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1 IN THE DISTRICT COURT OF OKLAHOMA COUNTY

2 STATE OF OKLAHOMA

3 STATE OF OKLAHOMA,)

4 Plaintiff,)

5 vs.)

CF-2019-432

CASE NO.

6 TRICHELL EVONNE JONES,)

7 Defendant.)

8

9

10

11 * * * * *

12 MOTION TO SUPPRESS

13 TRANSCRIPT OF PROCEEDINGS

14 HAD ON THE

15 5TH DAY OF APRIL, 2021

16 BEFORE THE HONORABLE RAY C. ELLIOTT, DISTRICT

JUDGE

17 * * * * *

18

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20

21

22 Reported By:
23 Cynthia Kay Jones, RMR
24 Official Court Reporter
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1 APPEARANCES

2

3 FOR THE STATE OF OKLAHOMA:

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MS. ASPEN LAYMAN, Assistant District

Attorney

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8 FOR THE DEFENDANT:

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1
CF-2019-432, State of

THE COURT: This is Case Number

2 Oklahoma versus Trichell Jones. Ms. Jones -- is
this your
3 client?
4 MR. CURTIS: She's present.
5 THE COURT: Present in person and by
counsel, state
6 by counsel.
7 Comes on this date, Monday, April 5th,
2021, on
8 State's Motion to Suppress and Limit the Testimony
of Angela
9 Beatty Regarding Battered Woman Syndrome. State
ready?
10 MR. POND: State's ready, Judge.
11 THE COURT: Defendant ready?
12 MR. CURTIS: Yes, sir.
13 THE COURT: Go ahead, Mr. Pond.
14 MR. POND: Your Honor, I think we are just
here to
15 receive your ruling. After the last setting this
Court asked
16 for more extensive briefing from both parties.
17 I think by this point we have both
submitted that
18 more extensive briefing, so unless the Court has
questions or
19 clarifications that you would like I think we're
good on what
20 we have submitted. The Court was just intending to
rule.
21 THE COURT: All right.

22 MR. CURTIS: Your Honor?

23 THE COURT: Yes.

24 MR. CURTIS: I don't disagree with that
assessment by

25 Mr. Pond. However, it is my intention today, with
the Court's

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1 permission, to present a witness to Your Honor.

2 And she is here in the courtroom and
present, Janet

3 Peery, who we've endorsed. She is the CEO of the
YWCA.

4 It is my anticipation that based on her
testimony

5 today I may ask the Court to hold its ruling in
abeyance. And

6 I think that this witness can offer testimony
directly on

7 point in regards to Ms. Beatty's qualifications as
an expert.

8 I also have Ms. Beatty available here today, too.

9 But I will tell the Court candidly that I
think there

10 is going to be some testimony that may be elicited
that might

11 have other impacts on these proceedings. And I

would ask the

12 Court for leave to call her as a witness.

would testify

13 MR. POND: I don't know why one person

would be

14 to the qualifications of another person, how that

happen at

15 relevant. That was what was supposed to actually

admissibility

16 the last hearing with the state challenging the

17 of Ms. Beatty's testimony.

over the

18 That's one of the big things that we argued

had -- the

19 course of the last motion was whether the defense

presented to

20 defendant had the responsibility to present those

21 qualifications and those -- there was nothing

say.

22 that degree. There was no witness presented, I'll

why they

23 So I don't know who this new person is and

and how

24 would testify to the qualifications of somebody else

25 that would be relevant to the Court's ruling today.

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1 My understanding is the Court just wanted
to review
2 all of the briefs, attach caselaw and then make its
ruling.

3 MR. CURTIS: May I?

4 THE COURT: Yes.

5 MR. CURTIS: Again, I think we note in our
brief it
6 wasn't our duty at that hearing to be -- as the non
moving
7 party to put that evidence on.

8 However, I think that this testimony will
9 specifically be an aide to the Court and there will
some

10 questions of fact that may arise as to the
sufficiency of Dr.

11 Roberson's report and the timeliness of when it was
created.

12 I'll just tell the Court in all candor that
it is my
13 intention and my belief that we will be eliciting
testimony
14 about potential witness intimidation by the State of
Oklahoma,
15 specifically by the district attorney, David Prater.

16 And I would like to put this testimony on
the record
17 so that I may preserve it, and again ask the Court
to perhaps

18 hold these rulings in abeyance based on the
testimony of Ms.

19 Peery.

Mr. Prater 20 I'd proffer to the Court at this time that
21 and Ms. Perry had a phone conversation specifically
about the 22 motion the state has filed. Those suspicions were
raised to 23 us by Angela Beatty previously, but only confirmed
by Ms. 24 Peery on Wednesday of last week, so five days ago.
25 So it is my intent, with the Court's
permission to,

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1 again, supplement the record with Ms. Peery's
testimony. And 2 I am confident the Court will believe that this is
not only 3 relevant but might have other concerns raised as
well. And I 4 believe that testimony will be advantageous to the
Court for 5 numerous reasons.
6 MR. POND: I have no idea what he's talking
about, 7 Judge.
8 THE COURT: All right. Call your witness.
9 MR. CURTIS: Ms. Peery, will you take the

stand,

10 please.

11 Would the Court allow me to move the
lectern just for

12 this particular witness?

13 THE COURT: Sure.

14 MR. CURTIS: I normally would not, but...

15 THE COURT: If you'll come up, ma'am. If
you'll

16 raise your right hand.

17 Do you swear, or affirm, to tell the truth,
the whole

18 truth and nothing but the truth so help you, God?

19 MS. PEERY: I do.

20 THE COURT: If you'll please be seated over
there.

21 There is a screen between the two of you, so if you
want to

22 take your mask off you may, but you don't have to.

23 MS. PEERY: Oh, yes. Thank you.

24 MR. CURTIS: Your Honor, also I'd like to
invoke the

25 Rule of Sequestration.

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1
microphone right

THE COURT: All right. Pull that

2
proceed.

around in front of you. There you go. Now you may

3
4
after having

JANET PEERY,

called as a witness on behalf of the Defendant,

5
6
been first duly sworn, testified as follows:

DIRECT EXAMINATION

7
BY MR. CURTIS:

8
Q. Will you state your name for the record?

9
A. Janet Peery.

10
Q. And how are you employed?

11
A. I'm a president and CEO of YWCA/Oklahoma City.

12
the YWCA is

Q. Does that mean that your job or your role of

13
more of an administrative one?

14
A. Yes.

15
Q. Can you tell me a little bit about that?

16
for

A. Well, our organization is the primary provider

17
violence,

victims of -- services for victims of domestic

18
surrounding

sexual assault and stalking in Oklahoma County and

19
areas.

20
organization,

We have -- it's about a 15 million dollar

21
sure we

so my responsibility is to run that operation, make

all the 22 have appropriate staffing and trained staffing and
23 day-to-day things.

have 24 Q. Sure. You said that it's to make sure that you
25 appropriately trained staffing; is that correct?

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1 A. Yes.

to 2 Q. Did you, yourself, at one time provide services
3 battered woman?

role when I 4 A. I have been an advocate, but predominantly my
5 started was as a program director, so I was over all
the 6 programs and received training from -- I'm a
certified 7 domestic sexual violence response professional, a
long title.

worked not 8 And so I have the basic training. And I have
9 directly, but indirectly often times with clients.
I would 10 have a lot of client interaction. I don't have as
much in my 11 role. I've been in this role now for about 15

years.

