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SUPERIOR COURT
COUNTY OF SAN BERNARDINO
JOSHUA TREE DISTRICT

NOV 13 2023

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13 PEDRO MARTINEZ

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN BERNARDINO**

16 THE PEOPLE OF THE STATE OF
17 CALIFORNIA,

18 Plaintiff,

19 v.

20 PEDRO MARTINEZ,

21 Defendant.

Case: FVI19000218

**DEFENDANT PEDRO MARTINEZ'
SUPPLEMENTAL EXPERT WITNESS
DISCLOSURE**

Date: July 28, 2023

Time: 8:30 a.m.

Dept.: V3

1 **I. INTRODUCTION**

2 Per the Court’s order on July 14, 2023, a more detailed summary of each of the experts
3 that the defense may call is being provided.

4 For reasons that remain unclear, on July 14, 2023 Court demanded broader disclosure
5 from the defense, and not the People, requiring a complete statement of any potential expert
6 testimony.

7 The defense, by contrast, is not even aware of which of the People’s proposed experts
8 will testify as to what issue. The defense has no knowledge of what materials were reviewed
9 by the People’s proposed experts or what their positions will be. The *entire* summary of
10 expert witness disclosure (*collectively* as to all four proposed government witnesses) was to
11 submit the proposed experts’ CVs (months after the defense disclosed theirs) and state as
12 follows:

13 [T]hese experts will testify as to Child Sexual Abuse Accommodation
14 Syndrome (CSASA) as well as “battered person syndrome, counterintuitive
15 victim behaviors, forensic interviewing of children, autobiographical and
16 traumatic injury, and the psychology behind children’s memory and
suggestibility.

17 The Defense objects to the Court’s July 14, 2023 ruling to the extent that it puts upon
18 the Defense a far more onerous obligation than that of the People. The Defense further objects
19 that the Court is forcing the Defense to disclose experts and other witness information without
20 being aware of what witnesses the People are intending to call or what subject matter the
21 People’s proposed expert witnesses will testify to.

22 Nevertheless, to comply with the Court’s ruling, the defense provides the following list
23 of documents reviewed by Dr. McAuliff, Judy Malmgren, and Robin Sax (Dr. Romanoff’s
24 notes, test results, and report was previously provided) and a more detailed explanation of the
25 proposed experts’ intended testimony.

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II. RICHARD ROMANOFF, PH.D

Dr. Romanoff’s credentials and a summary of his anticipated testimony was provided to the People on April 4, 2023. All of Dr. Romanoff’s notes and STATIC 99 results were subsequently provided on June 19, 2023. All of the materials relied upon were provided to the People on June 23, 2023. At the request of the People, Dr. Romanoff prepared a report that was provided on the day the Defense received it – July 12, 2023. Dr. Romanoff remains available for any interviews the People wish to have with him.

III. JUDY MALMGREN, BSN, RN, SANE-A BOARD CERTIFIED FORENSIC NURSE EXAMINER

A. Credentials

Nurse Malmgren’s credentials, and a summary of her proposed testimony, have been previously provided to the People on April 4, 2023.

B. Materials Reviewed By Nurse Malmgren

Nurse Malmgren has reviewed the following materials:

- Complaint, Information, First Amended Information;
- January 22, 2019 Forensic Medical Report of Ismael R.;
- January 25, 2019 Forensic Medical Report of Xavier M. and related photos;
- Interviews by Law Enforcement of Complaining Witnesses;
- Police Reports produced by the People; and
- Interviews by Social Workers of Complaining Witnesses produced by the People.

C. Anticipated Testimony

It is anticipated that Nurse Malmgren will testify to the following issues:

- Nurse Malmgren will interpret the findings (or lack thereof) contained in the SART reports identified above;
- Nurse Malmgren will identify evidence, or lack thereof, related to the forensic physical examinations of the Complaining Witnesses (identified above);
- Nurse Malmgren will discuss the forensic physical examinations in relation to the law enforcement interviews;

- 1 • Nurse Malmgren will explain the forensic medical reports identified above --
2 both in terms of the meanings of the language within the forensic medical reports
3 and the reports completed by B. Smith on January 25, 2019 and L. Heilaind of
4 January 19, 2023.
- 5 • Nurse Malmgren will discuss the forensic medical report of Complaining
6 Witness Ismael R. as it relates to the allegations contained in the initial
7 complaint. Nurse Malmgren will also discuss the forensic medical report as it
8 relates to the initial allegations against Pedro Martinez purportedly made by
9 Complaining Witness Ismael R. to non-party witness Magdalena Serna.
- Nurse Malmgren will identify evidence taken at the exams identified above.
- Nurse Malmgren will testify to the studies and results of the materials identified
in Nurse Malmgren's curriculum vitae provided to the People on April 4, 2023.

