, 2012 U.S. App. LEXIS 24294, 2012 WL 5937544 (9th Cir. Cal. Nov. 27, 2012)	2012
US	United States v. Munguia	704 F.3d 596 (9th Cir. Cal. 2012)	United States v. Munguia, 704 F.3d 596, 2012 U.S. App. LEXIS 24294, 2012 WL 5937544 (9th Cir. Cal. Nov. 27, 2012)	2012
US	United States v. Nattier	127 F.3d 655 (8th Cir. 1997)	United States v. Nattier, 127 F.3d 655, 1997 U.S. App. LEXIS 27116	1997
US	United States v. Navedo-Ramirez	781 F.3d 563 (1st. Cir. 2015)	United States v. Navedo-Ramirez, 781 F.3d 563, 2015 U.S. App. LEXIS 5106, 97 Fed. R. Evid. Serv. (Callaghan) 26 (1st Cir. P.R. Mar. 30, 2015)	2015
US	United States v. Nwoye	2014 U.S. Dist. LEXIS 117714 (D.D.C. 2014)	United States v. Nwoye, 2014 U.S. Dist. LEXIS 117714 (D.D.C. Aug. 25, 2014)	2014
US	United States v. Nwoye	824 F.3d 1129 (D.C. Cir. 2016)	United States v. Nwoye, 824 F.3d 1129, 2016 U.S. App. LEXIS 10519 (D.C. Cir. June 10, 2016)	2016

US	United States v. Ramos-Oseguera	120 F.3d 1028 (1997)	United States v. Ramos-Oseguera, 120 F.3d 1028, 1997 U.S. App. LEXIS 19738, 97 Cal. Daily Op. Service 6013, 97 Daily Journal DAR 9887 (9th Cir. Cal. July 30, 1997)	1997
US	United States v. Ramos-Oseguera	900 F. Supp. 1258 (N.D. Cal. 1995)	United States v. Ramos-Oseguera, 900 F. Supp. 1258, 1995 U.S. Dist. LEXIS 13805, 95 Daily Journal DAR 15635 (N.D. Cal. June 20, 1995)	1995
US	United States v. Rouse	168 F.3d 1371 (1999)	United States v. Rouse, 168 F.3d 1371, 1999 U.S. App. LEXIS 4845, 335 U.S. App. D.C. 71 (D.C. Cir. Mar. 23, 1999)	1999
US	United States v. Sammoury	74 F.3d 1341 (D.C. Cir. 1996)	United States v. Sammoury, 74 F.3d 1341, 1996 U.S. App. LEXIS 1553, 316 U.S. App. D.C. 80	1996
US	United States v. Weis	891 F.Supp.2d 1007 (N.D. Ill. 2012)	United States v. Weis, 891 F. Supp. 2d 1007, 2012 U.S. Dist. LEXIS 112610, 2012 WL 3334502 (N.D. Ill. Aug. 9, 2012)	2012
US	United States v. Wysong	516 F.3d 666 (8th Cir. Mo. 2008)	United States v. Wysong, 516 F.3d 666, 2008 U.S. App. LEXIS 2491 (8th Cir. Mo. Feb. 5, 2008)	2008
US	United States v. Young	316 F.3d 649 (7th Cir. Ill. 2002)	United States v. Young, 316 F.3d 649, 2002 U.S. App. LEXIS 24569 (7th Cir. Ill. Dec. 4, 2002)	2002
US (AL)	Tullis v. Barrett	2016 U.S. Dist. LEXIS 68618 (M.D. Ala. 2016)	Tullis v. Barrett, 2016 U.S. Dist. LEXIS 68618 (M.D. Ala. Mar. 11, 2016)	2016
US (CA)	DePetris v. Kuykendall	239 F.3d 1057 (9th Cir. 2001)	Depetris v. Kuykendall, 239 F.3d 1057, 2001 U.S. App. LEXIS 1062, 2001 Cal. Daily Op. Service 743, 2001 Daily Journal DAR 977 (9th Cir. Cal. Jan. 26, 2001)	2001
US (CA)	Dillard v. Roe	244 F.3d 758 (9th Cir. 2001)	Dillard v. Roe, 244 F.3d 758, 2001 U.S. App. LEXIS 9730 (9th Cir. Cal. Mar. 27, 2001)	2001
