

**COMMONWEALTH v. ADJUTANT**  
**SJC-09299 (Mass. 2005)**

Rhonda Adjutant, an employee of an escort service, was found guilty of the voluntary manslaughter of a client, Stephen Whiting. Adjutant had been driven to Whiting's apartment after Whiting had agreed to a body massage and one hour of an escort's company for \$175. Once inside Whiting's apartment, Whiting asserted that he was expecting intercourse as part of the service. Adjutant refused and called the dispatcher of the escort service. The dispatcher told Adjutant to leave, and that the drivers would be back shortly to pick her up. When Whiting realized that Adjutant was going to leave, he armed himself with a crowbar. Adjutant was armed with a knife, although it is unclear whether she got the knife before or after Whiting got the crowbar. Whiting swung the crowbar and hit Adjutant in the leg, at which point she nicked Whiting in the face with the knife. A struggle ensued, and by the end, Adjutant had fatally stabbed Whiting in the neck.

At trial, Adjutant maintained that she was acting in self-defense when she inflicted the fatal wound. In furtherance of her defense, Adjutant's counsel sought to cross-examine Whiting's neighbors about Whiting's reputation and violent behavior. The judge sustained the prosecutor's objections due to the fact that Adjutant could not have been aware of Whiting's reputation at the time of the incident. Adjutant was convicted of voluntary manslaughter, which was affirmed by the Appeals Court. The Supreme Judicial Court then granted further appellate review to consider whether the trial judge erred in not allowing the evidence concerning Whiting's violent behavior. The Court concluded that the trial judge had erred in barring the introduction of such evidence.

In reaching this conclusion, the Court conducted a comprehensive survey of the laws of other jurisdictions as well as the Federal Rules of Evidence and determined that the overwhelming trend was toward the admission of some form of evidence of a victim's violent character to support a defendant's claim that the victim was the initial aggressor. The Court further noted that all other jurisdictions that admit character evidence also admit reputation evidence and that some also allow evidence of specific violent acts. The Court then dismissed concerns raised by the Commonwealth that juries would be distracted by information about the victim's unrelated acts of violence and refused to limit the type of evidence that could be considered to character evidence. According to the Court, such evidence has been found to have probative value and its admission is considered consonant with the principle of the use of latitude in the admission of exculpatory evidence in criminal trials.

The Court then held, as a matter of common-law principle, that it is within the discretion of a trial judge to admit evidence of a victim's prior violent acts and violent reputation evidence in self-defense cases where the identity of the initial aggressor is in dispute. A defendant seeking to introduce evidence of specific acts of violence to support a claim that the victim was the first aggressor must provide

the court and the Commonwealth notice of this intent and of the specific evidence to be offered. Notice must be provided in a timely manner, such that the prosecution can then investigate and prepare a rebuttal. The Commonwealth must then provide notice to the court and defendant of whatever rebuttal evidence is to be introduced at trial. Judges then have the discretion to admit specific incidents of violence that the victim is reasonably alleged to have initiated, but must consider whether the probative value of the evidence outweighs any prejudicial effects. The Court concluded that if the judge in the case at hand had considered this new common-law rule of evidence, she may have allowed some of the evidence concerning Whiting's character to come in. For that reason, the case was reversed and remanded for a new trial.