10 **IV. DR. MCAULIFF, J.D.; PH.D**

11 **A. Credentials**

12 Dr. McAuliff's credentials were previously provided to the People on April 4, 2024.

13 **B. Materials Reviewed**

14 Dr. McAuliff has reviewed the following materials:

- 15 • Interview By Law Enforcement Of Parents Of Non-Party Joey T. (*contained in
16 discovery provided by the People*);
- 17 • Interview By Law Enforcement Of Melody Smith Telephone (*contained in
18 discovery provided by the People*);
- 19 • Forensic Interview Of Ismael R. (*contained in discovery provided by the
20 People*);
- 21 • Interview Of Non-Party Joey T. By Law Enforcement. (*contained in discovery
22 provided by the People*);
- 23 • Interviews Of Maple Elementary Proctors By Law Enforcement. (*contained in
24 discovery provided by the People*);
- 25 • Pre-Poly And Post-Poly Interview Of Defendant By Law Enforcement
(*contained in discovery provided by the People*);
- 26 • Recording Of Polygraph Interview Of Defendant By Law Enforcement
(*contained in discovery provided by the People*);
- 27 • Interview Of Salomen V. By Law Enforcement (*contained in discovery
28 provided by the People*);
- Interviews Of Joey A. By Law Enforcement (*contained in discovery provided by
the People; Recent Interview produced to People by Defense*);

1 Interview Of Non-Party Seth S. By Law Enforcement (*contained in discovery*
2 *provided by the People*);

- 3 • Interviews (3) Of Xavier M. By Law Enforcement (*contained in discovery*
4 *provided by the People*);
- 5 • Complaint, Information, Amended Information (*matter of public record; filed*
6 *by the People*);
- 7 • Interview of Magdalena Serna (*contained in discovery provided by the People*);
- 8 • Deposition of Magdalena Serna (*previously produced to People by Defense*);
- 9 • Deposition of Ismael R. (*previously produced to People by Defense*);
- 10 • Deposition of Xavier M. (*previously produced to People by Defense*);
- 11 • DFCS Records of Ismael R. (*previously produced to People by Defense*);
- 12 • DCFS Records of Xavier M. (*previously produced to People by Defense*);
- 13 • Proctor interviews by law enforcement (*previously produced by the People*);
- 14 • Hospital Records of Xavier M. (waiting production)
- 15 • The decision in *People v. Stoll*, 49 Cal. 3d 1137 (Cal. Sup. Ct. 1989)
- 16 Police reports of law enforcement agents Connors, Womelsdorf, Diaz, Tracy,
17 and others (*previously produced by the People*).

16 C. Anticipated Testimony

17 It is anticipated that Dr. McAuliff's testimony will in large part be similar to that
18 alluded to by the People in the People's expert disclosure – a discussion of how memories can
19 be formed and the psychology behind children's memory and suggestibility.

20 Dr. McAuliff will also provide examples of how suggested memories can be formed,
21 and will refer to interviews by law enforcement and social workers identified above.

22 Dr. McAuliff will discuss transferred memories and how they can form in the minds of
23 children.

24 Dr. McAulliff will address the impact of authority figures, such as law enforcement or
25 social workers, can have on child's memory. Dr. McAullif will address how repetition can
26 affect a child's memory.

27 Dr. McAuliff will testify as to the impact that an adult – who has an obsession with
28 certain sexual acts (such as sodomy or rape) can have on a child's memory.

1 Dr. McAuliff will address a child's need to appease adults. Dr. McAuliff will address
2 the hypersensitivity to false memory of children who are victims of child abuse.

3 Dr. McAuliff will discuss the impact that an abuser can have on a child's memory.

4 Dr. McAuliff will discuss scientific principles of memory.

5 Dr. McAuliff will testify to the studies and results of the materials identified in Dr.
6 McAuliff's curriculum vitae.

7 **V. ROBIN SAX, J.D.; MSW**

8 **A. Credentials**

9 The credentials of Robin Sax were provided to the People on April 4, 2023.

10 **B. Materials Reviewed**

11 Robin Sax has reviewed the following materials:

- 12 • Interview By Law Enforcement Of Parents Of Non-Party Joey T. (*contained in
13 discovery provided by the People*);
- 14 • Interview By Law Enforcement Of Melody Smith Telephone (*contained in
15 discovery provided by the People*);
- 16 • Forensic Interview Of Ismael R. (*contained in discovery provided by the
17 People*);
- 18 • Interview Of Non-Party Joey T. By Law Enforcement. (*contained in discovery
19 provided by the People*);
- 20 • Interviews Of Maple Elementary Proctors By Law Enforcement . (*contained in
21 discovery provided by the People*);
- 22 • Pre-Poly And Post-Poly Interview Of Defendant By Law Enforcement
(*contained in discovery provided by the People*);
- 23 • Recording Of Polygraph Interview Of Defendant By Law Enforcement
(*contained in discovery provided by the People*);
- 24 • Interview Of Salomen V. By Law Enforcement (*contained in discovery
25 provided by the People*);
- 26 • Interviews Of Joey A. By Law Enforcement (*contained in discovery provided
27 by the People; Recent Interview provided by Defense to the People*);
- 28 • Interview Of Non-Party Seth S. By Law Enforcement (*contained in discovery
provided by the People*);
- Interviews (3) Of Xavier M. By Law Enforcement (*contained in discovery
provided by the People*);