US (CA)	Flores v. Figueroa	2016 U.S. Dist. LEXIS 115900 (C.D. Cal. 2016)	Flores v. Figueroa, 2016 U.S. Dist. LEXIS 115900 (C.D. Cal. July 19, 2016)	2016

US (CA)	Gadlin v. Cate	U.S. Dist. LEXIS 106010 (C.D. Cal. Mar. 25, 2014)	Gadlin v. Cate, 2014 U.S. Dist. LEXIS 106010 (C.D. Cal. Mar. 25, 2014)	2014
US (CA)	Jensen v. Hernandez	864 F. Supp. 2d 869 (E.D. Cal. 2012)	Jensen v. Hernandez, 864 F. Supp. 2d 869, 2012 U.S. Dist. LEXIS 45673 (E.D. Cal. Mar. 30, 2012)	2012
US (CA)	Kovacich v. Spearman	2015 U.S. Dist. LEXIS 108233 (E.D. Cal. 2015)	Kovacich v. Spearman, 2015 U.S. Dist. LEXIS 108233, 2015 WL 4910564 (E.D. Cal. Aug. 14, 2015)	2015
US (CA)	McElvain v. Lewis	283 F.Supp.2d 1104 (C.D. Cal. 2003)	McElvain v. Lewis, 283 F. Supp. 2d 1104, 2003 U.S. Dist. LEXIS 21701 (C.D. Cal. Sept. 12, 2003)	2003
US (CA)	McNeil v. Middleton	344 F.3d 988 (9th Cir. 2003)	McNeil v. Middleton, 344 F.3d 988 (9th Cir. 2003)	2003
US (CA)	Menendez v. Terhune	422 F.3d 1012 (9th Cir. 2005)	Menendez v. Terhune, 422 F.3d 1012, 2005 U.S. App. LEXIS 19263 (9th Cir. Cal. Sept. 7, 2005)	2005
US (CA)	Quintero v. Long	2015 U.S. Dist. LEXIS 153453 (E.D. Cal. 2015)	Quintero v. Long, 2015 U.S. Dist. LEXIS 153453, 2015 WL 7017004 (E.D. Cal. Nov. 12, 2015)	2015
US (CA)	Shine v. Soto	2016 U.S. Dist. LEXIS 17159 (E.D. Cal. 2016)	Shine v. Soto, 2016 U.S. Dist. LEXIS 17159 (E.D. Cal. Feb. 11, 2016)	2016
US (CO)	McLuckie v. Abbott	337 F.3d 1193 (10th Cir. 2003)	McLuckie v. Abbott, 337 F.3d 1193, 2003 U.S. App. LEXIS 15240 (10th Cir. Colo. July 30, 2003)	2003
US (CO)	Smith v. Archuleta	2015 U.S. Dist. LEXIS 160990 (D. Colo. 2015)	Smith v. Archuleta, 2015 U.S. Dist. LEXIS 160990 (D. Colo. Dec. 1, 2015)	2015
US (CO)	Smith v. Archuleta	2015 U.S. Dist. LEXIS 25495 (D. Colo. 2015)	Smith v. Archuleta, 2015 U.S. Dist. LEXIS 25495, 2015 WL 996190 (D. Colo. Mar. 3, 2015)	2015
US (CO)	Wallin v. Miller	2015 U.S. Dist. LEXIS 94869 (D. Colo. 2015)	Wallin v. Miller, 2015 U.S. Dist. LEXIS 94869 (D. Colo. July 21, 2015)	2015
US (FL)	Michael v. Crosby	430 F.3d 1310 (11th Cir. 2005)	Michael v. Crosby, 430 F.3d 1310, 2005 U.S. App. LEXIS 25038, 19 Fla. L. Weekly Fed. C 34 (11th Cir. Fla. Nov. 21, 2005)	2005

US (MI)	Dando v. Yukins	461 F.3d 791 (6th Cir. 2006)	Dando v. Yukins, 461 F.3d 791, 2006 U.S. App. LEXIS 22220, 2006 FED App. 0329P (6th Cir.) (6th Cir. Mich. Aug. 30, 2006)	2006
US (MI)	Gansz v. Jones	418 F. Supp. 2d 923 (E.D. Mich. 2006)	Gansz v. Jones, 418 F. Supp. 2d 923, 2006 U.S. Dist. LEXIS 11093 (E.D. Mich. Mar. 2, 2006)	2006