12 Q. Is there someone in your office employed by the
name of

13 Angela Beatty?

14 A. Angela Beatty, yes.

15 Q. Beatty, I'm sorry. And can you tell me how it
is that

16 she is employed?

17 A. I'm sorry. Can you repeat the question?

18 Q. What is the nature of her employment. What's
her job

19 title?

20 A. So Angela's current title is the chief officer
of

21 domestic violence victims' services. So she is over
all of

22 our programs for victims of domestic violence and
sexual

23 assault, including our shelter and the advocacy as
well as our

24 advocates that are located at Palomar Family Justice
Center.

25 Q. Are there certain qualifications that someone
need

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1 possess to have that role in your office?

2 A. Well, her role at the office as the chief
officer is more
3 encompassing than just her expertise in domestic
violence,
4 although that's a critical part of it.

5 As a senior officer she's also -- or chief
officer she is
6 responsible to also begin to learn the operations of
the
7 organization as well and can step in with authority
--
8 decision making authority in the absence of the
presidents or
9 CEO.

10 Q. Is there a qualifications program that the YWCA
puts
11 people in themselves to make them trained as
advocates or as
12 battered victims experts in Battered Woman Syndrome
or
13 domestic violence?

14 A. Yes. Our training is predominantly directed by
the state
15 statutes that are -- our certification comes through
the
16 Attorney General's Office.

17 Those certifications lay out specifically what
training
18 that our staff -- any staff having direct contact
with clients
19 must have as well as the annual renewal of -- I
think the

20 renewal is 16 hours.

21 Q. Okay.

22 A. In addition, when we hire someone in, initially
we are

23 looking at credentials. We're looking at
predominantly social

24 work, criminal justice, those type backgrounds just
to come

25 in, and then we provide extensive training.

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Coalition 1 Angela has also gone through the Oklahoma

2 Against Domestic Violence and Sexual Assault. They
have a

3 training that is the certification for the CDSVRP.

4 Q. It's certainly your belief that Ms. Beatty is a
domestic

5 violence expert.

6 A. She has been recognized as one of the top
experts in the

7 state. She has done training for -- for and with
the Attorney

8 General's Office as well as the Department of Human
Services.

9 Q. Did you have a chance to review the work of
Angela Beatty

the name of 10 in a case where the victim of abuse was someone by

11 Trichell Jones?

she wrote 12 A. I had the opportunity to review a letter that

13 in support of her, yes.

letter or 14 Q. How is it you became familiar or aware of that

15 this case?

was a 16 A. I received a call from David Prater. Said it

aware that 17 professional courtesy. Wanted to make sure I was

someone that his 18 Angela had written a letter in the defense of

19 office was prosecuting.

Usually we have 20 At the time I wasn't, which is unusual.

has the 21 those conversations, I know, ahead of time, but she

22 authority and my confidence to be able do that.

check and 23 I told David I was not aware of it but I would

24 follow up. I appreciated him letting me know.

Beatty? 25 Q. And did you, in fact, follow up with Ms.

letter. 1 A. I did. I called her and we talked through the

2 She again -- she knows that we have a don't --

Beatty 3 MR. POND: Objection to anything that Ms.

4 said.

5 THE COURT: Overruled for this hearing.

6 MR. CURTIS: Thank you.

7 Q. (By Mr. Curtis) You may answer.

8 A. Can you repeat the question?

to talk to 9 Q. I think the question was did you have a chance

10 Ms. Beatty?

11 A. Yes, I did.

Ms. Beatty? 12 Q. What was the nature of that conversation with

wanted to take 13 A. I was asking her background as to why she

good 14 a stand in this case and I confirmed that that was a

15 stand. I totally supported it.

back and have 16 Q. And because of that did you call Mr. Prater

17 a further conversation with him about this?

I had had 18 A. Yes, I did. I called him back to let him know

her 19 that conversation with Angela and that I did support

witness for 20 decision to write the letter and to be an expert

21 the defense.

22 Q. What was his reaction to that?

23 A. He was not very happy. He was pretty irate.

24 Q. What did he say?

25 A. Well, he told me that they -- that the
prosecution was

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qualified 1 going to basically chew her up and that she was not

2 to testify as to the state of mind of the victim at
the time.

3 That the expert they called was -- I can't
remember the

4 exact terminology but basically that they were going
to put

5 her testimony to shame.

6 Q. Did he indicate to you that he thought there
would be

7 both negative consequences for your organization as
well as

8 Ms. Beatty's career specifically?

9 A. Yes, he did. He indicated that she had been a
witness

10 for the prosecution many times as an expert witness

and that

11 this would undermine that and would totally
undermine her

12 ability to continue in that manner and that it would
be

13 embarrassing for the YWCA.

14 Q. What was the reason for his call in your
opinion? What

15 did you take the call to mean that he wanted you to
do?

16 A. Initially, you know, I took it as said, it was
a

17 professional courtesy to let me know, make sure I
knew.

18 The second call I think I felt more that he --
his intent

19 was more to hope that I would let Angela know and
maybe she

20 would change her mind in testifying.

21 Q. In other words, she would change her mind and
not

22 testify --

23 A. Yes.

24 Q. -- or potentially change the report she had
already

25 written?

1 A. Yes, sir.

2 Q. Is it true that you, in fact, believed that he
thought
3 that you might disallow her from testifying?
4 A. In afterthought, yes.

5 Q. Do you believe that was his goal as we sit here
today?
6 A. Yes.

7 Q. Did --
8 MR. CURTIS: Give me a moment, Judge.

9 Q. (By Mr. Curtis) Did he discuss specifically
hiring an
10 expert potentially that would basically say that Ms.
Beatty's
11 testimony was no good because she didn't have a
Ph.D.?
12 A. Yes, sir.

13 Q. Do you know when this phone call took place
between you
14 and Mr. Prater?
15 A. No, sir, I do not remember. I believe it was
prior to
16 the holiday -- the Christmas holidays.

17 Q. Let me ask you this. Do you want to testify
here today?
18 A. I don't think anybody ever wants to testify.

19 Q. Sure. Are you potentially concerned that your
testimony
20 might have a negative impact on the YWCA and the

services you

21 all provide to a battered woman?

22 A. Yes. Our office, our agency has to often times
intersect

23 with the field with prosecution. We are not always
on the

24 same page. We often times have different sides of
issues and

25 that can sometimes be unpleasant.

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demeanor 1 Q. I think -- would you describe Mr. Prater's

2 during that second phone call, if you could, in a
little bit

3 more detail?

4 A. From the sound on the phone he sounded very
angry.

5 Q. And I think that you had told me that it was
David being

6 David. What do you mean by that?

7 A. Many years of working with David, I see when
you disagree

8 with him he has a tendency to react very negatively.

9 Q. Had there been previous attempts made by him to
what you

10 would call, perhaps, change, alter, suppress

testimony in

11 other cases?

you don't

12 THE COURT: That's not relevant here, so

13 have to answer that.

anyone?

14 Q. (By Mr. Curtis) Did you ever report this to

15 A. No, sir.

Attorney's

16 Q. Were you contacted by someone at the District

17 Office shortly after the phone call with David?

Again,

18 A. It was probably a month or so later, at least.

notes of

19 the timeline, I apologize. I did not think to make

20 that at the time. Did not think I'd need it.

were

21 I had someone that contacted me and said they

that they

22 charged with investigating witness intimidation,

with

23 were representing the DA's office and were charged

24 intimidating the DA for witness tampering.

