**EXCERPTS FROM STATE’S DIRECT EXAMINATION OF EXPERT PSYCHOLOGIST TESTIFYING ON VICTIM COMPETENCY AND DISCLOSURE PROCESS IN SEXUAL ABUSE CASE**

**DIRECT EXAMINATION**

**(By Prosecutor)**

**Q.** How are you employed, Miss P.?

**A.** I’m a licensed psychologist working at O. Clinical Associates.

**Q.** How long have you been employed in that capacity?

**A.** About two years.

**Q.** And what is the nature of your employment as a licensed psychologist for that agency? What areas do you primarily work in?

**A.** I primarily work with children, adolescents and adult services of childhood trauma.

**Q.** As part of your work in that area, do you deal with children who are alleged to be victims of child abuse, either physical or sexual?

**A.** Yes, I do.

**Q.** What is your background and training in that particular area?

**A.** Well, I hold a Ph.D. in clinical psychology. Primarily my work in the area of child abuse…I have probably around, I would guess—estimate, about 250 post-doctorate hours in that

subject.

**Q.** All right. And what percentage of your practice deals with treating children who are alleged to be victims of sexual abuse?

**A.** It varies, but tends to be half.

**Q.** Now, in connection with this particular case, did you have occasion to see a child by the name of S.S.?

**A.** Yes, I did.

**Q.** How long have you been working with S.S.?

**A.** I began working with her in April of 19…. So not quite a year.

**Q.** How frequently would you estimate that you’ve met with her?

**A.** I believe I met with her around 26 times. We have tried to meet weekly, but have not always been successful at doing that.

**Q.** I’m going to show you what’s been marked as State’s Exhibit No. 5, which is a compilation of records prepared, I believe, by yourself.

**A.** Yes.

**Q.** Documenting those various meetings with S.S., notes from those meetings, as well as treatment plans which were designed for her case. Is that correct?

**A.** Right.

**Q.** Would you describe what the nature of your meeting with S.S. has been in terms of why it was initiated in the first place?

**A.** She was referred to me by K.H., who was then the director of the S.C.’s Sexual Assault Treatment Center, and she was referred because she was exhibiting a number of symptoms, a lot of behavior problems. Anger. Aggressive behavior. Some bed-wetting. Some sexualized behavior. Including excessive masturbation. And talking about things that she had said had happened to her. And K.H. felt that she was in desperate need of some counseling.

**Q.** So your initial meeting with her was how long after Miss H. met with her, if you know?

**A.** I don’t know for sure. I would guess a couple of weeks.

**Q.** During that—the first meeting that you had in connection with this case, was that with S.S. individually, or did you get background information prior to meeting with her from some other source?

**A.** I got background information. I met initially with her mother. I’m not sure whether the stepfather was present at that time or not.

**Q.** All right. What is the purpose of meeting with the mother prior to meeting with the child?

**A.** Well, typically in my first session with any client, I spend time—any child client, I spend time first getting background information about them from the parent, including developmental history and medical history. And then typically I will meet with the child and then get back together with the parent. Because of her age, she was four at the time I began seeing her, and my estimation that she probably would have difficulty separating from her mother, I elected to meet individually with the mother for a single session and then saw S.S. the following session.

**Q.** That historical information that you received from the parent, does that assist you in terms of your treatment program that you’re going to involve with the child?

**A.** Definitely. It gives you information about what they were like before, developmental issues, what their strengths and weaknesses are, and gives some idea not only about diagnosis but how to proceed.

**Q.** What were you aware from your discussions with mother regarding S.S.’s behavior—S.S.’s behaviors that prompted her to be seen by you?

**A.** Mother was reporting at that time that S.S.’s was showing a lot of aggressive and angry behavior. Was mouthy. Was having nightmares. Was expressing fear that D.T., who was what S.S. refers to Mr. T. as D., was afraid that he was going to break into her bedroom. She was showing some excessive masturbation. Trying to insert items into her vagina. She would do open mouth kissing. She would attempt to lay on top of her brother. In a sexual position. Both with her clothes on and in a nightgown. And she was—would talk a great deal about what D.T. did.