US (MI)	Heiss v. Berghuis	2015 U.S. Dist. LEXIS 26866 (W.D. Mich. 2015)	Heiss v. Berghuis, 2015 U.S. Dist. LEXIS 26866 (W.D. Mich. Mar. 5, 2015)	2015
US (MI)	Shimel v. Warren	2015 U.S. Dist. LEXIS 150817 (E.D. Mich. 2015)	Shimel v. Warren, 2015 U.S. Dist. LEXIS 150817 (E.D. Mich. Nov. 6, 2015)	2015
US (MI)	Varner v. Stovall	500 F.3d 491 (6th Cir. 2007)	Varner v. Stovall, 500 F.3d 491, 2007 U.S. App. LEXIS 21715, 2007 FED App. 0374P (6th Cir.) (6th Cir. Mich. Sept. 11, 2007)	2007
US (MN)	Hank v. Beltz	2014 U.S. Dist. LEXIS 129439 (D. Minn. 2014)	Hanks v. Beltz, 2014 U.S. Dist. LEXIS 129439 (D. Minn. July 28, 2014)	2014
US (MO)	Copeland v. Washington	232 F.3d 969 (8th Cir. 2000)	Copeland v. Washington, 232 F.3d 969, 2000 U.S. App. LEXIS 29971 (8th Cir. Mo. Nov. 30, 2000)	2000
US (MO)	Feltrop v. Delo	46 F.3d 766 (8th Cir. 1995)	Feltrop v. Delo, 46 F.3d 766, 1995 U.S. App. LEXIS 1526 (8th Cir. Mo. Jan. 27, 1995)	1995
US (MO)	Francis v. Miller	557 F.3d 894 (8th Cir. 2009)	Francis v. Miller, 557 F.3d 894, 2009 U.S. App. LEXIS 4802 (8th Cir. Mo. Mar. 6, 2009)	2009
US (MO)	Lannert v. Jones	321 F.3d 747 (8th Cir. 2003)	Lannert v. Jones, 321 F.3d 747, 2003 U.S. App. LEXIS 4209, 60 Fed. R. Evid. Serv. (Callaghan) 1339 (8th Cir. Mo. Mar. 11, 2003)	2003
US (MO)	McLaughlin v. Steele	173 F. Supp. 3d 855 (E.D. Mo. 2016)	McLaughlin v. Steele, 173 F. Supp. 3d 855, 2016 U.S. Dist. LEXIS 36643 (E.D. Mo. Mar. 22, 2016)	2016
US (ND)	Lacey v. Daniels	2016 U.S. Dist. LEXIS 40517 (N.D. Ala. 2016)	Lacey v. Daniels, 2016 U.S. Dist. LEXIS 40517, 2016 WL 1180063 (N.D. Ala. Mar. 28, 2016)	2016

US (ND)	Laurel v. Muniz	2016 U.S. Dist. LEXIS 74951 (N.D. Cal. 2016)	Laurel v. Muniz, 2016 U.S. Dist. LEXIS 74951 (N.D. Cal. June 7, 2016)	2016
US (NV)	Dewey v. Myles	2015 U.S. Dist. LEXIS 146901 (D. Nev. 2015)	Dewey v. Myles, 2015 U.S. Dist. LEXIS 146901, 2015 WL 6561692 (D. Nev. Oct. 28, 2015)	2015
US (NY)	Wertman v. Annucci	2016 U.S. Dist. LEXIS 65280 (N.D.N.Y. 2016)	Wertman v. Annucci, 2016 U.S. Dist. LEXIS 65280 (N.D.N.Y. May 18, 2016)	2016
US (OH)	Messenger v. Robinson	2015 U.S. Dist. LEXIS 52177 (N.D. Ohio 2015)	Messenger v. Robinson, 2015 U.S. Dist. LEXIS 52177 (N.D. Ohio Feb. 12, 2015)	2015
US (OK)	Paine v. Massie	339 F.3d 1194 (10th Cir. 2003)	Paine v. Massie, 339 F.3d 1194, 2003 U.S. App. LEXIS 16500, 62 Fed. R. Evid. Serv. (Callaghan) 1 (10th Cir. Okla. Aug. 11, 2003)	2003
US (SC)	Vaughn v. Rawski	2015 U.S. Dist. LEXIS 83582 (D.S.C. 2015)	Vaughn v. Rawski, 2015 U.S. Dist. LEXIS 83582 (D.S.C. May 20, 2015)	2015
US (VI)	Virgin Islands v. Donastorg	54 V.I. 22 (2010)	People of the Virgin Islands v. Donastorg, 2010 V.I. LEXIS 53, 54 V.I. 22, 83 Fed. R. Evid. Serv. (Callaghan) 434, 2010 WL 3063765 (V.I. Super. Ct. Aug. 4, 2010)	2010
