

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 13-20772
Hon. Gershwin Drain

RASMIEH YUSEF ODEH,

Defendant.

**RESPONSE TO GOVERNMENT'S OPPOSITION TO THE
ADMISSIBILITY OF DEFENSE EXPERT'S PTSD TESTIMONY.**

BACKGROUND:

In February of 2016, the Court of Appeals remanded this case to the trial court, ruling unanimously,¹ that the lower court had erred in holding that, as a matter of law, defendant's PTSD expert's testimony was inadmissible. The Circuit Court ruled that the testimony was "relevant" to whether or not the defendant "knowingly" lied, and that, unless the trial court found some other legal basis to bar the expert testimony about PTSD, the defendant was entitled to a new trial.

¹ Judge Batchelder, wrote a partial dissent arguing that the trial court's preclusion of the defendant's right to present her claims of torture in light of the Israeli evidence against her denied her the right to a fair trial

On remand, the government asserted that the opinions of defendant's expert, Dr. Mary Fabri, are not reliable, that the defendant may be malingering, and that Dr. Fabri is not qualified. The government was permitted to have its own expert conduct a mental examination of Ms. Odeh, and to retain other experts to opine on Dr. Fabri's methodology and the reliability of her expert opinions.

The defendant has now submitted to an 18-hour government mental examination, and a report from the examining expert has been submitted. The government has also submitted a report signed by three members of the U.S. Army Forensic Psychology command at Walter Reed Hospital, critiquing the defense expert's methodology. The defense for its part has submitted affidavits from two highly experienced experts in the diagnosis and treatment of PTSD in civilian torture victims, which are in complete support of Dr. Fabri's qualifications and methodology.

Thus, the posture is now one of dueling experts, obviously presenting issues for the trier of fact to resolve at trial. A *Daubert* evidentiary hearing is set for November 29, 2016.

The defense submits however, that given the defense expert affidavits, including additional affidavits from Drs. Fabri and Smith, the government expert reports, the prior testimony of Dr. Mary Fabri (Doc. #113, Pg. ID 1155-1211), and the applicable law, this Court can readily decide the issue, without a hearing, and

that the Court should rule that the defense expert be allowed to testify at trial. The law of this Circuit clearly states that a district court is not required to conduct an evidentiary hearing to qualify an expert witness under *Daubert*. *Clay v. Ford Motor Co.*, 215 F.3d 663,667 (6th Cir. 2000); see also, *In re Scrap Metal Antitrust Litig.*, 527 F. 3d 517, 532 (6th Cir. 2007), *cert. denied*, 556 U.S. 1152 (2009)

Pertinent Facts:

In support of the admissibility of defense expert, Dr. Mary Fabri's testimony, the defense has submitted affidavits of two of the most experienced and knowledgeable experts on the diagnosis of PTSD and its effects on the memory of torture victims. Dr. James Jaranson, is a medical doctor and psychiatrist, and a past Medical Director of the Center for Torture Victims in Minneapolis, Minnesota. He was vice-chair of Survivors International, the torture treatment center in San Diego California and on the editorial advisory board of the *Torture Journal* published by the International Council for Torture Victims, Copenhagen Denmark.

Dr. Hawthorne Smith, for the past 15 years has served as the Clinical Director of the Bellevue/NYU Program for the Survivors of Torture and is a Clinical Associate Professor within the Department of Psychiatry in the New York University School of Medicine. He has been involved in the training of mental health professionals and graduate students across the country within the National

Consortium of Torture Treatment Programs. Since 2014 he has served in a consultative capacity for the U.S. Department of Defense's Office of Military Commissions, pertaining to their on-going inquiry regarding alleged human rights abuses at Guantanamo Bay.

Drs. Jaranson and Smith have opined that the methodology and psychological evaluation process performed by Dr. Fabri was "thorough and well considered" (Aff. Dr. Jaranson, Doc # 212-2, Pg. ID 2858), and "a high quality professional evaluation." (Aff. of Dr. Smith, Doc # 212-1, Pg. ID 2853)

Dr. Jaranson further stated that, "I find no fault with any her observations or conclusions," (Pg. ID 2858), and Dr. Smith stated that, "I can see no legitimate clinical reason that Dr. Fabri's evaluation not be considered in further understanding and adjudicating this case." (Pg. ID 2853)

Dr. Jaranson further stated that he was in agreement with Dr. Fabri's conclusion that Ms. Odeh's PTSD could have affected her response to the naturalization questions. "I believe that Ms. Odeh is indeed vulnerable for the reoccurrence of PTSD and could have cognitively processed questions about the past to avoid recalling traumatic experiences." (Pg. ID 2853).