**Q.** Were you aware of any behaviors reflective of her closeness or lack of closeness with her mother?

**A.** Well, she had begun clinging to her mother and not wanting to be separated from her. And mother was reporting that she had pretty much changed from being outgoing and pretty sociable to being much more clinging and frightened.

**Q.** Now, when you first saw S.S., did you observe any of those same behaviors with her?

**A.** I observed the behaviors—I observed a number of different behaviors. I observed some of the angry and aggressive behaviors. The sexualized talk. She did a number of drawings where she drew body parts. Would draw people with no clothes on. And that’s not really typical for a child her age.

**Q.** At the time that you commenced working with S.S., were you aware of whether or not there were any criminal charges pending involving this case?

**A.** My understanding was that it had been investigated and that the case had been sent to the D.A.’s office and it was unclear how it was going to proceed.

**Q.** Were you ever retained by the District Attorney’s office of the Sheriff’s Department or the Department of Social Services to treat S.S.?

**A.** No.

**Q.** Have you ever been paid or received any money from any of those agencies in connection with her treatment?

**A.** No.

**Q.** At the time that you were hired to meet with her, began meeting with her, was it your understanding that one of the reasons for seeing her was in order to get her prepared for criminal proceedings or testimony?

**A.** No. At the time that I began seeing her, it wasn’t clear whether there would be any criminal charges. Or whether there would be any court involvement with her. As that became clear that there might be, I was one of the people, I worked with her in therapy, to help try to reduce the trauma associated with testifying, if indeed she was going to have to testify.

**Q.** Why did you consider that to be important?

**A.** Because of the fear that S.S. was expressing about D.T. and about confronting him. She was very fearful of him coming in the night. She was very fearful he would find out where she lived. And she would ask me questions about what would happen if he found out where she lived. She was very concerned that he wasn’t in jail. And when talked to about court and the fact that she would be in a courtroom, she would express some fear and say she was afraid and that she was afraid he was going to come over to her and do it again.

**Q.** How, how did S.S. express those things to you?

**A.** Sometimes she expressed them verbally. Just very directly. She also expressed her fear in other ways in the therapy process.

**Q.** Would you describe some of those ways?

**A.** When—Probably the second session when I began meeting with her, she took a—I have several small wooden dolls that are blank on both sides. And she was making dolls of herself and her family and other people who were now involved in this case. And she drew D.T., identifying him as D., and drew a mad face. And then scribbled it out. And when I asked her why she scribbled it out, she said his mad face is too scary.

**Q.** Anything else you recall directly about her showing her fear of him?

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**A.** She manifested extreme fear at the preliminary hearing.

**Q.** Were you present for that?

**A.** Yes, I was.

**Q.** What did you observe at that time?

**A.** She was nervous prior to that. I stayed in the room where she was staying before going into the courtroom. But she played and was fairly relaxed. Then walked into the courtroom and immediately looked at D.T., began crying, sobbing, jumped into her mother’s arms, and had to be carried out of the courtroom. She continued to cry in the hall, I would say, for ten to 15 minutes. Pretty much whimpering and saying how sorry she was, that she had tried as hard as she could, but she didn’t want to see his face.

**Q.** She did not testify at that preliminary hearing; is that correct?

**A.** No, she didn’t.

**Q.** All right. After you observed that kind of behavior, did you spend anymore time in your sessions with her in order to prepare her for the possibility that she might be testifying in the actual trial?

**A.** Well, one of the things that I did was to try to desensitize her to going into a room with D.T.

**Q.** How did you do that?

**A.** L.C. had—victim-witness coordinator, had given me a—using one of the wooden dolls…

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**Q.** What are these dolls used for in terms of your therapy processes?

**A.** Well, we know that one way that children resolve their problems is through play. And so in treating any child, especially a pre-school child, that typically involves some play therapy. The dolls are one of the items used in play therapy. And I have a number of other kinds of things like drawings. Clay. Some games. And typically what happens is the child gravitates to whatever item they feel comfortable working with at any particular session.