US (WI)	Long v. Krenke	138 F.3d 1160 (7th Cir. 1998)	Long v. Krenke, 138 F.3d 1160, 1998 U.S. App. LEXIS 4446 (7th Cir. Wis. Mar. 12, 1998)	1998
US (WI)	Morgan v. Krenke	72 F. Supp. 2d 980 (E.D. Wis. 1999)	Morgan v. Krenke, 72 F. Supp. 2d 980, 1999 U.S. Dist. LEXIS 17736 (E.D. Wis. Nov. 9, 1999)	1999
UT	State v. Lucero	2014 UT 15 (2014)	State v. Lucero, 328 P.3d 841, 2014 UT 15, 2014 Utah LEXIS 56 (Utah May 13, 2014)	2014
UT	State v. Valdez	2004 UT App 214 (2004)	State v. Valdez, 2004 UT App 214, 95 P.3d 291, 2004 Utah App. LEXIS 65, 502 Utah Adv. Rep. 38 (Utah Ct. App. June 24, 2004)	2004
UT	State v. Valdez	2006 UT 39 (2006)	State v. Valdez, 2006 UT 39, 140 P.3d 1219, 2006 Utah LEXIS 128, 556 Utah Adv. Rep. 37 (Utah July 21, 2006)	2006

VA	Clagett v. Commonwealth	252 Va. 79 (1996)	Clagett v. Commonwealth, 252 Va. 79, 472 S.E.2d 263, 1996 Va. LEXIS 71 (Va. June 7, 1996)	1996
VA	Conley v. Commonwealth	273 Va. 554 (2007)	Conley v. Commonwealth, 273 Va. 554, 643 S.E.2d 131, 2007 Va. LEXIS 44 (Va. Apr. 20, 2007)	2007
VA	Taylor v. Commonwealth	21 Va. App. 557 (1996)	Taylor v. Commonwealth, 21 Va. App. 557, 466 S.E.2d 118, 1996 Va. App. LEXIS 45 (Va. Ct. App. 1996)	1996
VA	Ward v. Commonwealth	264 Va. 648 (2002)	Ward v. Commonwealth, 570 S.E.2d 827, 264 Va. 648, 2002 Va. LEXIS 162 (Va. Nov. 1, 2002)	2002
VT	State v. Charbonneau	186 Vt. 583 (2009)	State v. Charbonneau, 980 A.2d 279, 2009 VT 86, 186 Vt. 583, 2009 Vt. LEXIS 105 (Vt. Aug. 19, 2009)	2009
VT	State v. Connor	189 Vt. 587 (2011)	State v. Connor, 189 Vt. 587, 2011 VT 23, 19 A.3d 146, 2011 Vt. LEXIS 28 (Vt. Feb. 22, 2011)	2011
VT	State v. Laprade	184 Vt. 251 (2008)	State v. Laprade, 184 Vt. 251, 2008 VT 83, 958 A.2d 1179, 2008 Vt. LEXIS 78 (Vt. June 13, 2008)	2008
VT	State v. Swift	176 Vt. 299 (2004)	State v. Swift, 2004 VT 299 (Vt. Feb. 27, 2004)	2004
WA	State v. Cook	131 Wn. App. 845 (2006)	State v. Cook, 131 Wn. App. 845, 129 P.3d 834, 2006 Wash. App. LEXIS 312 (Wash. Ct. App. Mar. 7, 2006)	2006
WA	State v. Green	182 Wn. App. 133 (2014)	State v. Green, 182 Wn. App. 133, 328 P.3d 988, 2014 Wash. App. LEXIS 1547, 2014 WL 2866555 (Wash. Ct. App. June 24, 2014)	2014
WA	State v. Hendrickson	81 Wn. App. 397 (1996)	State v. Hendrickson, 81 Wn. App. 397, 914 P.2d 1194, 1996 Wash. App. LEXIS 202 (Wash. Ct. App. Apr. 8, 1996)	1996
WA	State v. Williams	132 Wash. 2d 248 (1997)	State v. Williams, 132 Wn.2d 248, 937 P.2d 1052, 1997 Wash. LEXIS 329 (Wash. June 5, 1997)	1997