Dr. Smith has also submitted an addendum affidavit responding to some of the arguments raised by the government's experts (Exhibit #B), and Dr. Fabri, has also submitted a supplementary affidavit (Exhibit #A)

The government has submitted two reports.² One is by psychologist, Ron J. Nieberding, Ph.D., who conducted the court-ordered mental examination.

(Attached as Exhibit #C) Dr. Nieberding's resume does not indicate that he has any experience with the diagnosis of PTSD, or with evaluating torture victims.

(Exhibit # E, C.v.)

Nonetheless, Dr. Biederling obtained a long, personal, psychiatric, legal and medical history from Ms. Odeh. He conducted a "mental status examination" and administered several psychological tests, including the Wechsler Adult Intelligence Scale-IV, the Minnesota Multiphase Personality Inventory-2-Restructured Form (MMPI-2RF), the Validity Indicator Profile (VIP), the Clinician-Administered PTSD Scale for DSM-5 (CAPS-5) and the Life Events Checklist.

Dr. Nieberding found that, "It is very likely that the defendant was experiencing symptoms consistent with many criteria associated with a diagnosis of PTSD at or near the time of the charged offense, although it is difficult to conclude that she met full criteria at that time." Further, Dr. Nieberding also determined that the "[r]esults from the current evaluation did not suggest the defendant was attempting to feign the presence of memory or psychiatric

² The government chose not to file their expert's reports, and the defense is unclear if they intend to make the reports available to the Court. Therefore, the defense has attached the government's expert reports as exhibits to this opposition

problems.” (Ex. #C at 13) Nevertheless, in conclusion Dr. Nieberding rejects the “notion that a reflexive coping strategy characterized as ‘cognitive filtering’ was the proximate cause (*sic*) of Ms. Odeh’s negative responses to questions about her legal past.” (Ex. # C at 13)

The prosecution’s second report was prepared by a trio of Army officers, a psychiatrist, a Ph.D, in psychology and a forensic psychology fellow. (Army Report, Exhibit #D) This report takes issue with the fact that Dr. Fabri conducted her examination as a clinical psychologist and not as a forensic psychologist, and thus argues that her diagnosis was approached as a treatment model and not one designed at least in part to investigate third party sources, which could have discredited her claims of torture and thus PTSD.

Following, directly or indirectly, the prosecution’s lead and using selected materials provided by the government, the Army report cites several purported discrepancies in Ms.Odeh’s history, many of which are based upon 47-year-old information supplied by the Israeli military occupation forces. The report also questions the validity of the concept of “cognitive filtering,” used by Dr. Fabri to explain to the Court and counsel how one with PTSD could, unconsciously, temporarily block out the memory of past traumatic events, and thus mis-interpret the naturalization questions to answer them in the manner she did.

The Army report then goes on to recommend “a comprehensive forensic evaluation that includes a battery of psychological testing measures . . . [a] testing battery might include measures that assess: intelligence, personality, psychopathology, feigning, memory and cognitive functioning, and neuropsychological functioning” (Ex.#D at 12); in other words, the very process that Dr. Nieberding already carried out, when he found that Ms. Odeh did indeed have PTSD at the time of the offense, and was not malingering.

Legal standards

The Court is charged with deciding whether the expert’s testimony is admissible under Rule 702, of the Federal Rules of Evidence. The 702 analysis proceeds in three stages: “First, the witness must be qualified by ‘knowledge, skill, experience, training, or education.’ Second, the testimony must be relevant, meaning that it ‘will assist the trier of fact to understand the evidence or to determine a fact in issue.’ Third, the testimony must be reliable.” *In re Scrap Metal Antitrust Litig.*, 527 F.3d at 529 (quoting Fed. R. Evid. 702). The admissibility of expert testimony while governed by Federal Rule of Evidence 702, it is informed by the Supreme Court opinions in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999).