**Q.** What are these dolls specifically made for in terms of the play usage that you have in your office?

**A.** Okay. They’re used to represent individuals. And through using the dolls to represent particular individuals with whom the child may have conflicts, they can then play out a different scenario where they feel more powerful or be able to feel safe. That’s in particular how we used it with S.S.

**Q.** What is kids court?

**A.** Kids court is a model miniature courtroom. I have a kids court model in my office. And it’s basically a miniature courtroom complete with witness chair and benches and tables for the attorneys. And some wooden dolls that are already painted as well as the blank wooden dolls I was describing earlier.

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**Q.** Now, would you describe what kind of physical behaviors you observed by S.S. in connection with your therapy? That you felt were significant in connection with this case.

**A.** S.S. demonstrated her effect in three separate and different ways. When she would talk about the abuse and how—how it made people feel, she would become sad and rather depressed looking. Very subdued. She would look down. Her voice would get much quieter. And this is typically indicative of some conflict and some bad feelings about what the child is talking about. In this case the abuse. She also demonstrated fear. And I talked about that a little bit earlier. She also displayed a number of behaviors in therapy that are indicative of anger. These were such things as throwing toys. Breaking the judge’s chair. Kicking me. Calling me names. You know. Throwing puppets. Dumping sequins all over the room. When it was time to stop. Doing some things that are testing the limits. And those were kind of for general expression. She also did some expressions of anger that were very specifically directed toward D.T.

**Q.** What were those?

**A.** She—What she did a lot was drew pictures of him which she would then scribble out. Or if they were on a dry erase board, she would erase them to make him disappear….

**Q.** Did you make any assessments prior to beginning to work with S.S. regarding whether or not she was intellectually developed enough to distinguish between fact or fantasy, reality or something that was made up?

**Defense Counsel:** Objection. The witness is not qualified to comment on truth and fact in front of a jury. That’s the jury’s job.

**Prosecutor:** I’m not asking this witness to comment on the witness’ testimony. This question goes to whether or not the witness has the cognitive abilities to make that determination.

**THE COURT:** I’ll permit the witness to answer.

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**Q.** Did you make any assessments during the course of your work with S.S.—And I want you to be very careful here to differentiate. I’m not asking you for an opinion as to whether or not things S.S. were telling you were in your opinion truthful or not but whether or not you could tell if S.S. was mentally able, cognitively developed enough to distinguish reality and fantasy.

**A.** Okay. You’re asking me, I think, about whether she knew the difference between things that were pretend and things that were real?

**Q.** Exactly.

**A.** Okay. Yes. She demonstrated that to me on several occasions. The first one that comes to mind was, I believe, during my first or second—first session with her. Basically when something—typically one of the things I do with young children is I’ll sort of test them about whether they know that by saying some things that are silly things. And whether or not they’re able to correct me. And she was able to do that. And I didn’t write down the specifics of that. However, there was another occasion when we were playing with the doll house and she had put the baby doll down for a nap and was talking to me in a whisper and saying, we have to be quiet, the baby is asleep. And I whispered back, we have to be quiet. And then she said in a normal voice, we don’t really have to be quiet, the baby isn’t real.

**Q.** What’s the purpose of doing that in terms of your work with the child?

**A.** To assess. And partly for reasons of diagnosing whether or not the child does function within reality.

**Q.** Now, in terms of the behaviors that you observed in S.S. that you’ve described somewhat, and the historical information that you testified from the mother in terms of the clingingness and the aggressive behavior, and that other information which you previously testified to, have you had occasion to see that type of behavior in other individuals besides S.S., that you’ve been involved with either in treatment or in terms of your research and training?

**A.** Yes, I have. But she probably exhibits it to an extreme degree.

**Q.** Would you describe—assuming that a child has been the victim of sexual abuse, would you describe the reasons why a child may demonstrate aggressive behavior?

