

Testimony of Dr. Vaughn Rickert in Misskelley trial Feb 1994

(p. 1454)

(RECESS)

(THE FOLLOWING HEARING TOOK PLACE OUT OF THE PRESENCE OF THE JURY)

THE COURT: You want to call another witness?

Alright, Doctor Wilkins, you can stand down, please, sir.

THE WITNESS: (COMPLIES)

THE COURT: Alright, let the record reflect that this is a continuation of a hearing out of the presence of the jury for the purpose of questioning the scientific veracity of a test. I guess that's what we're doing. Go ahead.

DOCTOR VAUGHN RICKERT

having been first duly sworn to speak the truth, the whole truth, and nothing but the truth, then testified as follows:

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DIRECT EXAMINATION

BY MR. DAVIS:

Q: Would you state your name, please, sir?

A: Vaughn Rickert.

Q: And, Mr. Rickert, are you a -- how are you employed?

A: I'm employed as an associate professor of pediatrics at the University of Arkansas for Medical Sciences, and on the professional staff at Arkansas Children's Hospital as a pediatric and adolescent psychologist.

Q: Okay, and could you explain what your background and training is in the field of psychology?

A: Yes. I received a Masters and Specialist Degree in school psychology and then returned for a

professional degree in psychology or a Psy B in clinical psychology and graduated after completing my internship at Johns Hopkins University School [AUDIO BEGINS] of Medicine in Baltimore where I took a job as an assistant professor here at the university.

During the course of time that I have been employed I have come to specialize in two areas of -- of interest and research. One is in clinical treatment of adolescents that may or may not have medical problems but also have mental health difficulties. I've done a lot of research in terms of adolescents and substance abuse and adolescents' use of primary care.

An on-going part of my clinical responsibilities has been since I arrived the evaluation of children who have -- children and adolescents who are suspected of being handicapped, whether that be mental retardation, autism, learning disorders, or emotional impairments which effect their ability to profit from education in the regular school system.

DAVIS: Your Honor, we would submit Dr. Rickert as an expert in the field of psychology.

STIDHAM: You have a license?

RICKERT: Yes, I do have a license to practice, 876P.

STIDHAM: We'll stipulate, your Honor.

THE COURT: Alright.

DAVIS: Let me ask you for the record. You're not under, currently under any disciplinary action by the board or anything in the field of psychology?

RICKERT: No, I am not.

DAVIS: Not under probation?

RICKERT: No, I'm not.

THE COURT: Did I understand you to say you are also a medical doctor?

RICKERT: No, I'm a psychologist.

THE COURT: Psychologist, alright.

RICKERT: But I'm on faculty with the medical school.

BY MR. DAVIS:

Q: And you've heard this talk about this test regarding suggestibility?

A: Yes, I have.

Q: Have you ever heard of the Gisli Gudjonsson Scale of Suggestibility prior to entering the courtroom today?

A: Um, no I had not.

Q: Okay. Had you ever seen it administered in your practice or in your years working as a psychologist?

A: No, I have not.

Q: Okay. Now, did you understand that the test, how the test procedure -- can you explain to us how you understood the test was administered?

A: From what I understood from the testimony was that a short paragraph is given, or is read in a very neutral tone, and then the subject is asked to respond to a list of questions immediately following the presentation of that story and then sometime later he is also asked the same list of questions again but told that some of his answers or her answers are incorrect.

Q: And, you indicated to me after you heard that testimony that there would be some serious concerns you would have about the validity of such tests because of what?

A: I would be concerned about the validity of such a measure with children, adolescents or adults who had significant memory impairments. That is, individuals who have difficulty recalling auditory information especially, so that they may not be, you may not be assessing suggestibility or truth versus non-truth or statement versus non-statement, but simply guessing because of an inability to remember what the subject had just heard.

Q: Okay. And you have evaluated or examined the report provided by Dr. Wilkins based on his examination of this defendant?

A: Yes, I have.

Q: And you've also examined the testimony of Dr. Wilkins at the prior two hearings involved in

this matter?

A: Yes, I have.

Q: Okay. And it's your opinion that what would be measured, or what would very likely be measured in this test, would not be suggestibility but would be his ability to remember?

A: I would, based on Dr. Wilkins' report where he indicated that Mr. Misskelley had significant impairments in visual and auditory memory.

Q: Would you yourself feel comfortable in testifying as an expert if you had never received any training in how to administer a test, and had never administered the test to anyone before in that particular area?

A: I would be very uncomfortable.

DAVIS: No further questions, your Honor.

CROSS EXAMINATION

BY MR. STIDHAM:

Q: Doc?

A: Um-hmm.

Q: What do you do, I mean, at the UAMS?

A: I'm a pediatric and adolescent psychologist, I evaluate children, I provide direct clinical service, I provide educational experiences for the residents and do research.

Q: How many kids do you work with that have been grilled and interrogated by police?

A: I have not.

Q: So you don't have any experience in this?

A: I do not have any experience. In that.

Q: Are you shocked that you've never heard of the Gudjonsson Suggestibility Scale?

A: No, I am not shocked that I have not heard about it.

Q: Have you read the literature regarding the test and how to perform the test?

A: No, I briefly scanned one of the chapters so I could better understand how the test was administered.

Q: How briefly is briefly?

A: Uh, during the ten minute recess that the judge called.

Q: That's pretty briefly, isn't it?

A: It is very brief.

Q: Now, isn't the ability to remember things, wouldn't that be a part of suggestibility?

A: It depends upon what you're assessing. If the point of the evaluation is to determine how much information a subject can remember, then you're assessing memory. If, in fact, you want to assess suggestibility, in this particular case, that is compromised, in my professional opinion, by a subject's ability to remember. That is, if I can't remember what was just said to me, how am I going to know whether I was suggested or not suggested to do something if I'm simply guessing.

Q: Well, what if you read the answer ahead of time and you simply repeat the answer?

A: That would be fine for normal subjects. Typically people do remember more information being presented it over and over and over again. All I'm testifying to is I would have some concerns based on Dr. Wilkins' report where he indicated that Mr. Misskelley had difficulties in auditory and visual memory skills. And I would be concerned that the results that Mr. Misskelley obtained, on this particular instrument, may be compromised, and in my professional opinion are significantly compromised because of his memory impairments.

Q: Have you read Dr. Gudjonsson's book?

A: I have not.

Q: Just other than during the recess a little while ago?

A: That is correct.

STIDHAM: Nothing further.

THE COURT: Anything else gentlemen?

DAVIS: Not at this time, your Honor.

THE COURT: Alright, you may stand down.