The Sixth Circuit has noted that absolute certainty is not required of an

expert, but that sheer speculation, regardless of the qualifications of the speculator, lacks sufficient reliability:

Rule 702, we recognize, does not require anything approaching absolute certainty. See *Daubert*, 509 U.S. at 590, 113 S.Ct. 2786. And where one person sees speculation, we acknowledge, another may see knowledge, which is why the district court enjoys broad discretion over where to draw the line.

Tamraz v. Lincoln Elec. Co., 620 F.3d 665, 671-72 (6th Cir. 2010).

This Circuit has also held that, “[t]o determine the testimony's reliability, the court does not determine whether [the opinion] is correct, but rather, whether it rests upon a reliable foundation, as opposed to, say, unsupported speculation.” *In re Scrap Metal Antitrust Litig.*, 527 F.3d at 529-30 (alterations added). Further, “as the gatekeeper, the trial court only determines the admissibility of expert evidence; the jury determines its weight. The court's focus is 'solely on principles and methodology, not on the conclusions that they generate.’” *United States v. Stafford*, 721 F.3d 380, 393-94 (6th Cir. 2013) (quoting *Daubert*, 509 U.S. at 595). This Circuit has also made it clear that, “[R]ejection of expert testimony is the exception, rather than the rule.” *In re Scrap Metal*, 527 F.3d at 530 (alteration added).

When faced with a *Daubert* challenge, this Court must first make a threshold determination as to whether the expert is testifying as to scientific knowledge and

that such knowledge will assist the trier of fact. Following this, the Court must assess the additional factors set forth in *Daubert* to determine whether the proposed expert testimony or evidence is sufficiently reliable to be admitted. These factors may include:

1) whether the expert's scientific technique or theory can be, or has been, tested; 2) whether the technique or theory has been subject to peer review and publication; 3) the known or potential rate of error of the technique or theory when applied; 4) the existence and maintenance of standards and controls; and 5) whether the technique or theory has been generally accepted in the scientific community.

United States v. Beverly, 369 F.3d 516, 528 (6th Cir. 2004) (citing *Daubert*, 509 U.S. at 592-95)

However, as the Supreme Court subsequently made clear in *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 141, (1999), the reliability standards set forth in *Daubert* are "flexible," and the listed "factors neither necessarily nor exclusively apply to all experts or in every case."); see also *In re Countrywide Fin. Corp. Mortgage-Backed Sec. Litig.*, 984 F. Supp. 2d 1021, 1036 (C.D. Cal. 2013) ("The *Daubert* standard does not exist to ensure that only the most ideal scientific evidence is admissible in court proceedings, but instead to ensure that expert testimony is derived by the scientific method.")

In sum, the district court's role is not to weigh the evidence; instead, as the gatekeeper, the court's authority is limited to determining the admissibility of the expert evidence. *United States v. Stafford*, 721 F.3d 380, 394 (6th Cir. 2013).

Indeed, as a general matter, "rejection of expert testimony is the exception, rather than the rule." *In re Scrap Metal Antitrust Litig.*, 527 F.3d at 530. If the expert evidence and/or testimony are not excluded, there are many tools a party seeking to discredit evidence may utilize, such as "[v]igorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof." *Daubert*, 509 U.S. at 596.

Both the Evidence and the Law Support Ms. Odeh's Right to Present Her Expert Witness.

The defense has presented the affidavits two highly qualified and experienced experts who provide unequivocal support for the excellence of Dr. Fabri's diagnosis, her competence and the scientific reliability of her opinion. The government's own examining expert agrees that Ms. Odeh had PTSD at the time she is accused of lying, and that she is not malingering or feigning her condition. After these findings are made, Dr. Nieberding turns abruptly from a scientific/medical expert role, to that of a legal advocate, raising issues of "proximate cause" and arguments that can properly be made to a jury, but not ones that should be the subject of a *Daubert* inquiry.