**A.** Part of the reason may be because of the child’s age. If a child is victimized at a young age and verbally they can’t talk about it a lot and can’t explain what happened to them, they tend to feel they’re helpless. And in fact any kind of victimization event or situation may evoke this. Where the child then begins to act out in anger. And that’s the anger that couldn’t be expressed during the abuse. And it just tends to get acted out. Sometimes in very global ways.

**Q.** Does that take place generally immediately following the abuse or can that take place over periods of time, very long after when the actual incident of abuse takes place?

**A.** It can be immediate or can be delayed.

**Q.** In terms of sexualized behavior, have you observed that in other children or become aware of other children who have been presented to you where that has taken place?

**A.** Yes.

**Q.** Would you describe the reasons why children who are victims of sexual abuse may display that form of behavior?

**A.** Okay. Typically a child who has not been abused or who has not been exposed to sexual behavior does not engage in behavior outside of what is age appropriate for them. Sexual behavior that is outside of the age, what is age appropriate. What happens when they’re abused is that they’re exposed to things that they don’t understand, that may or may not feel pleasurable, and it gives them an awareness of parts of their body and uses of parts of their body that they may not have been aware of before, so that following the abuse, they may begin to act in these ways. The other reason may have to do with what I talked about a minute ago with the anger issue. An equation of the abuse with power. So that sometimes we find children who have been sexually abused engaging in sexualized behavior with other children and sometimes even abusing other children.

**Q.** In terms of the clinging-type of behavior, having a reluctance to being left alone, have you seen that in other children you have treated?

**A.** Yes, I have.

**Q.** Would you describe what the reasons would be for that in terms of a child who’s been sexually abused.

**A.** When a child has been sexually abused, that’s a trauma. And typically children who have been traumatized, and the abuse typically takes place outside the presence of the caretaker, which may be either parent, but what you find then is the child becomes very fearful and insecure and wants then to cling to the caretaker who they think can protect them.

**Q.** Assuming the scenario in which a child is being abused by some form of caretaker, either a babysitter or another parent or custodian, and that abuse takes place after the protective parent or protective caretaker takes the child to the location of the abuser, would you describe how that would influence that clingingness or what might influence that clingingness?

**A.** If I understand your question correctly, that would increase the clinging behavior because going to the site of the abuse would most likely trigger memories of abuse and greater insecurity.

**Q.** What about a child who’s just being left alone by the non-abusing caretaker where the non-abusing caretaker decides to leave for a benign purpose, for example, to go to the store or to go to a movie or something like that, how would that potentially involve or trigger that same type of behavior by the child?

**A.** It would be perceived by the child as being abandoned and left alone and unsafe. Or potentially unsafe.

**Q.** During the course of meeting with S.S., did S.S.’s mother ever sit in during the session with her?

**A.** Yes, she did. Just on a couple occasions, I believe.

**Q.** Did those sessions involve discussions involving D.T.?

**A.** Can I check my notes?

**Q.** Sure.

**A.** I don’t believe so. On one of the occasions, on August 18th, I had asked Ms. B. to be involved because we were going to be talking about court. And I wanted her to be able to follow up with S.S. at home in terms of counting the days. But I don’t believe—that was not brought up by us. It was in the context of talking about court. She expressed some concern—S.S. expressed some concern that D.T. would say that things didn’t happen. And so it came up in that context.

**Q.** When S.S. said that, did she say that on her own or was that in response to a question that was being asked?

**A.** We were explaining to her about court, explained to her about the jury, and she asked if she would have to talk in court and said she didn’t want to. And we told her that she needed to be able to tell about what happened. And it was at that point that she voluntarily began talking about concern that he would say it hadn’t happened.

**Q.** Did you see any evidence that the presence of Miss B. was influencing S.S.’s responses to the conversation that you were engaged in?

**A.** Not at all.

**Q.** During the course of meeting with S.S., did S.S. describe any instances of sexual behavior involving her and D.T.?

