

Note. The following stimulus trial was developed by: Kassir, S., & Sommers, S. (1997). Inadmissible testimony, instructions to disregard, and the jury: Substantive versus procedural considerations. Personality and Social Psychology Bulletin, 23, 1046-1054

New York v. Givens

1. What follows is a summary of trial proceedings in the case of New York v. Bradley Givens. The defendant was charged with two counts of Murder in the First Degree.
2. In his opening statement, the prosecutor claimed the evidence will show that the Brad Givens strangled his wife to death and stabbed her neighbor, Scott Maddox. Givens denies involvement in the murders, but the evidence will prove that he had the motive, means, and opportunity. Givens went crazy when his wife, Marylou, asked for a separation, leaving him to rent an apartment. Obsessed and suspicious that she was having an affair, he hired a private investigator to follow her and was frustrated when nothing turned up. Givens was in a "fragile" and "explosive" emotional state.
3. Continuing his opening statement, the prosecutor outlined his theory of the case. On the night of the murder, Givens came home and found Scott Maddox, a neighbor, with Marylou. He flew into a fit of rage and stabbed Maddox repeatedly in the chest. Marylou may have tried to stop the attack, but Givens strangled her. He then fled, disposed of his knife and called a friend for help. Realizing that he was seen running from the house, and that his fingerprints were all over the place, Givens came up with a story -- that Maddox and his wife were already dead when he arrived.
4. The defense attorney opened by claiming that all the evidence is purely circumstantial. After all, Givens never confessed, no murder weapon was found, and nobody saw what happened. The defense attorney argued that the State's assessment of Givens's explosive emotional state was exaggerated. Givens admitted he was jealous, but the evidence will show that he was in control of his emotions that night and was trying to rebuild his life.
5. Continuing his opening statement, the defense explained that Givens went home that night to get some personal belongings. When he arrived, he found the victims dead. He checked them and then tried to revive his wife. In shock, Givens ran out of the house. After a few minutes, he managed to compose himself. He called the police and waited for them to arrive. A man is not guilty of murder simply because he was jealous. Once all the facts are in, it will be clear that the prosecution has failed to prove its case.
6. The first witness for the prosecution was David Madden, the private investigator Givens had hired. Madden said that Givens thought his wife was having an affair, but that he found no proof of it. Givens had paid him three thousand dollars and seemed frustrated by the result. He pulled Madden off the case four days before the murder "even though I'm sure she's screwing around". The defense lawyer objected to this last remark because it was hearsay. However, the judge overruled the objection.

7. On cross examination, Madden said he was surprised he wasn't let go sooner than he was. He described Givens as a cool-headed guy who still loved his wife. The prosecuting attorney objected to this characterization as just an opinion. The judge sustained the objection, so Madden restated his testimony: "Givens acted like he loved his wife".

8. The next witness was Ed Guiliano, one of two police officers to meet Givens at the house. Guiliano met Givens outside at 8:40 pm and then went in to inspect the bloody crime scene. Guiliano described how he found the bodies, fully clothed, and on the floor of the kitchen. He immediately secured the area while a forensic examiner took photographs. There was no evidence of a forced entry and there was nothing missing from the house. Guiliano arrested Givens, read him his rights, and took him in for questioning.

9a. On cross-examination, Guiliano said that no weapon was ever recovered and described the defendant as deeply upset over his wife's death. When asked why Givens was charged without any hard evidence, Guiliano said that his story just didn't make sense, even before they knew of his marital problems. (baseline control)

9b. On cross-examination, Guiliano said that no weapon was ever recovered and described the defendant as deeply upset over his wife's death. When asked why Givens was charged without any hard evidence, Guiliano revealed that a wiretap from an unrelated case recorded Givens's phone call to a friend minutes after he fled the scene. In this recorded conversation, he can be heard saying "I killed Marylou and some bastard she was with... God, I don't, yeah, I ditched the blade". (inadmissible evidence)

10a. The defense attorney objected. Citing prior court rulings, he argued that the wiretapped conversation should not be allowed into evidence. However, the judge overruled the objection and admitted the telephone recording into the record. He instructed the jury that this was a proper form of evidence. The defense had no further questions for the witness. (ruled admissible)

10b. The defense attorney objected. He argued that the wiretapped conversation was not supposed to be allowed into evidence because it was obtained without a proper warrant. The judge agreed and ruled that the telephone recording was not admissible. The judge then struck this statement from the record and instructed the jury to disregard it. He explained that to ensure a defendant's right to a fair trial, a jury should not consider evidence that was not legally obtained. (ruled inadmissible, due process)

10c. The defense attorney objected. He argued that the wiretapped conversation was not supposed to be allowed into evidence because it was barely audible and impossible to make out what the defendant said through all the static and background noise. The judge agreed that the telephone recording could not be understood and ruled that it was not admissible. The judge then struck this statement from the record and instructed the jury to disregard it. He explained that to ensure a defendant's right to a fair trial, a jury should not consider evidence that is unreliable. (ruled inadmissible, unreliable)

11. The State's next witness was Dr. Neil Gravane, coroner in the case. Gravane testified that Maddox died of a 2-inch laceration of the chest, probably caused by a hunting knife with a curved edge. Based on the height and angle of the wounds, Dr. Gravane concluded that the killer used his right hand and stood about 6-feet tall, like the defendant. Marylou Givens died of a shortage of oxygen and had a deep bruise on her throat, indicating that she was strangled.