The mental examiner's report makes several non-scientific arguments that Ms Odeh's naturalization answers were not caused by PTSD. He argues that Ms. Odeh had a degree in the field of law; that the immigration officer testified that it

was her policy to use the words “anywhere in the world” to specific questions about criminal history³; and that, “Third, and perhaps most compelling, the defendant seemingly had every reason to want to remain in this country.” (Ex. #C at 13) These are all factors which may be relevant to the credibility of Ms. Odeh defense at trial; they are not *scientific* questions about to how PTSD can affect one’s memory and recollection.

Dr. Nieberding misunderstands the science of PTSD and memory, wrongly believing that since ‘there was no suggestion that the defendant was experiencing prominent symptoms of PTSD or major mental illness.’(Ex. #C at 12) at the time of her naturalization hearing, her PTSD would not have had any effect on her memory and answers. As the science supports, it is when the chronic PTSD sufferer is not under identifiable stress and symptoms that the altered memory retrieval or “filter,” is most likely to operate. It is not surprising that Dr. Niebeding, whose resume shows no experience with PTSD or its effects on memory, would make this incorrect assertion.

The Army experts’ report is even more contradictory, and also devolves into a prosecution-type closing argument of why a jury or an expert should reject Ms,

³ The Court of Appeals rejected the government’s claim on appeal that Ms. Williams alleged instruction was inconsistent as a matter of law with Ms. Odeh’s PTSD claim, *United States v. Odeh*, 816 F. 3d 968, 980 (6th Cir. 2016) (“Yet, Odeh testified that she remembered clearly that Williams did not include this phrase. In sum, Odeh’s trial testimony conflicts with the Government’s reasons for why Odeh must have known that her answers were false.”)

Odeh's defense. The Army spends a great deal of space attacking Dr. Fabri's report, under the specious pretense that she did not do a "forensic" diagnosis. As the Seventh Circuit has found,

Medical professionals reasonably may be expected to rely on self-reported patient histories. Such histories provide information upon which physicians may, and at times must, rely in their diagnostic work. Of course, it is certainly possible that self-reported histories may be inaccurate. . . . In situations [*22] in which a medical expert has relied upon a patient's self-reported history and that history is found to be inaccurate, district courts usually should allow those inaccuracies in that history to be explored through cross-examination.

Walker v. Soo Line R.R. Co., 208 F.3d 581, 586 (7th Cir. 2000), cert. denied, 531 U.S. 930 (2000); see also *Cooper v. Carl A. Nelson & Co.*, 211 F.3d 1008, 1020-21 (7th Cir. 2000) ("[I]n clinical medicine, the methodology of physical examination and self-reported medical history . . . is generally appropriate. . . . [T]he accuracy and truthfulness of the underlying medical history is subject to meaningful exploration on cross-examination and ultimately to jury evaluation.")

Nor is the fact that a clinical diagnosis for therapeutic purposes is the basis of an expert's opinion, a legitimate basis to preclude her testimony.

The Supreme Court has recognized that "it would be unreasonable to conclude that the subject of scientific testimony must be 'known' to a certainty [because] arguably, there are no certainties in science." *Daubert*, 509 U.S. at 590. Further, because one goal of a mental assessment is a correct diagnosis so as to be able to render efficacious treatment to the patient to address symptoms, it is presumably important to be as accurate as possible in making that medical diagnosis.

Discepolo v. Gorgone, 399 F. Supp. 2d 123, 129 (D. Ct. 2006). See also, Addendum Affidavit of Dr. Hawthorne Smith (Ex. #B)

The Army report also wrongly criticizes Dr. Fabri's diagnosis for her purported failure to assess the emotional state of Ms. Odeh at the time of her naturalization application and interview ten years prior. The writers misapply the science of PTSD and memory. The automatic, unconscious filtering or altered memory retrieval that caused Ms. Odeh to narrowly interpret the criminal history questions, does not occur when one is in an acute state of distress, but rather occurs when a chronic PTSD sufferer is not upset, or under particular stress, and it happens automatically.

When one is aroused, under stress, experiencing symptoms, a person is overwhelmed and the filters are not engaged. When the person is not distressed, the automatic "filters" are able to automatically engage, accessing an altered memory retrieval, in which a person with PTSD is not even aware that it is happening.

In Ms. Odeh's case, at the time of her naturalization, she was not in an acute state of arousal or suffering the obvious effects of her disorder. She simply answered the questions without any conscious awareness that she was answering falsely, as the cognitive "filter" narrowed her interpretation of the questions

automatically, unconsciously avoiding, intrusive traumatic memories or a flashback. Such, in any case, is the science and logic of Ms. Odeh's defense.

