How does Wendy Murphy have a job?
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Wendy Murphy is both a graduate of and adjunct professor at New England School of LOL. Here's how the school describes her in her alumni bio:

A nationally recognized expert on child abuse and interpersonal violence, Wendy Murphy has published numerous academic and pop culture articles, and provides legal analysis for CBS, CNN, ABC, Fox News, and MSNBC. She is a co-host on WRKO radio, a newspaper columnist, and author of And Justice for Some (2007). Murphy began her career as a prosecutor in Middlesex County, handling child abuse and sex crime cases, and then moved into private practice, focusing on violence against women and children. She is an adjunct faculty member and helped establish the law school’s Judicial Language Project, the first of its kind in this country.

Sounds impressive, right? That’s quite a nice celebrity catch for NESL. Except that Murphy is a complete hack.

In 2010, Murphy went on John Stossel's show and made up criminal statistics out of thin air, such as the claim that half of all inmates in California prisons are illegal aliens. [Salon]

Before that, in 2006, she made the media circuit spouting at all sorts of lies about the Duke lacrosse players accused of rape. Here are some highlights:

Over 99 percent of cases indicted are in fact legitimate; the guys are guilty.
(There is no such statistic, and even if it were true, a 99% chance ain't good enough to call guilt in our criminal justice system.)

It was because a broom handle was used, which by the way, doesn’t produce DNA when you put it inside someone.
(The accuser never claimed assault by broom.)

She was under the influence of a date rape drug.
(Not according to the toxicology report.)

All of them took the Fifth. All of them refused to cooperate. All of them refused to give a DNA sample, until the court produced an order compelling them to do so.
(All three men cooperated in interviews with the police, one did produce a DNA sample, and none invoked the Fifth Amendment. Also, DNA is physical evidence, not testimonial evidence, so invoking the Fifth wouldn't even help here. Dumbass.)

To suggest they were well behaved: Hitler never beat his wife either. So what?
That's all old news though. She should have been fired the next day for the idiotic Hitler comment, but still, old news. What's new news is her role in a rape accusation at the University of Virginia. The school conducted a hearing, and despite finding the accuser credible, it still ruled in favor of the accused. That's a no-no. Under regulations issued for public schools by the Office of Civil Rights, sexual assault and harassment cases must be decided under a preponderance of the evidence standard. That is, you have to use the lowest burden of proof possible without actually presuming guilt. Anyone with a Western liberal democracy background ought to find this quite disturbing. Yes, it's just a school's disciplinary measures and not a criminal trial, but it's a crazy low standard (more on that later).

Murphy is now helping the accuser sue the school for violating the accuser's right to have her alleged rapist punished. Again, if you were raised in a civilized nation, you'll think this is insane. You can't sue a court for reaching the wrong conclusion. Except that in college sexual assault cases you might be able to. Since the OCR requires schools to adopt a certain burden of proof, the accuser might actually be able to sue on the grounds that it did not follow that rule.

Where Murphy goes completely off the rails is in this statement:
When her accusations are deemed credible, and his denials are not described with the same glowing terminology, she wins.

Not at all true. Sure, the accuser has a strong case in that situation, but what if there's other evidence, other witnesses? Oh, right. Yeah, maybe it's not just a he-said/she-said? While UVA won't go in to the details of the case, it has issued a statement accusing Murphy of publishing false and misleading statements about the case.

And then there's this other comment from Murphy:
The law is designed to facilitate and perpetuate violence against women and children.

Rape shield laws create a privileged status for accusers that doesn't exist in any other criminal trial. On campus the burden of proof is as low as it could possibly be and the accuser even gets the right of appeal if the accused should go free. You might think that we still do a bad job of prosecuting violence against women and children, but describing the law as designed to perpetuate such violence is idiotic. Try writing that on a bar exam essay and see if they you in, even in Passachusetts.

So here we have a professor who makes up crime statistics out of whole cloth, doesn't understand the basic rules of criminal procedure, and thinks we're all living in the United Rapes of Rapemerica. How the hell is she a law professor?

And just to pile on, she thinks one of the most important things women can do to get ahead in society is abandon fashion. Why? Because men have done it:

Men long ago figured out how not to waste their time and money on fashion. They wear suits. Period. Variety comes in black and gray – maybe a jazzy tie once in a while. Brilliant.

Women need to get with the guys' program. We have more important things to do than shop for shoes with the “right” heel thickness or remember that gray is the new black, blah blah.
Black and gray? Don’t men’s suits also come in navy? And brown? And tan? And all sorts of exciting varieties once you get into the realm of seer sucker? And men don’t spend time or money on fashion? Maybe not as much as women, but it’s not as though GQ doesn’t have a readership, or that no one is buying Armani suits. Even on *Entourage* Vinny goes shopping for suits. Twice. (Before his appearance on Kimmel, and before Ari’s daughter’s bat mitzvah.) And of course there’s all the jobs where men need to look professional and stylish but where a suit isn’t appropriate. We’re not all lawyers, you know. But hey, what more can you expect from New England Law School’s premier professor of Sexual Violence and Never Getting Anything Right Ever?

Earlier we promised to go more into the preponderance of the evidence standard. You’ll probably recognize it from civil suits. That’s because civil suits generally deal with redistribution of money. A contract was broken, how do the profits and losses get divided? Someone was injured, who has to pay? It’s basically a zero-sum game, and so the court has a good reason to use a low burden of proof. The money has to go somewhere, and it just makes sense to give it to the party that most likely deserves it.

Criminal prosecutions are not at all the same thing, and neither are university disciplinary hearings. They’re not zero-sum. There’s not some amount of justice that’s going to be distributed and given two parties to pick between we might as well just go with the one who’s 50.0001% likely to deserve it. We’re deciding whether or not to harm someone, to add additional harm where harm has already occurred. We’re not balancing out or redistributing harm, and justice isn’t redistributed either; justice in criminal prosecutions comes from the procedure itself.


In the above, “Passachusetts” is not a spelling mistake!