25 Q. So someone called you on the phone?

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1 A. Uh-huh.

2 Q. Purporting to be a member of the District
Attorney's

3 Office?

4 A. Yes.

5 Q. And that person told you that they were
investigating

6 allegations of witness tampering.

7 A. Yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. Had you, yourself, made any allegations of
witness

11 tampering at that time?

12 A. No, sir.

13 Q. Did they -- did you tell them what had
happened?

14 A. Yes, sir.

15 Q. And did they tell you that they thought that
you had a

16 very different story than the one that Mr. Prater
had told

17 them?

18 A. Yes, sir.

19 Q. Do you know who that person is by chance?

20 A. No, sir.

21 Q. You and I spoke for the first time about this
five days

22 ago last Wednesday; is that correct?

23 A. Yes, sir.
24 Q. As we sit here today, do you believe Mr. Prater
was
25 trying to prevent Ms. Beatty from testifying in this
case?

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17
her from
in a
as we sit
testify for a
during
since she had
would be

1 A. I think my term would be very much discouraged
2 testifying, yes.
3 Q. Are you aware that Ms. Beatty is set to testify
4 number of matters on behalf of the district attorney
5 here?
6 A. It is my understanding she is scheduled to
7 few different cases for the DA's office, yes.
8 Q. Did you present those concerns to Mr. Prater
9 this -- during either phone call?
10 A. Well, David's concern was how it would look
11 testified for the prosecution previously and now
12 prosecution -- now would be testifying for defense.

13 And my response was that Angela would be
testifying to
14 her expertise and that our focus is primarily on
victims of
15 domestic violence and making sure that that
representation is
16 there and that that shouldn't make a difference
whether it was
17 for the defense or for the prosecution, the
testimony and the
18 expertise would be the same.

19 Q. What was his reaction to that?

20 A. He wasn't happy.

21 MR. CURTIS: May I have a moment?

22 THE COURT: Yes.

23 MR. CURTIS: Judge, at this time I will end
my cross
24 examination of the witness.

25 THE COURT: It's your direct.

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1 MR. CURTIS: My direct examination of the
witness.

2 But I would ask the Court, Your Honor, to hold any
ruling in

3 abeyance. I would like to sort of hit the pause
button, if we

4 may, on this.

5 THE COURT: How is any of this relevant to
the
6 state's motion and your response?

7 MR. CURTIS: Judge, it's actually, I think
incredibly
8 relevant. I have some timeline concerns that I will
proffer
9 to the Court that this phone call, and I don't have
a way of
10 verifying this today so I'm not going to make -- I
hope the
11 Court knows me well enough to know I'm not going to
make
12 accusations I can't hold to.

13 But it is my belief that this conversation
took place
14 before Dr. Roberson had, in fact, created his
report. And
15 basically I think it would go to the credibility, or
potential
16 cross examination, of Dr. Roberson's report, which
basically
17 lines up with what Mr. Prater told them the report
would say
18 before it had ever even been created, and that would
certainly
19 be relevant and ripe for cross examination of Dr.
Roberson.
20 And I think we need to do some independent
investigating of
21 our own.

Roberson 22 THE COURT: Has either side subpoenaed Dr.
23 to testify today?
24 MR. CURTIS: Not today, Your Honor.
25 THE COURT: Then how is it relevant today
--

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1 MR. CURTIS: Judge, I think that it --
2 THE COURT: -- to go toward the motion that
we're
3 here on?
4 MR. CURTIS: Judge, I think that it raises
serious
5 ethical questions about the validity about the
entire motion
6 itself.
7 And I -- again, I'm not qualified to make
those
8 determinations but I'm not saying that -- but I am
saying it
9 is unethical or illegal, but it's my sincerest
belief that
10 based on these -- the testimony here today it is
appropriate
11 to sort of take a step back and hit pause.

12 I'm not -- I am not confident that -- you
know, there
13 are a number of issues I would like to perhaps
consider and
14 brief to this Court. And that is -- what I'm saying
is that I
15 don't know that -- again, I do think it is relevant.
16 Certainly meets the threshold of any
tendency as a
17 fact finder today as you are, Your Honor. But,
again, I think
18 it raises some other questions and concerns that I'm
asking
19 the Court to basically put this on hold so that I
may have
20 time to fully vet these issues and raise the
potential
21 concerns that I'm trying to address. I'm trying to
allude to
22 those concerns without -- without making baseless
accusations.
23 THE COURT: Well, if I read your response
right, you
24 are basically saying the state's motion doesn't have
any merit
25 and I should overrule it, right? Isn't that, in
summary, what

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1 your response says?
2 MR. CURTIS: Well, I think that's true and
yes, that
3 is what our response says.
4 THE COURT: I'm not asking you if it's
true. I'm
5 asking you is that not the basis of your response,
that you
6 think it's meritless and I should overrule it, and
I'm
7 paraphrasing obviously.
8 MR. CURTIS: Yes.
9 THE COURT: Well, then, how is this
relevant to that?
10 MR. CURTIS: Judge, I think it's relevant
in a number
11 of ways as I have already tried to explain.
12 THE COURT: Well, you haven't got there, so
try
13 again.
14 MR. CURTIS: May I have a moment?
15 THE COURT: You may.
16 MR. CURTIS: So again, I would just
reiterate that I
17 believe that it is relevant to today's motion,
again, because
18 of the validity of the response that Dr. Roberson
created and
19 the timeline therein, and sort of what I would say
is him

to take 20 potentially highlighting the path that they're going
-- meets 21 before they've even taken it which I think does have
22 that bare minimum threshold of relevance.

23 But I guess candidly, as Mr. Munda has
stated to me,
concerns 24 the easiest thing to say to the Court is that I have
made 25 about Mr. Prater prosecuting this case as he has now

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1 himself a potential witness if I can establish those
those things. 2 timeframes. There are some caselaw dealing with
cases that 3 However, I think this is wholly different than the
4 I have become aware of.

5 There are two cases involving Bob Macy's
office about 6 potential prosecutorial recusal or prosecutorial
Prater, in 7 disqualification which I mean, I don't know Mr.
should 8 light of the testimony today, might feel his office
know, 9 recuse, but certainly I might want to pursue, you

10 prosecutorial disqualification.

11 And, again, not only that, but I think
there are some

12 ethical concerns and I would like to reach out to
the Bar and

13 address those concerns with the Bar about how they
think I

14 should best go forward after today, and that is my
plan to do

15 so.

16 And I'm asking the Court to not rule on the
motion

17 and simply set it over, in an abundance of caution,
so that I

18 may more readily and capably address those concerns
before

19 Your Honor today.

20 THE COURT: Well, I'm not-- assuming, and
I'm not

21 agreeing at this point. I'm assuming everything
that you just

22 said is true. I'm not the proper venue for that.
Would you

23 not agree?

24 MR. CURTIS: I think I would have to --

25 THE COURT: Whether it was unethical for
you to do

or, you 1 something, Mr. Pond to do something or David Prater
2 know, Paul Faulk, I'm not the venue for that.

start here 3 MR. CURTIS: Well, I think I would have to
4 with the District Court if I was going to pursue
5 disqualification of the District Attorney's Office.