Of course the evidence is undeniable that she suffered from PTSD at the time of her naturalization, resulting in substantial part from horrific torture she endured at the hands of her Israeli captors, years before. This Court has found Ms. Odeh's claims of torture credible⁴, and the documented history of Israeli torture of Palestinians is well established, even by the Israeli's own Supreme Court. Significantly, the government's own mental examiner, Dr. Nieberding, found that "[b]ased on the CAPS-5 results (said to be the "gold standard" in evaluating PTSD), *the defendant appeared to meet criteria for a diagnosis of PTSD beginning shortly after her incarceration in Israeli in 1969.*" (Ex. #C at 11, emphasis added).

The army doctors also seized upon Dr. Fabri's use of the term "cognitive filtering" as a concept not supported in the PTSD literature. This is also incorrect. There is much scientific literature about PTSD and its effects on memory. See Scientific References in the affidavits of Drs. Smith and Fabri. The term "filtering" was used by Dr. Fabri, to help the Court and lawyers understand how, in her opinion, Ms. Odeh's disorder could have caused her to interpret the questions

⁴ Court Order of 10/17/14, Doc. # 117, pp 7, 18. See also Grand jury testimony of Samya Qasem, "I saw her tortured in a room the size of this with electrical wires all around her." (Bates #000001617) (One of the several documents which the prosecution neglected to provide to their experts.)

narrowly, as applying to her time in the United States, and not her history in Israel. Two leading experts in the diagnosis and treatment of torture victims suffering from PTSD have expressed complete support for Dr. Fabri's analysis and her application of altered memory retrieval. See Addendum of Dr. Smith, (Ex #B); see also, Affidavit of Dr. Mary Fabri, (Ex. #A)

In reality, neither government report challenges the science of PTSD and its impact on memory. The Army experts, relying on selective documents provided by the prosecution, dredge up all the possible arguments in support of the prosecution's thesis that Ms. Odeh, is a terrorist, that she was never tortured and is a serial liar. They rely on Israeli military documents, which lack all credibility, and supposed statements by her father while in an Israeli prison. The Army report which is supposedly based on science, again following obvious direction from the prosecution case, also tries to impeach her explanation of her 1994 visa application, filled out under instructions from her brother, at a time when she spoke little English and could read almost none. The Court of Appeals rejected the government's claim on appeal that her "no" answers in her immigrant visa application and the testimony of her naturalization examiner, Ms. Williams, were necessarily contradictory to Ms. Odeh's PTSD defense. *United States v. Odeh*, 815 F.3d 968, 980 (6th Cir. 2016)

While these arguments are ones that the government may well raise at trial to convince the jury that they should not credit Ms. Odeh's defense, they are not issues for the gatekeeper under Rule 702. Once the government's mental examiner found that Ms. Odeh suffered from PTSD at the time of the offense and she was not malingering or feigning, he went beyond his qualifications and competence to argue issues either unsupported by science or properly left to a jury. For their part, the Army report argues that Dr. Fabri did not perform a forensic exam, and suggests that one should be ordered now to see if she suffers from PTSD or is malingering. But that, in essence has been done by the government's examining expert, apparently unbeknownst to the Army experts.

Based on Dr. Fabri's 25 years of working with torture victims, diagnosing enumerable patients, and her knowledge of the scientific research and writings on PTSD and memory, her opinion, supported by two others highly regarded experts, should be admitted at a new trial. The government's challenge to this testimony must await that trial.

CONCLUSION

This Court has now been provided with two reports from government experts, which includes the results of an extensive mental exam. In addition, the defense has submitted two expert affidavits, an addendum report from Dr. Smith,

as well as a new affidavit from Dr. Mary Fabri, supplementing her prior testimony in the Rule 104 hearing before the court. As cited above, the law does not require that this Court hold an evidentiary hearing to decide the admissibility of the testimony of an expert witness under *Daubert*.

The present record makes clear that Dr. Fabri is a highly competent and experienced clinical psychologist, that her diagnosis and opinions, supported by two leading practitioners in the diagnosis of PTSD of torture victims and its effects on memory, are reliable, based on recognized science, and relevant to Ms. Odeh's defense that she did not knowingly lie.