**A.** Yes, she did.

**Q.** Would you describe how frequently that took place and the nature of the statements that S.S. would make?

**A.** There were probably half a—at least a half dozen disclosures. Typically she would begin the disclosure by talking about, quote, what D.T. did, unquote. And then I would ask, what did D.T. do? The first disclosure she made to me was that he rubbed his weenie on her private.

**Q.** Did she identify those body parts for you?

**A.** Yes.

**Q.** And what did she indicate was the weenie?

**A.** The weenie was the penis. Or actually she identified all people as having weenies. And when she identified on the female, it was the female genitalia as well as the male genitalia she referred to as weenie.

**Q.** All right. Where did she indicate that that penis was being rubbed on her?

**A.** In her vaginal area.

**Q.** What other types of disclosure did she make?

**A.** On one occasion she typed on the computer a bunch of letters and told me that this was what Dick did. And I told her that I couldn’t read it and I asked her what it said. And she said, he put his finger inside of me. And I asked where. And she pointed to her vaginal area.

**Q.** What else?

**A.** On another occasion she disclosed that he had rubbed her boobs. Referring to her breasts. And that he rubbed his weenie on her boobs.

**Q.** And how did she display that for you?

**A.** That she talked about, but she had previously identified all the body parts. And I believe, if I’m remembering right, when she was talking about that, she began to stroke her own nipples.

**Q.** What else?

**A.** The other disclosures were things like, he’s mean. He told her that if she told anyone, he would hurt her mother. She indicated to me that he had half his clothes—or he would have his clothes off and told her he was going to leave them off until he was finished with her.

**Q.** Anything else that you recall?

**A.** No. Most of the other disclosures were variations of her using different words or just pointing instead of saying the word.

**Q.** And how frequently would she make these disclosures to you during your sessions?

**A.** There were generally spaces between them. I would guess every couple months. The other times she would refer to what D.T. did but would not elaborate.

**Q.** When she expressed these things to you, would you describe the manner in which she would do that in terms of her emotional condition when she’d describe it?

**A.** Typically she—she would say them in sort of an outraged or angry manner.

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**Q.** Miss P., are you familiar with the term “delayed disclosure”?

**A.** Yes, I am.

**Q.** Would you describe what is that?

**A.** That’s basically when a child does not tell about the abuse immediately after it’s happened.

**Q.** And are you familiar with whether or not that is a common occurrence in children who have been sexually abused or an uncommon occurrence?

**A.** Yes, it is fairly common.

**Q.** Would you describe the reasons why it takes place?

**A.** It can take place for a number of reasons. One having to do with the child’s ability to understand what has happened and to know that what happened was wrong. It can have to do with the child’s ability to express and put into words sexual acts that they don’t understand. And it can also be because of some threats that the perpetrator may have made about what he or she is going to do if the child tells.

**Q.** Assuming that threats were made not to tell and those threats involved a protective caretaker of the child, for example, the mother, would it be in your opinion likely or unlikely that that child would make spontaneous disclosures to that protective caretaker or mother?

**A.** I would think it would be unlikely.

**Q.** Now, would that be increased if, for example, the bond between the mother and the child or protective caretaker and the child was very strong?

**A.** Yes. The child would become very anxious about doing anything to cause that caretaker harm.

**Q.** In this particular case, did you see any evidence or history received from S.S. that suggested that as one of the reasons why she did not immediately disclose to her mother?

**A.** Not that I’m aware of.

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**Q.**  Did S.S. ever disclose to you that D.T. had made any threats against her?

**A.** Yes, she did.

**Q.** What did she indicate in terms of those threats?

**A.** She indicated that he had threatened that if she told anyone, he would hurt her worse.

**Q.** Did any of the threats that S.S. disclosed to you involve threats against her mother or any of her siblings?

**A.** No, not disclosed by S.S.

**Q.** Did you receive some information from her mother?

**A.** I received some information, I believe, from both mother and K.S., reporting that the brother had told them that D.T. had threatened to—

**Q.** I don’t want to get into what the brother said. Just what S.S. said.

**A.** No.

**Q.** Okay. Now, in terms of sexual abuse cases, are you familiar with the term called “piecemeal disclosure”?

**A.** Yes, I am.

**Q.** Would you describe what that is?

**A.** Piecemeal disclosure is when a child discloses little pieces or little bits about the abuse over an extended period of time.