6 THE COURT: Well, now, that's true.

7 MR. CURTIS: Yeah.

8 THE COURT: I would agree with you there.

Your Honor, 9 MR. CURTIS: And before I do that today,
10 I am asking the Court to simply set this matter over
for
11 10 days so that I may brief that issue and come
equipped to do
12 so.

13 THE COURT: To brief what issue?

14 MR. CURTIS: Prosecutorial
disqualification.

15 THE COURT: Any response, Mr. Pond?

16 MR. POND: Please, Your Honor.

17 THE COURT: You will get to cross so go
ahead and
18 cross. Well, do you want to cross or do you just
want to
19 address his request to set this over for 10 days?

to start 20 MR. POND: I would -- I would at least like
relevance 21 the cross, Judge, because I think it might have some
requested of 22 to the questions you're asking or what is being
23 this Court at this point.

24 THE COURT: Okay. Go ahead.

request 25 MR. CURTIS: Again, I want to just renew my

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1 to hit pause.

going to get 2 THE COURT: Well, you did direct. He is
objection, 3 to cross if he wants to cross, so if that was an
4 overruled. Go ahead.

5 CROSS EXAMINATION

6 BY MR. POND:

supervisor 7 Q. Ms. Peery, you said you have been Ms. Beatty's
8 for over awhile anyway?

9 A. Yes, sir.

10 Q. Give or take, how long?

11 A. She has been in position of senior leadership

directly

12 for -- I think since '17.

sorry if I

13 Q. How long have you been her supervisor? I'm

14 was unclear about that?

15 A. Since '17.

16 Q. So, give or take, four years?

17 A. Yes.

education

18 Q. Are you familiar enough with her training and

19 background then?

20 A. Fairly familiar.

21 Q. You recognize she's not a psychiatrist?

22 A. Yes.

to

23 Q. You recognize she's not a qualified or licensed

24 diagnose anybody with a psychiatric disorder?

25 A. Yes.

DISTRICT COURT - OFFICIAL TRANSCRIPT

24

diagnosis?

1 Q. You realize she's not qualified to give a

2 A. Yes.

3 Q. She's not qualified to administer medication?

4 A. Right.

5 Q. She is not qualified to prescribe medication?

6 A. Yes.

7 Q. You're also familiar she's not a psychologist?

8 A. Yes.

9 Q. She's not a licensed psychologist by the Board
of

10 Psychology, right?

11 A. Yes.

12 Q. She's not licensed to see patients?

13 A. Yes.

14 Q. She's not licensed to diagnose patients?

15 A. Yes.

16 Q. She's not licensed to treat patients in any
psychological

17 way, is she?

18 A. No, sir.

19 Q. And in your expertise you are also familiar
with what

20 Battered Woman Syndrome is.

21 A. Yes, sir.

22 Q. It's a psychological disorder, isn't it?

23 A. Yes, sir.

24 Q. Akin to PTSD?

25 A. That's one component, yes.

1 Q. It takes a psychiatrist or psychologist to
diagnose PTSD?

2 A. There are a lot of experts in the field of
battered

3 woman -- in the field that are not psychologists who
also

4 testify as expert witnesses.

5 Q. That wasn't my question, ma'am. It takes a
psychiatrist

6 or psychologist to diagnose somebody with PTSD.

7 A. As a formal diagnosis, yes.

8 Q. So if Angela Beatty diagnosed somebody she
would be

9 speaking outside of her qualification. Would you
agree with

10 that?

11 A. Yes.

12 Q. To the issue of Mr. Prater, you would agree
that it's his

13 job to make sure only valid and truthful testimony
is given

14 from that stand, correct?

15 A. Yes, sir.

16 Q. And he has a right to be concerned when
somebody is

17 testifying whether for defense or prosecution,
right?

18 A. Yes, sir.
19 Q. Because he is a minister of public justice,
right?
20 A. Uh-huh.
21 Q. Yes?
22 A. Yes.
23 Q. So he also has a duty to make sure that people
are only
24 testifying to the things that they are supposed to
testify
25 about, right?

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26

1 A. Yes.
2 (THEREUPON, David Prater, District Attorney
entered the
3 courtroom; after which the following proceedings
were had:)
4 MR. CURTIS: Judge, I would ask that Mr.
Prater step
5 outside of the courtroom. I have invoked the Rule
of
6 Sequestration.
7 MR. POND: At this point, Judge, he is the
elected
8 district attorney. He is my supervisor and he is

the face of

right and a

rebuttal he can

Ms.

ahead.

minister of

testimony

that

to what

no duty to

yes.

the

9 the direct accusation of the defense. He has a

10 duty to be here. So if he is also called in

11 respond appropriately hearing the word directly from

12 Peery.

13 THE COURT: Objection's overruled. Go

14 Q. (By Mr. Pond) So you agree Mr. Prater is a

15 public justice and has a duty to make sure only good

16 is delivered from that stand, right?

17 A. Yes, sir.

18 Q. And don't you think it's his duty to make sure

19 somebody purporting to be an expert only testifies

20 their expertise is?

21 A. If he's calling them, yes.

22 Q. So you think if defense calls somebody, he has

23 say that that person is not qualified?

24 A. I think he could -- he can say that in court,

25 Q. And you agree that Ms. Beatty has testified for

1 state?

2 A. Yes.

3 Q. And if Ms. Beatty testifies outside of her
expertise,

4 that draws doubts upon her testimony for the state,
doesn't

5 it?

6 A. Yes.

7 Q. So don't you think Mr. Prater has a duty to
make sure

8 that the people he is using as experts testify to
what they

9 are allowed to testify about?

10 A. Yes.

11 Q. Including within their limits of expertise?

12 A. Yes.

13 Q. And you think that is part of his job as a
minister of

14 public justice to make sure that happens?

15 A. Yes, sir, in a courtroom.

16 Q. So when he has got the power of authority to
maybe see

17 that they don't get embarrassed by talking outside
of their

18 expertise, maybe that's something he should pursue
as well?

19 A. If it's his witness.
20 Q. Is it important for the YWCA to maintain a good
public
21 face?
22 A. Yes, sir.
23 Q. To only put on those people who are true
advocates for
24 domestic violence victims?
25 A. Yes, sir.

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28

1 Q. So you can do your mission, right?
2 A. Yes, sir.
3 Q. So if you put on somebody, if the YWCA, I
didn't say you
witness who
potentially
4 or any reference to YWCA. If the YWCA sponsors a
5 testifies outside of her expertise, doesn't that
6 bring shame upon the YWCA?
7 A. It could be difficult, yes.
8 Q. So don't you think as a minister of public
justice, Mr.
9 Prater also has a duty to look out for that
reputation?

sure how
10 A. I don't know the answer to that. I'm not quite
11 to answer that one.

of public
12 Q. Does it change your idea that he, as a minister
13 justice, may have been encouraging you to talk to
your
14 subordinate as opposed to intimidating the witness
like you
15 said?

initially.
16 A. Well, as I said, I did not look at it that way
17 But I do not think the response and with the anger
that was
18 brought on was a professional "This is what I'm
looking out
19 for".

that Ms.
20 Q. He brought to your attention that he believed
21 Beatty was speaking outside of her expertise realm,
didn't he?

22 A. Those are not the terms he used, no.

Battered
23 Q. Because she's trying to diagnose somebody with
24 Woman Syndrome, right?

That was
25 A. That was not her -- that was not her expertise.

1 not her experience that she was going to be
testifying.