WA	State v. Williamson	100 Wn. App. 248 (2000)	State v. Williamson, 100 Wn. App. 248, 996 P.2d 1097, 2000 Wash. App. LEXIS 586 (Wash. Ct. App. Apr. 11, 2000)	2000
WI	State v. Mayer	220 Wis. 2d 419 (1998)	State v. Mayer, 583 N.W.2d 430, 220 Wis. 2d 419, 1998 Wisc. App. LEXIS 647 (Wis. Ct. App. June 2, 1998)	1998
WI	State v. Peters	258 Wis. 2d 148 (2002)	State v. Peters, 653 N.W.2d 300, 2002 WI App 243, 258 Wis. 2d 148, 2002 Wisc. App. LEXIS 1022 (Wis. Ct. App. Sept. 18, 2002)	2002
WI	State v. Schaller	199 Wis. 2d 23 (Wisc. App. 1995)	State v. Schaller, 544 N.W.2d 247, 199 Wis. 2d 23, 1995 Wisc. App. LEXIS 1554	1995
WV	State v. Dennis	216 W. Va. 331 (2004)	State v. Dennis, 607 S.E.2d 437, 216 W. Va. 331, 2004 W. Va. LEXIS 203 (W. Va. Dec. 1, 2004)	2004
WV	State v. Harden	223 W. Va. 796 (2009)	State v. Harden, 679 S.E.2d 628, 223 W. Va. 796, 2009 W. Va. LEXIS 53 (W. Va. June 4, 2009)	2009
WV	State v. Riley	201 W. Va. 708 (1997)	State v. Riley, 500 S.E.2d 524, 201 W. Va. 708, 1997 W. Va. LEXIS 288 (W. Va. Dec. 16, 1997)	1997
WV	State v. Smith	198 W. Va. 441 (1996)	State v. Smith, 481 S.E.2d 747, 198 W. Va. 441, 1996 W. Va. LEXIS 222 (W. Va. Dec. 13, 1996)	1996
WV	State v. Whittaker	221 W.Va. 117 (2007)	State v. Whittaker, 221 W. Va. 117, 650 S.E.2d 216, 2007 W. Va. LEXIS 16 (W. Va. Apr. 5, 2007)	2007
WV	State v. Wyatt	198 W.Va. 530 (1996)	State v. Wyatt, 198 W. Va. 530, 482 S.E.2d 147, 1996 W. Va. LEXIS 235 (W. Va. Dec. 12, 1996)	1996
WY	Cazier v. State	148 P.3d 23 (Wyo. 2006)	Cazier v. State, 148 P.3d 23, 2006 WY 153, 2006 Wyo. LEXIS 168 (Wyo. Dec. 15, 2006)	2006
WY	Dean v. State	2008 WY 124 (2008)	Dean v. State, 194 P.3d 299, 2008 WY 124, 2008 Wyo. LEXIS 127 (Wyo. Oct. 10, 2008)	2008

WY	Duran v. State	990 P.2d 1005 (Wyo. 1999)	Duran v. State, 990 P.2d 1005, 1999 Wyo. LEXIS 170 (Wyo. Nov. 19, 1999)	1999
WY	Kenyon v. State	96 P.3d 1016 (Wyo. 2004)	Kenyon v. State, 96 P.3d 1016, 2004 Wyo. LEXIS 128, 2004 WY 100 (Wyo. Aug. 27, 2004)	2004
WY	Ryan v. State	988 P.2d 46 (Wyo. 1999)	Ryan v. State, 988 P.2d 46, 1999 Wyo. LEXIS 153 (Wyo. Oct. 8, 1999)	1999
WY	Skinner v. State	2001 WY 102 (2001)	Skinner v. State, 33 P.3d 758, 2001 WY 102, 2001 Wyo. LEXIS 124 (Wyo. Oct. 30, 2001)	2001
WY	Thomas v. State	2006 WY 34 (2006)	Thomas v. State, 131 P.3d 348, 2006 WY 34, 2006 Wyo. LEXIS 37 (Wyo. Mar. 22, 2006)	2006
WY	Trujillo v. State	953 P.2d 1182 (Wyo. 1998)	Trujillo v. State, 953 P.2d 1182, 1998 Wyo. LEXIS 14 (Wyo. Feb. 12, 1998)	1998
WY	Trusky v. State	7 P.3d 5 (Wyo. 2000)	Trusky v. State, 7 P.3d 5, 2000 Wyo. LEXIS 130 (Wyo. May 26, 2000)	2000
WY	Witt v. State	892 P.2d 132 (Wyo. 1995)	Witt v. State, 892 P.2d 132, 1995 Wyo. LEXIS 49 (Wyo. Mar. 22, 1995)	1995