**Q.** Is that common or uncommon in sexual abuse cases?

**A.** Very common.

**Q.** Would you describe the reasons for that?

**A.** Again you have the cognitive development of the child and their ability to understand that there’s a relationship between all these separate acts. There is also one of the things that happens is that children tend to kind of test the waters. So they may disclose one little piece and look for a reaction and to see whether they’re believed or to see whether the person they’ve told is shocked or angry at them. Or if anything bad is going to happen because they told. And then once they’ve tested the waters and found it safe to tell, they will begin to tell more.

**Q.** Is it fair to say that the disclosure process in sexual abuse cases is frequently something that is a process rather than something that’s a single involved incident?

**A.** Very definitely.

**Q.** Now, in terms of instances in which there are multiple instances of abuse, …over a period of time how does that affect the child’s ability to describe the event of the abuse itself?

**A.** That makes it very complicated for the child because—especially if you think about a child being asked questions. When you ask someone a question about something that happened, in order to answer that, the child has to go back in their memory to that time and explain what happened. For a child who’s being victimized many times, they’re not sure which incident to go back to. And typically very young children, say, pre-school age, it’s very difficult for them to keep—sometimes for them to keep those instances separate.

**Q.** What happens as a result of that?

**A.** They may tell details from one time and attribute it to another time.

**Q.** And conversely so, then they may be blurring details from multiple instances as if it were on particular incident?

**A.** That’s correct.

**Q.** All right. Do they express confusion in terms of their clarity of relating those instances over time, for example, if they’re asked to relate what happened on one occasion and then weeks or months later asked to relate it again, do you tend to see under those circumstances confusion in terms of the description of what took place?

**A.** Sometimes you do, yes.

**Q.** In terms of your work with children, especially children who are of pre-school age, when you’re discussing the aspects of the abuse and what takes place, what do you find the children are able to do better than other things? For example, are they better able to describe dates and places and locations and details about the peripheral matters or are they better able to relate the actual conduct of abusive nature?

**A.** Typically they’re able to tell about the abuse if they have words to describe it or are able to communicate. They’re very poor at dates or number of times something happened. Sometimes they can tell you what room it was in, but seldom can they give you a whole lot of details about it.

**Q.** Why is that?

**A.** Because they just don’t have the cognitive ability to help them store that information. And they don’t know it’s important to pay attention to those things.

**Q.** In terms of the cognitive ability that you’re talking about, I’m not sure that I understand or that the jury would necessarily understand what cognitive ability you’re referring to. Does that deal with their ability to place things in time, in sequence? What are you referring to?

**A.** Both. All of that. Pre-school children are not able usually to give a sequential description of something that happened. And anybody who’s tried to listen to a young child’s description of a movie or TV program knows what that’s like. Trying to follow them. They tell you the details or the things that are most important to them, but they don’t typically tend to tell you a very consistent story with a beginning, middle or end.

**Q.** In this particular case, did you make or give any directions to Miss B. regarding whether she was to discuss the specifics of what happened with S.S. during times when she was not seeing you?

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**Q.** In terms of the behaviors and expressions of anger that S.S. made during the course of your sessions, did you see any indication that she was directing anger or fear or any other emotional reaction to anyone other than D.T.?

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**Q.** In terms of S.S.’s knowledge of sexual matters and the historical information you received about her sexual acting out, did you consider that to be age appropriate or age inappropriate for her?

**A.** Most of it was age inappropriate. There was some behavior evidenced in the sessions that I felt was age appropriate.

**Q.** What was that?

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**Q.** Thank you, Miss P. I have no further questions. I would move State’s Exhibit—I believe it’s 6, into evidence, which is her notes.

**Defense Counsel:** I have no objection to it being received in the record.