2 Q. I agree that it's not her experience, but that
is what
3 she intended to testify about was that Ms. Trichell
Jones
4 suffered from Battered Woman Syndrome, right?

5 A. She was not testifying -- testifying as a
psychologist or
6 a sociologist.

7 Q. I agree with that, but that, again, wasn't my
question.
8 Her intended testimony was that Trichell Jones was
suffering
9 from Battered Woman Syndrome, right?

10 A. I have not gone over her intended testimony
with her.

11 Q. So now you're just going to dodge having read
her letter
12 where it says she was suffering from Battered Woman
Syndrome?
13 A. I was not sure what her testimony was going to
be in
14 court. We have not reviewed her testimony. I did
review the
15 letter, yes.

16 Q. Well, you understand she hasn't actually
testified in
17 court yet, right?

18 A. Right.

19 Q. So the only thing we have is her letter.
20 A. Yes.
21 Q. So the only thing we have from her letter is
saying that
22 Trichell Jones suffered from Battered Woman
Syndrome, right?
23 A. Yes.
24 Q. And she is not a qualified expert.
25 A. She is qualified in the field of domestic
violence and

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1 sexual assault, yes.
2 Q. She is not a qualified psychologist?
3 A. She is not testifying as a psychologist.
4 Q. You don't know what she was going to testify
about,
5 right? Isn't that what she --
6 THE COURT: Let's don't be argumentative,
please.
7 Q. (By Mr. Pond) So it's your opinion that having
worked in
8 the domestic violence field she gets to get up there
and say,
9 "Battered Woman Syndrome" just because --

10 A. No, I don't.

11 Q. -- right?

12 A. I do feel like she can testify to her education
and her
13 experience and what that means and how that
translates with
14 victims, yes.

15 Q. She was trying to testify that Trichell Jones
was
16 diagnosed with Battered Woman Syndrome. Isn't that
different
17 from what you just said you thought she would
testify about?

18 A. No, I don't believe it is.

19 MR. POND: That's all I have at this time,
Judge.

20 THE COURT: Any redirect?

21 MR. CURTIS: No, sir.

22 THE COURT: Thank you, ma'am. You may step
down.

23 You are free to leave. Thank you for coming down.

24 MR. POND: Now that I've had cross, Judge,
if I may
25 make my response.

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1 THE COURT: Yes, you may.

2 MR. POND: These are patently frivolous
allegations

3 intended to do nothing more than delay this trial.
This trial

4 has been delayed and delayed and delayed because
defense

5 wanted it delayed on a regular basis.

6 Now they are pulling this out at the very
last minute

7 when we're here to do nothing more than receive a
ruling on

8 the state's motion.

9 When we were here last year in August we
brought to

10 the Court's attention that the defense still had not
done

11 anything to forward their idea of Battered Woman
Syndrome. It

12 was months later before we got any of that
information, which

13 then finally spurred the state trying to suppress
their

14 quote/unquote expert witness because that expert
doesn't have

15 qualifications.

16 And since then it has been nothing but
delay on the

17 defense from not doing this trial and that's what
this is.

18 It's nothing but hey, let's throw dirt out there and
pretend

19 it's going to do something good.
20 We have got one person saying that Mr.
Prater called
21 her, trying to encourage her that her subordinate
speaking
22 outside of what he believed her expertise was. And
now we
23 want to sling mud suggesting that he's intimidating
a state's
24 witness.
25 If the Court feels like he needs to hear
further I

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1 will also call witnesses, i.e. Mr. Prater, but I
don't think
2 the Court needs to. It's clear from Ms. Peery's
testimony
3 that that is not necessary, that he was doing
nothing more
4 than what his job as the district attorney is.
5 THE COURT: Anything else?
6 MR. CURTIS: Judge, I disagree with several
of those
7 assessments. I certainly have done nothing in this
trial in
8 particular to delay trial.

9 And, in fact, the only motion for
continuance was
10 filed on behalf of the state. We joined in that
motion
11 willingly back in August in light of the motion that
they had
12 filed asking to have their own expert here.

13 However, no -- I disagree with the
characterization
14 that my goal today is to delay proceedings. And I
haven't
15 made any accusations other than saying -- asking
this Court
16 for time to digest the testimony and asking the
Court to hold
17 its ruling in abeyance so that I may look into what
my next
18 move is, if any. That is literally all I have asked
for at
19 this time.

20 And that's the same request I'm going to
make of you
21 today, is that we hold this in abeyance and set it
over for a
22 matter of days. I'm not formally asking to move the
trial.

23 It is my request that we simply set it over
for 10
24 days, two weeks so that I may brief some issues and
I may come
25 to the Court and say that I'm not going to raise
those issues.

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1 I'm not prepared to fully raise those issues today.

up, why

2 THE COURT: Why not? If you brought them

3 aren't you ready today?

I have

4 MR. CURTIS: I -- Judge, again, I think --

limitations

5 done some looking into this but frankly, the time

tell the

6 from Wednesday to today are such that -- and I'll

heard back

7 Court I have reached out to the Bar and I have not

8 yet, but I am seeking advice from the Bar.

pause so

9 And I'm asking the Court to simply press

investigate

10 that I may hear back from them and continue to

prepared to

11 what I believe in looking into perhaps pursuing

12 disqualification of the DA's office, and I'm not

13 do that today.

record. And

14 I wanted to put that testimony on the

I say is

15 Judge, as you know from interviewing witnesses what

16 not evidence. I would be putting myself in a

problematic

17 position. I didn't have a sworn affidavit or
anything to that

18 extent.

19 Ms. Peery told me on Wednesday over the
phone and she

20 was out of the office Thursday and Friday. I had
other things

21 going on those days. I had court both days. And so
simply

22 put, we had a hearing before Your Honor this
morning. We have

23 been doing things that have not allowed me to fully
vet this

24 in a way that I'm comfortable with telling the Court

25 definitively "Here is the right answer".

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1 So I just am asking for leave of court for
10 days,

2 two weeks to reset this and I will be prepared to
make

3 argument if I believe any is necessary.

4 THE COURT: When did you first become aware
of this

5 position that you're putting forth today?

6 MR. CURTIS: Judge, Ms. Beatty had

represented to me

7 that she believed --

8 THE COURT: I'm not asking you -- I asked
for when.

9 MR. CURTIS: Well, I did not know the
nature of the

10 conversation until last Wednesday when I spoke to
Ms. Peery,

11 so five days ago.

12 THE COURT: So that's the answer to my
question.

13 When you first -- when did you first become aware of
the

14 position that you're putting forward now and the
answer is

15 five days ago.

16 MR. CURTIS: Yes, sir. And I will tell the
Court out

17 of candor Ms. Beatty had raised that she was made to
feel a

18 type of way. She didn't tell me directly what Ms.
Peery had

19 said and I have not had a chance to interview her.
We have

20 tried to make several attempts to communicate with
her, and

21 also the Court -- candidly, she did not respond
until I

22 subpoenaed her. And then she called me on Wednesday
when she

23 received my subpoena. And she said -- revealed to
me even

24 more than Ms. Beatty had revealed to me and it's
raised those
25 concerns.

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1 I immediately called the Bar for advice and
have
2 done -- did not hear back and have done nothing --
I'm not
3 figured out the solution to this issue quite yet,
Your Honor.
4 I apologize to the Court.

5 THE COURT: Well, I will go back to my
original
6 question. How is any of this relevant for the
motion that is
7 set today.