- 1 • Complaint, Information, Amended Information (*matter of public record; filed*
- 2 *by the People*);
- 3 • Interview of Magdalena Serna (*contained in discovery provided by the*
- 4 *People*);
- 5 • Deposition of Magdalena Serna (*previously produced to People by Defense*);
- 6 • Deposition of Ismael R. (*previously produced to People by Defense*);
- 7 • Deposition of Xavier M. (*previously produced to People by Defense*);
- 8 • DFCS Records of Ismael R. (*previously produced to People by Defense*);
- 9 • DCFS Records of Xavier M. (*previously produced to People by Defense*);
- 10 • Proctor interviews by law enforcement (*previously produced to People by*
- 11 *Defense*);
- 12 • Hospital Records of Xavier M. (waiting production);
- 13 • The decision in *People v. Stoll*, 49 Cal. 3d 1137 (Cal. Sup. Ct. 1989); and
- 14 • Police reports of Law enforcement agents Connors, Womelsdorf, Diaz, Tracy,
- 15 and others (*previously produced to People by Defense*).

15 C. Anticipated Testimony

16 Robin Sax will refer to interviews by law enforcement and social workers identified
17 above.

18 Robin Sax is a POST trainer and will discuss POST training principles and methods.

19 Robin Sax will identify portions of such interviews that are leading and suggestive and
20 violative of POST and other police officer training.

21 Robin Sax will address bias and suggestive questioning and how it is addressed in the
22 California Commission On Peace Officer Standards And Training Basic Course Workbook
23 Series Student Materials (sections relating to child interviews, sex crimes, and ethics, among
24 others) and other trainings and whether certain areas of the police officer interviews are non-
25 compliant with said materials and training.

26 Robin Sax will discuss excerpts of the transcripts of law enforcement interviews
27 identified above and address how and why such interviews are violative of child forensic
28

1 interview protocols and training. For example, during the initial interview of Complaining
2 Witness Xavier M. by Detective Womelsdorf, the following interaction took place:

3 *DETECTIVE: All right. Is there any like cool rooms you can go*
4 *hide in or go play in?*

5 *XAVIER: I think play.*

6 *DETECTIVE: Is there?*

7 *XAVIER: (No audible response).*

8 *DETECTIVE: Tell me about that.*

9 *XAVIER: In the gate.*

10 *DETECTIVE: In the gate? Oh, okay. What color are the doors to*
11 *that room?*

12 *XAVIER: Room?*

13 *DETECTIVE: Is it a room, or is it a gate?*

14 *XAVIER: Gate.*

15 *DETECTIVE: Oh, okay. Is there anybody – what about any rooms*
16 *like a janitor's closet? Have you ever been in any rooms like that?*

17 *XAVIER: Uh-uh.*

18 *DETECTIVE: Do you know what that is?*

19 *XAVIER: Uh-uh.*

20 *DETECTIVE: Do you know what a janitor is?*

21 *XAVIER: Uh-uh.*

22 *DETECTIVE: Do you know what a custodian is?*

23 *XAVIER: Uh-uh.*

24 *DETECTIVE: What about like a man or a woman that cleans like at*
25 *the school? Maybe has a cart he pushes. Do you know anybody like*
26 *that?*

27 *XAVIER: (No audible response).*

28 *DETECTIVE: A cleaning room? Oh, okay. Okay.*

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Tell me about what that room looks like?

XAVIER: It is a blue room. A blue room.

DETECTIVE: A blue room? Oh, okay. Is there anything in the room?

XAVIER: Trash cans.

DETECTIVE: Trash cans. Okay. Anything else in the room? Like any furniture or shelves or anything that you can remember?

XAVIER: No.

DETECTIVE: So what do you do in that room?

XAVIER: Nothing.

DETECTIVE: Nothing? Who else goes in that room?

XAVIER: Just only the trash pickers.

DETECTIVE: The trash pickers? What's a trash picker? Is that the person at the school, the worker?

XAVIER: That picks up trash.

DETECTIVE: Or kids?

Robin Sax will address the propriety of reward techniques for answers suggesting culpability (such as “Good job, bud. Do you want a piece of candy?”).

Robin Sax will address police officer bias and second-hand trauma and the impact that can have on Police Officer bias and how and why that relates to officer training protocols.

Robin Sax will identify portions of Social Worker interviews -- including those of Maricruz Dominguez and Karen Salcedo who interviewed the complaining witnesses -- and explain how and why the interview techniques was improper and non-compliant with generally accepted standards and the issues that arise from such noncompliance with such standards. For example, Robin Sax will discuss interactions between Karen Salcedo and Ismael R. where Ismael R. would say nonsensical statements (such as that the defendant would kill people) and Social Worker Salcedo would then ask modified questions (such as “you mean

1 he would threaten to kill people?") and how and why such techniques do not comport with
2 forensic child interview protocols.

3 Robin Sax will testify to the studies and results of the materials identified in Robin
4 Sax's curriculum vitae.

5 DATED: July 18, 2023

KAEDIAN LLP

6
7 By: *Katherine C. McBroom*

8 IAN M. WALLACH
9 KATHERINE C. MCBROOM
10 Attorneys for Defendant
11 PEDRO MARTINEZ
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