The questions raised by the government experts as to purported discrepancies in Ms. Odeh history, are questions of credibility and not science to be resolved by the trier of fact. The time and resources of the Court, to say nothing of those of the defense, need not be expended when the record clearly establishes Ms. Odeh's right to have her expert testify at trial.

WHEREFORE, Ms. Odeh respectfully requests that this Court vacate the hearing set for November 29th, enter an order now that Dr. Mary Fabri be allowed to testify at trial as an expert on PTSD and its effects on memory, and move the case ahead with such other and further relief as may be just and appropriate. In the alternative, following an evidentiary hearing, Ms. Odeh moves that this Court order that Dr. Fabri be allowed to testify at a new trial.

Dated: November 15, 2016

Respectfully submitted,

/s/ Michael E. Deutsch
Michael E Deutsch
1180 N. Milwaukee Ave.
Chicago, Ill. 60642
773-235-0070

Michael E. Deutsch
Dennis Cunningham
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Attorneys for the Defendant

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2016, I electronically filed or caused to be filed the foregoing with the Clerk of the Court using the ECF system, which will send notification of such filing to all ECF filers.

/s/ Michael E. Deutsch
People's Law Office
1180 N. Milwaukee Ave.
Chicago, Il 60642
773-235-0070

Dated: November 15, 2016

**HEARTLAND
ALLIANCE**
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November 14, 2016

Affidavit

Dr. Mary Fabri being first duly sworn deposes and states:

Qualifications:

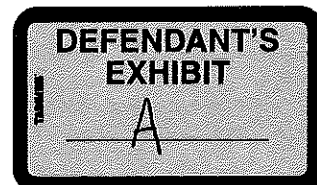
1. Please refer to original affidavit of July 18, 2014.

Background Information:

2. Mr. Michael Deutsch, attorney for Ms. Rasmea Odeh, requested my professional input regarding the second evaluation of Ms. Odeh conducted by Dr. Ron Nieberding, licensed clinical psychologist, and the memorandum prepared by Drs. David Benedek, Paul Montalbano, and Roxanna Sheaffer of the Walter Reed Military Medical Center.
3. With this affidavit, I will respond to two primary issues presented by the above named professionals. The issue of the evaluation methodology used by this evaluator and the simplified descriptor of "filter" to explain the complex neurobiological processes of PTSD that result in clinical disturbances of brain functions.

Psychological Evidence of Torture:

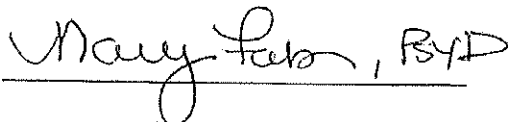
4. The United States government's definition of torture states that torture is any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him/her for an act s/he or a third person has committed or is suspected of.
5. A psychological evaluation provides an assessment of the consistency between a person's account of torture and the psychological findings from the evaluation.
6. Psychological consequences of torture vary and occur within the context of personal meaning, social, cultural and political factors, age and gender.
7. In the case of Ms. Rasmea Odeh, it is important to consider not only the imprisonment and torture she experienced from 1969 until her release in 1979, but also the early exposure to violence and displacement as a result of the Israeli-Palestinian conflict and separation from her father, resulting in cumulative traumas.
8. The Clinician-Administered PTSD Scale is considered the "gold standard" in PTSD assessment and provides a structured format to assess the current (past month) diagnosis of PTSD as well as a lifetime diagnosis of PTSD.
9. In addition to CAPS, the Kovler Center intake process was conducted and included the PTSD Checklist (PCL-5), the Hopkins Symptom Checklist-25 (HSCL-25), demographic information, medical history, self-assessment of strengths and vulnerabilities, and pain chart.
10. This evaluator found a high degree of consistency within Ms. Odeh's self-reported information, the structured PTSD assessment, behavioral observations, and related intake information and diagnostic assessment tools to confirm a DSM 5 diagnosis of Posttraumatic Stress Disorder. Please refer to the affidavit of July 18, 2014.