8 MR. CURTIS: Well --

9 THE COURT: Not assuming anything you say
is right or
10 wrong, but how is it relevant to the motion today?

11 MR. CURTIS: Well, again --

12 THE COURT: Why do I need to reserve ruling
for
13 10 days for two weeks on the motion that's set
today?

14 MR. CURTIS: I guess my answer in short,

Your Honor,

15 would be simply that I believe if disqualification is
the right
16 approach or is the approach we pursue or is an
approach that,
17 let's say, you were to sustain in the future, who
knows
18 whether we would be having this hearing and if there
are any
19 ethical concerns whatsoever. I believe Mr. Prater
has made
20 himself an interested party, so to speak, in a way
that causes
21 potential concern.

22 THE COURT: Well, his name is on every
Information.
23 Of course, he's an interested party. His name
appears on
24 every Information.

25 MR. CURTIS: Sure. He is not supposed to
have a

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1 conflict and an interest in the result of the
interest -- in
2 the testimony of any given witness, and I believe
that --

3 THE COURT: Sure. The elected DA always

has an

4 interest in the result. That's absurd to say that
he doesn't 5 or wouldn't.

6 MR. CURTIS: I mean to say in terms of what
the 7 actual testimony would be, not the results of the
trial or the 8 pending outcome, but actual testimony that could be
9 potentially adverse to his own interest on a number
of levels.

10 And like I said again, I'm just asking for
time to 11 look into all of those things. I am not trying to
make 12 accusations. I simply am asking for time to look
into this 13 very briefly and I'm asking the Court to place this
on hold 14 for a very limited amount of time.

15 I'm not even asking the Court to reset the
trial 16 date. Simply hold this ruling in abeyance until I
can 17 simply present it.

18 THE COURT: It's set for trial May 10th.
What's your 19 position on a 10-day or 2 week? I'm telling you now
I'm not 20 going to continue the trial based on what's
presented up to 21 this point. Not happening for either side. We've

had plenty

22 of time to get this trial ready. Both sides have.

23 This is a 2019 case. So it's set for trial
May 10th.

24 What's your position on his request to set it over
10 days or

25 2 weeks?

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are already 1 MR. POND: Any delay in this ruling -- we

demand or 2 past the point where it's difficult. We can't

Ms. -- 3 request that this Court allow our expert to examine

motion. 4 the defendant, Ms. Jones, without a ruling on this

instance, the 5 If we wait any longer -- let's say, for

the 6 Court overruled the state's motion which will allow

hearing where we 7 defense's purported expert to testify, at the

to have 8 started all of this we requested the Court allow us

9 her examined by Dr. Roberson as a formal matter.

still 10 The Court said no because this matter was

11 pending. So we need a result of this motion in
order to move

12 forward with that request.

13 Assuming that the motion goes in defense's
favor we

14 would get her to Dr. Roberson as fast as possible to
make that

15 happen but because where we are at already I don't
know how

16 close we are, but we're working on that. Anymore
delay is

17 going to make that incredibly more difficult to get
it done in

18 a timely manner.

19 MR. CURTIS: Judge--

20 THE COURT: Wait a minute. Wait a minute.
Just as a

21 preliminary matter, have you talked to Dr. Roberson
about when

22 he would be available to interview Ms. Jones
assuming it gets

23 to that point --

24 MR. POND: Not yet, Judge.

25 THE COURT: -- between now and trial?

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1 MR. POND: In a real loose way we talked
last year
2 when we first engaged his services to look over what
we were
3 dealing with. And he said he has a relatively
available
4 schedule. But without some sort of specifics no, I
haven't
5 talked to him about anything specific.

6 THE COURT: Well, he specifically knows,
and you
7 know, the trial is set May 10th. So as of today you
haven't
8 got anything even tentatively set up with him?

9 MR. POND: Not yet, Judge. We can't
schedule
10 anything without the defense's participation.

11 THE COURT: I know. I'm trying to get the
lay of the
12 land here. Now go ahead.

13 MR. CURTIS: I just want to be clear that
that is not
14 actually completely accurate. There was not a
request to
15 interview Ms. Jones made at the last hearing. They
not address
16 specifically did not make that request and we did
17 that.

18 Mr. Pond may disagree with that assessment,
but I
19 believe that that is what the record would actually
reflect.

20 That they may make that if you rule adversely to
them today,
21 but I specifically do not agree that at the last
hearing that
22 they had ever made a request, nor have they ever up
until now
23 interviewed Ms. Jones.

24 MR. POND: I will remind the Court at the
close -- or
25 near the end of the hearing last time I specifically
offered

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1 to this Court and defense maybe we have her examined
2 preemptively, but we only get to use it if the
Court's ruling
3 goes in defense's favor so we can speed the process
along and
4 that's what was denied.

5 THE COURT: That's kind of the way I
remember it, too
6 without reviewing any transcripts that may or may
not exist.

7 MR. CURTIS: I will simply say I disagree
with that
8 assessment, but I think the Court was pretty clear
that you

9 wanted to hold everything off, but I just don't
remember them
10 making a request to interview.
11 I'll tell you candidly, the reason I'm so
positive
12 about this, Your Honor, is frankly Mr. Munda and I
and Mr. Box
13 have discussed it. We would have no objection to
Mr.-- Dr.
14 Roberson interviewing Trichell Jones. If they had
made the
15 request I just simply would have agreed, and that's
why I'm so
16 confident in my own position, but I certainly don't
want to
17 argue with the Court about it.
18 THE COURT: Because the next date I have
available
19 would be April 19th at 1:30. That would be three
weeks to the
20 day until the trial is set.
21 And it sounds like, Mr. Pond you have no
indication
22 at this point whether Mr. Roberson -- Dr. Roberson
could
23 interview Ms. Jones. Because they just now, on the
record,
24 said they will have her available and have no
objection to
25 having her available.

to see if
specifics. I
step out and
would have
the 19th,
19th and the
week of the
three full

1 MR. POND: I could try texting him, Judge,
2 he could respond fast enough, but no, I have no
3 don't know if he would be available.

4 THE COURT: Is that something you could
5 text him now?

6 MR. POND: I can try, Judge.

7 THE COURT: To see if any tentatively he
8 something available during that 3-week period.

9 MR. POND: Yes, sir.

10 THE COURT: We're talking about the week of
11 the 26th and the 3rd.

12 MR. POND: Between here and the 19th?

13 THE COURT: No, no, no, no. Between the
14 trial. So it would be the week of the 19th, the

15 26th and the week of the 3rd. So we're talking
16 weeks. Go see if you can find out if he would even
17 tentatively be available one of those three weeks.

18 MR. POND: Yes, sir.

the 19 (THEREUPON, a short recess was had; after which

20 following proceedings continued:)

21 MR. POND: He's not responding, Judge.

rule on 22 THE COURT: Everybody's back. I'm going to

need to file 23 the motion and if you have got something else you

24 between now and trial --

25 MR. CURTIS: Yes, sir.

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1 THE COURT: -- you know the process.

2 MR. CURTIS: Yes, sir.

anything else 3 THE COURT: Now either side want to add

4 to the record on the substance of this motion?

5 MR. POND: No, Your Honor.

briefly I 6 THE COURT: Again, if you want to summarize

7 will allow you. I have got plenty I've read here.