12. On cross-examination, Gravane conceded that the murder weapon was a common type of knife and is readily available. The State objected that a medical doctor is not qualified to speculate on matters of availability. The judge overruled the objection. On further cross-examination, Gravane admitted that his estimate of the killer's height was just that, an estimate, not a fact.

13. The final witness for the prosecution was Jeffrey Ostrander. Ostrander testified that he was sitting in his car waiting for his girlfriend the night of the murder. Suddenly, he saw someone run out the front door of the Givens house with something in his hand, and drive off.

14. On cross-examination, Ostrander said it was dark out and that he wasn't sure of what the man he saw was holding in his hand. On further questioning, he said he could not tell whether the man he saw was the defendant. He also conceded that he had no idea of what had actually happened inside the house or why the man he saw came running out.

15. The first witness for the defense was Joe Guerin, a friend of Charles Givens. According to Guerin, he and Givens had drinks at a local bar the night of the murders and Givens admitted that he had overreacted to his wife's request for a separation. Guerin said that Givens that night was calm and "in control of his emotions". The two men had "only a couple of beers" and then parted because Givens wanted to return home to get some stuff from his desk.

16. On cross-examination, Guerin admitted that Givens had in the past expressed "frustration" about his wife. He also admitted that he and Givens had hunted together and that Givens owned at least one hunting knife. That night, he said that he and Givens left the bar at 7:30 and that the drive home took fifteen minutes. Guerin was asked if he was such a good friend to Givens that he might lie for him. The defense attorney objected to this question as argumentative. The judge sustained the objection and instructed the jury to disregard it.

17. Next the defense called the Givens. Givens conceded that he hired an investigator, but then he called it off. He said that on the night of the murder, he had a couple of beers with Guerin, went home to get some stuff, and saw his wife and Maddox dead in the kitchen. He said he touched Maddox to see if he was alive and then tried to revive his wife. Describing himself as "in shock", Givens left, called a friend, and then called the police. He denied having anything to do with the murders.

18. On cross-examination, Givens was asked where he went in the time before he called the police. He said he just drove around for awhile. He was scared and didn't know what to do.

Eventually he went to his apartment, about a mile from the house, and called the police. When asked why there was no blood on his hands if he had touched Maddox, Givens said he had no idea. After intense probing, he said "I don't remember. Maybe I washed it off."

19. The prosecutor began his closing argument by reminding the jury that two innocent people were senselessly murdered, leaving behind four grieving parents, seven brothers and sisters, and other loved ones. "For these living victims, whose lives will never be the same, ladies and gentlemen", justice will not be served until the man responsible for these brutal deaths is punished".

20. Summarizing the evidence, the prosecuting attorney noted that Givens was consumed by such intense jealousy that he paid three thousand dollars to a private investigator. He fit the physical profile of the killer and had a key to the house, which is why there was no sign of a forced entry. He also left fingerprints all over the place, especially in the kitchen and on his wife, despite the fact that he had moved out weeks earlier. The weapon was never found, but Givens did own a hunting knife and had ample time to dispose of it. He also had no alibi, not a single person who saw him in the half hour it took him to call the police. In light of all the evidence, the defendant should be found guilty of two counts of first-degree murder.

21. The defense lawyer began closing argument by acknowledging that Brad Givens is an emotional man. Emotion made him rush to his wife when he found her dead, and then it made him flee the scene in shock. But we also heard from Givens's friend that he was in control of his emotions that night and had come to accept the fact that he and his wife were separated.

22. Givens's actions after the crime were not those of a guilty man. He called the police, waited for them to arrive, and then cooperated. He was noticeably saddened by the death of his wife. So just what is the case against Givens? There was no confession, no weapon, and no eyewitness, only weak circumstantial evidence. "You can't convict a man of murder because he is 6-feet tall, owns hunting knives, and is upset over being separated from his wife". The defense attorney concluded by arguing that the State failed to prove its case beyond a reasonable doubt and that Givens should be found not guilty.

23. The judge told jurors that all the relevant and material facts were in and that their duty was to deliberate until they reached a unanimous verdict. In determining the defendant's guilt or innocence, he said, one may consider his actions before, during, and after the crime was committed. The judge reminded the jury that the defendant is presumed innocent and that the State has the burden to prove guilt beyond a reasonable doubt.