




# Ain't I A Victim: Race, Class and Gender in the Courtroom

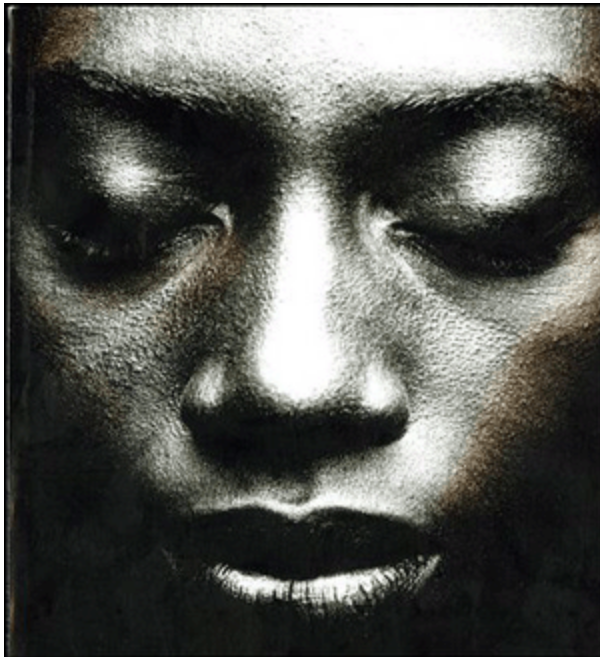
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It was very abusive. He displayed—put a gun in my mouth, cocked it—like cocked the trigger back and he a number of times—25 times he put guns to my chest, my rib cage, telling me he was going to chop my body up, pull my teeth out, throw me in the Calumet River and to tell my mother that, that that's where I'd be at.

# What impact does race and gender have in the courtroom?



- African American women are disproportionately largest single female-headed household group living in poverty
- African American women are at the greatest risk to be killed by their batterers

# Introduction

- Domestic Violence client that inspired this paper
- Why focus on African American women
- Problem of racial stereotypes in the courtroom
- Lack of redress

# Poverty and Victimization

- Greatest number in poverty in 52 years
- African Americans suffered greatest income decline of all ethnic groups
- African American women disproportionately largest group of single female headed households living in poverty

# Race & Economic Inequality

- Division of deserving and undeserving poor
- Unmarried women, ethnic women and women of color historically seen as undeserving
- AFDC (later TANF) restricted to married women and widows

# Women and the Welfare State

- 1960s distortion of Moynihan Report began “pathology” of poor Blacks
- 1980s social conservatives detailed “culture of poverty”
- 1990s welfare reform carved on the foundation of irresponsible, poor black women

# Welfare Queens & Racial Stigma

- Glen Loury detailed how racial stereotyping is beginning of racial discrimination
- Linda Ammons described historic racial stereotypes of Mammy, Jezebel and Aunt Jemima
- Latest stereotype is welfare queen from 1980s-1990s



# Race, Class & Gender as Extralegal Factors

- Kimberle Crenshaw used intersectionality to explain courts have difficult time with intersection of race and gender
- Feminist scholars and race scholars do not address the particularity of being a Black woman in the legal system

# Domestic Violence & Black Women

- Lenore Walker's construction of battered woman does not embrace the experiences of battered black women
- Black women are not the passive and may confront their batterers
- Hillary Potter found in her research that battered black women reject the victim label and "battle" their abusers

# Tradition advocacy disadvantages battered black women

- Mandatory arrests laws create greater recidivism if abuser is unemployed
- Forcing victims to sever relationship puts her at risk for greater abuse including homicide
- Advocates ignore economic dependency victim has with the abuser

# Battered Black Women & Identity Construction

- Ian Haney López found courts use racial stereotypes to construct legal identities
- Legal identities become stock racial stories
- Poor battered black women become an amalgam of stereotypes around race, class and gender

# My Case

- Contempt hearing after abuser would not cease contacting my client including 84 phone calls after the court granted the order of protection
- Pending domestic violence charges against abuser including battery and intimidation

# My client's testimony

- He said he was going to kill us and displayed a gun.

# Respondent's testimony

- I'm engaged. I'm supposed to be married before Christmas. I have another daughter on the way. I haven't been bothering with [A.J.]. You can check my phone records. You can do anything. I haven't bothered her. I'm not this menace to society . . . . I've been too busy with my kids. My baby's mother's been working full time, you know . . . . I have been there everyday watching my kids like I'm supposed to.

# Court response

- The court: We're here for two things today. One is a petition to modify the order of protection that was entered on February 20<sup>th</sup>, 2009 and the other is a petition for contempt; Plaintiff alleging that—or Petitioner alleging that the Respondent violated the order of protection. I'm gonna grant the petition to modify the protective order, first. And ***I'm gonna make the protective order mutual*** because I find that . . .
- Court reporter: We can't do it mutual.
- The court: Can't do it mutual?
- Court reporter: You can't. Not any longer.
- The court: Really? Okay.



# Black invisibility vs. white privilege

- Jaclyn Huey and Michael Lynch find that black women are either distorted or ignored in law and culture
- In contrast, the power of whiteness gives material significance to persons like the respondent

# No redress

- *Castle Rock v. Gonzales* deny order of protection petitioners a property Interests according to Due Process Clause
- Law enforcement can refuse to enforce orders of protection

Thank you