8 MR. CURTIS: Very briefly.

9 THE COURT: All right.

stand on 10 MR. MUNDA: Judge, if the state is going to

11 their motion, I'm going to stand on mine.
12 THE COURT: You don't want to add anything
else?
13 MR. POND: No. It's summarized in the
briefs pretty
14 well, Judge.
15 THE COURT: I have got one question I want
both of
16 you to address.
17 What has our Court of Criminal Appeals said
in
18 reference to -- and you both kind of addressed this
and if you
19 say you'll stand on what you've got I understand
that, but
20 what has been the Court of Criminal Appeals specific
position
21 on a person testifying to Battered Woman Syndrome?
22 MR. MUNDA: Your Honor, I don't believe
that issue
23 has come before the Court. Are you talking about
the kind of
24 expertise that's required?
25 THE COURT: Yes.

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1 MR. MUNDA: I haven't seen that issue
before the

2 Court of Criminal Appeals.

3 MR. POND: I would agree, Judge.

4 THE COURT: One way or the other?

5 MR. MUNDA: One way or the other. All I
can say is

6 that in my brief I think I do a pretty good job of
summarizing

7 that. In general, their position is we don't
require any

8 particular degrees, any particular licensure.

9 THE COURT: Right. And you were in
general. That's

10 why I'm giving you both to address specifically if
you want

11 to.

12 MR. MUNDA: I'm not aware of any cases with
the Court

13 of Criminal Appeals other than the ones I cited to
the Court.

14 Those are the most, I think, on point cases that I
would make

15 a point on.

16 THE COURT: Mr. Pond.

17 MR. POND: Your Honor --

18 THE COURT: Go ahead if you need to confer
a minute.

19 MR. POND: As far as I can tell from the
published

20 opinion, whether there is something else I'm

unaware, the

21 Court of Criminal Appeals I have not found a case
where they
22 take directly the expertise necessary to testify to
Battered
23 Woman Syndrome.

24 THE COURT: Wouldn't you infer from that,
then, that
25 there are no specific requirements?

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1 MR. POND: No, because in the cases that
the Court
2 has addressed it's always been psychiatrists or
psychologists
3 or somebody in that field.

4 I will say that we have provided a case
from the
5 Tenth Circuit that said a social worker was not
sufficient
6 qualifications for somebody to testify as a Battered
Woman
7 Syndrome expert as, again, a person was suffering
from that
8 syndrome.

9 Going so far as to calling it potential
professional

qualified 10 misconduct to present that and not get a more
psychiatry. 11 expert. And that person had a doctorate degree in
psychology. 12 Forgive me if I forget if it's psychiatry or
referred to -- 13 But that person that the Tenth Circuit
second. The 14 I'm confusing my cases. Let me back up just a
a social 15 one that the Tenth Circuit referred to in Paine was
16 worker.
doctor in a 17 There was another case talking about a
Syndrome 18 death penalty discussing tangentially Battered Woman
person 19 and the court suggested that would not be the right
or 20 since they didn't have any expertise, any training
that. 21 experience dealing with patients suffering from
areas of 22 So there is plenty to suggest in other
Criminal Appeals 23 expertise that the court -- that the Court of
about what 24 has always required a basis of knowledge to testify
Battered 25 they are doing, i.e., if we're going to talk about

condition, 1 Woman Syndrome being a psychological psychiatric

qualifications 2 then that person has to have the expertise or

3 to evaluate psychiatric or psychological aspects.

Angela 4 That's the problem that we have. Not that

a general 5 Beatty can't say what Battered Woman Syndrome is in

anybody with 6 explanatory kind of way, but she can't diagnose

7 it.

And I 8 That's where the fundamental problems lie.

Criminal 9 think there is a lack of evidence from the Court of

a battered 10 Appeals on the specific necessary qualifications of

11 woman expert.

12 MR. MUNDA: Your Honor --

are 13 THE COURT: And isn't that exactly what you

14 trying to get her to do, to diagnose it?

was about to 15 MR. MUNDA: And see, that's about what I

this 16 say. I think we are getting way too wrapped into

17 diagnosed versus not diagnosed. I don't really
think that is
18 an important distinction.

19 And to that affect I would call the Court's
attention
20 to the definition of Battered Woman Syndrome
provided in
21 Bechtel. And if the Court wants, I'll read it real
quick.

22 THE COURT: Go ahead and read it into the
record.

23 MR. MUNDA: So what they say is "A battered
woman is
24 a woman who is repeatedly subject to any forceful,
physical or
25 psychological behavior by a man in order to coerce
her to do

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1 something he wants her to do without any concern for
her
2 rights. Battered women include wives or women in
any form in
3 an intimate relations with men.

4 Furthermore, in order to be classified as a
battered
5 woman the couple must go through the battering cycle
at least

6 twice. Any woman may find herself in an abusive
relationship
7 with a man once, but if it occurs a second time and
she
8 remains in the situation she is defined as a
battered woman."

9 Angela Beatty has been working in this
field for
10 20 years and all she does is talk about literally is
to learn
11 and treat women and deal with their relationship
with men in
12 exactly this type of situation.

13 Whether she is qualified to write someone a
scrip or
14 not, I think is totally immaterial. That is the
phenomenon
15 that we are asking her to testify about. She has
nothing but
16 experience in that field. That's her whole life's
work.

17 So just like, for instance, the idea that
Shawn
18 Roberson who, frankly, is just paid to call people
competent
19 and not insane for a living and rarely deals with
this issue.

20 The idea that he has three letters after
his name
21 that he is qualified to opine how women in abusive
22 relationships feel is frankly laughable.

23 What we are asking her to talk about are
those exact

of 24 issues that Bechtel say are relevant in the question
and 25 domestic violence which is the beliefs and opinions

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in this 1 perceptions of the supposed -- of the battered woman
2 case.

or not. 3 So I don't care if she can make a diagnosis

by the 4 The way that the Battered Woman Syndrome is defined
5 Court of Criminal Appeals, not by the doctors not --
they can 6 define their terms however they want.

define terms 7 We are in the legal field. We get to
those terms 8 however we want. She is qualified to talk about
beliefs and 9 as courts understands it, which is simply the
10 attitudes of women who have suffered abuse.

winner for 11 And not only that, Judge, I think the game
that issue 12 us is Title 22 § 40.7. They have never addressed

sucks for
violence
numerous
domestic
about
They have
Unfortunately for them
decided which
domestic
on just
should get

13 in any of their briefs and you know why? Because it
14 them. Title 22 § 40.7 literally says a domestic
15 expert, which they have said Angela Beatty is in
16 cases. She is endorsed right now for them as a
17 violence expert, is allowed to basically testify
18 whatever she wants, and that's what we have here.
19 It's game over for them with that statute.
20 never addressed it because they can't.
21 Bechtel was decided before Title 22 § 40.7 was
22 drastically expand the proper scope of testimony of
23 violence experts. So I think you can hang your hat
24 that by itself.
25 But regardless, I don't think the Court

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1 wrapped up in this whole is -- is capable of
diagnosing or

defined by 2 not. You have seen how Battered Woman Syndrome is
Beatty's 3 the Court of Criminal Appeals. You know Angela
plenty of 4 experience is exactly in that field. You have
5 reasons to rule in our favor.

record you 6 THE COURT: So are you saying for this
diagnosis? 7 have no intention of having her testify about any

the symptoms 8 MR. MUNDA: I think we can say these are
9 of Battered Woman Syndrome.

10 THE COURT: Answer my question.

diagnose 11 MR. MUNDA: We are not going to have her
intend to do 12 anybody, whatever that -- I don't believe that we
13 that, no.

you say 14 THE COURT: Response, Mr. Pond. What do
15 about the statute he cited?

16 MR. POND: May I have one second, Judge?

17 THE COURT: You may.

turning to 18 MR. POND: Judge, first and foremost
said this 19 Bechtel, the Court of Criminal Appeals specifically

20 Court today sets forth the following guidelines:

21 Number 2, the expert must establish herself

as one

22 who is qualified by knowledge, skill, experience,
training or

23 education to diagnose the defendant as suffering
from the

24 Battered Woman Syndrome.

25 If we don't have a diagnosis of a Battered
Woman

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1 Syndrome, we don't have the defense. I don't know
how clearer

2 it gets from the Court of Criminal Appeals. If she
can't

3 diagnose she can't testify about what this defendant
said.

4 THE COURT: Do you disagree that his
position is the

5 statute basically overrides that?

6 MR. POND: Yes, I disagree.

7 THE COURT: Why?

8 MR. POND: Because all that statute does is
codifies

9 Bechtel that experts can be qualified to testify
about issues

10 related to domestic violence. That's it.

11 It doesn't change anything that we have

ever known

12 about experts, that an expert has to establish
themselves by
13 training or experience or both. That they have the
14 qualifications to do the thing they're purporting to
say they
15 do, which is diagnose.

16 If Ms. Beatty wanted to just talk about
what Battered
17 Woman Syndrome is, that's one thing. To get on
there and say
18 Trichell Jones said these things, did these things,
was
19 reasonable in this way, was diagnosed in that way,
all of
20 those kind of topics are out of her qualifications,
because
21 otherwise all she is doing, the only information she
has to
22 offer is defendant's own statements and that's
nothing more
23 than parroted hearsay which we know is not right.
Between
24 expert -- we know experts aren't just allowed to
spew hearsay
25 for the sake of getting more hearsay out, and that's
all

1 Angela Beatty would do at this point because she
doesn't have
2 the training and qualifications to test whether Ms.
Trichell
3 Jones is lying.
4 She doesn't have the ability to diagnose
and compare
5 her to other diagnosis.
6 She can't figure out whether Ms. Beatty is
-- Ms.
7 Jones is a trained response liar. I know there is a
better
8 word. I'm just getting it off the top of my head.
9 There's all kinds of things that come with
training,
10 experience and psychology and psychiatry which help
them
11 diagnose the person they're looking at and that's
what Ms.
12 Beatty does not have.
13 She is an advocate. She wants to come in
here from
14 the YWCA and say her perspective from a woman's
perspective.
15 That's all. "This person came in and reported to me
she had
16 domestic violence". That's it. It's over and done.
There
17 was no independent investigation. There was no
independent
18 analysis. She came at it from an advocate's

perspective.

want to 19 "Here's this woman that my heart goes out to and I

20 help, and here's how I'm going to do it".

21 That is simply not an expert in psychiatry,
22 psychology and not qualified under our statutes or
caselaw.

23 MR. MUNDA: Judge, may I respond?

24 THE COURT: Last time. This is it.

25 MR. MUNDA: Yes, Your Honor. I just don't
see how

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of Title 1 you square anything they said with the plain reading

2 22 B 40.7. I'll just read it.

3 "In an action in a court in this state, a
party

4 offers evidence of domestic abuse, testimony by an
expert

5 witness, including, but not limited to, the affects
of such

6 domestic abuse on the beliefs, behaviors,
perceptions of the

7 person being abused shall", not may, "shall be
admissible."

8 They dispute whether she is qualified to

opine about

9 Battered Woman Syndrome. Nobody is arguing that she
is not an
10 expert on domestic violence. All the things they
said are
11 great things for them to talk about on cross if they
want to
12 or bring up whoever as a rebuttal witness.

13 And I'm just -- again, they say she is too
biased.

14 They endorsed her in numerous cases. Ms. Layman
herself did.

15 And bottom line is, also it's just not true when he
said that
16 it's only based on the defendant's own statement.

17 In her report, if you read it, it says it
was based
18 on an interview with Trichell Jones. It was based
on police
19 reports and it was based on medical records or
previous

20 injuries, including being stabbed by Mr. Jones.
It's not just

21 based on Trichell Jones's statements and I have
nothing
22 further to add.

23 THE COURT: The state's motion will be
sustained.

24 Now, I have this motion to find self-

25 someone -- I don't know who has attached a note that
says

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1 "Does not need to be heard."

2 MR. MUNDA: We don't need to hear that
until the end
3 of the evidence, Your Honor.

4 THE COURT: Okay.

5 MR. MUNDA: I think it would be -- it's
just not ripe
6 for the Court to decide. And I wanted to brief it
for the
7 Court's consideration so they can view the evidence
with that
8 at least being on the Court's mind.

9 THE COURT: But it's your motion and so you
agree
10 that it's not ripe to be heard today.

11 MR. MUNDA: I think it has to be heard at
the end of
12 the evidence. Do we agree that that's the proper
time?

13 MR. POND: Based on our reading of it,
Judge, it was
14 asking for an advisory opinion which I don't think
this Court
15 is capable of doing by statute or authority.

16 MR. MUNDA: I just wanted the Court to be

fully

17 briefed on the issue so we're not just --

18 THE COURT: Well, I appreciate being put on
notice on

19 what the upcoming issues are, so I appreciate that.

20 MR. MUNDA: Yes, Your Honor.

21 THE COURT: And if you want to file a
written

22 response, I'd appreciate that, too.

23 MR. POND: Yes, sir.

24 THE COURT: Now, is there anything else?
That is all

25 I show that was set today.

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1 MR. POND: That's all I have, Judge.

2 MR. MUNDA: Sir, I just want to know by the
Court's

3 ruling. You're saying that Ms. Beatty cannot
testify at all

4 or as regarding the scope of her testimony?

5 THE COURT: Well, the motion read State's
Motion to

6 Suppress and Limit the testimony of Angela Beatty
regarding

7 Battered Woman Syndrome. That motion I sustained.

8 MR. MUNDA: Okay. Fair enough. I think I
9 understand.

10 THE COURT: All right. We are still set
for trial on
11 the heretofore mentioned dates.

12 MR. POND: Thank you, Judge. You're
excused.

13

14

END OF PROCEEDINGS

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OKLAHOMA

2 STATE OF OKLAHOMA,)
)
 3 Plaintiff,)
)
 4 vs.) CASE NO.
 CF-2019-432)
)
 5 TRICHELL EVONNE JONES,)
)
 6 Defendant.)

7)
 8 STATE OF OKLAHOMA) SS. CERTIFICATE OF
 COURT REPORTER)
 9 COUNTY OF OKLAHOMA)

10 I, Cynthia Kay Jones, Certified Shorthand
 Reporter, within
 11 and for the State of Oklahoma, duly appointed and
 qualified
 12 reporter in the District Court of Oklahoma County,
 State of
 13 Oklahoma, do hereby certify that I took down by
 machine
 14 shorthand the proceedings as described on Page 1
 herein, and
 15 the foregoing is a true, complete and accurate
 record of my
 16 shorthand notes so taken of said proceedings.

17 IN WITNESS WHEREOF, I hereunto set my hand and
 official
 18 seal this 6th day of April 2021.

19
 20
 21

22

23

CYNTHIA KAY JONES, CSR, RMR

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25

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