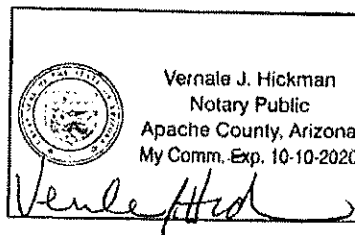
Neurobiological processes of PTSD:

11. Research demonstrates that neuroanatomic structures and neurobiological systems are altered as a result of trauma and contribute to the symptoms of PTSD. This provides us with valuable insight regarding the memory problems experienced by individuals with PTSD and the relationship between stress and memory.
12. Neuroimaging shows changes in three important brain regions affected by PTSD: the amygdala, the medial prefrontal cortex, and the hippocampus. These brain regions are part of the limbic system, a group of interconnected structures that mediate emotion, learning, and memory.
13. The amygdala processes the emotional meaning of sensory input and is sometimes referred to as the fear center. The medial prefrontal cortex regulates emotional and fear responses. The hippocampus regulates emotions and is part of short-term memory formation. The medial prefrontal cortex and hippocampus work together to mediate the emotional meaning put out by the amygdala. Simply stated, insufficient mediation by the medial prefrontal cortex and the hippocampus contribute to PTSD symptoms.
14. Additionally, further studies have shown that the prefrontal cortex is affected by stress exposure and can impair working memory, executive function, and the regulation of behavior and emotion.
15. It is crucial to understand that PTSD symptoms can be acute or in a state of remission. Chronic PTSD creates vulnerability for reactivation of symptoms when a real or perceived threat or danger exists. Perception or interpretation are affected by the changes in the above cited brain functions and the context and personal meaning of the individual's traumatic experiences. This evaluator referred to this a "filter" as a way to more simply explain a complex process.
16. Memory research is also finding that retrieval or activation of memory is modifiable and contributes to the prevention of a spontaneous recovery of a fear memory. This is not a conscious intentional act but a disruption in memory, especially aversive memory.
17. Therefore, memory retrieval is not linked to an acute arousal of PTSD symptoms, but instead is a function of altered neuroanatomic structures and neurobiological systems that affect the retrieval or activation of memory. At the time of answering questions during the naturalization process, Ms. Odeh answered the questions based on her interpretation, narrowed to the time frame of living in the United States, and was an "automatic" interpretation without conscious consideration involving choice.
18. Thus, this evaluator's professional opinion, based on more than 25 years of working with torture survivor's, is Ms. Odeh did not intentionally lie on the citizenship exam, but instead interpreted the questions based on her understanding of what was being asked and given that she suffers from the long-term psychological and neurobiological consequences of PTSD.

Respectfully submitted by:



Mary Fabri, PsyD
IL License #071-003776



References:

Courtois, C.A. and Ford, J.D. (2009) Treating Complex Traumatic Stress Disorders. Guilford Press

Nutt, D.J. and Malizia, A.L. (2004) Structural and functional brain changes in posttraumatic stress disorder. Journal of Clinical Psychiatry. Suppl 1:11-17

Physicians for Human Rights. (2001) Examining Asylum Seekers. Physicians for Human Rights

Samuelson, K.W. (2011) Post-traumatic stress disorder and declarative memory function: a review. Dialogues in Clinical Neuroscience. Vol 13, No 3, 346-351

Taylor, S. (2009) A Clinician's Guide to PTSD: A Cognitive-Behavioral Approach. Guilford Press

Van Marle, H. (2015) PTSD as a memory disorder. European Journal of Psychotraumatology. Suppl 1:1-3



Acknowledgment by Individual

State of Arizona County of Apache

On this 14th day of November, 2016, before me, Vernale J. Hickman
Name of Notary Public

the undersigned Notary Public, personally appeared

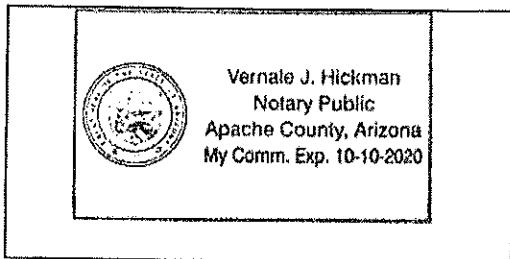
Mary Roseda Fabori

Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence AZ DL # DD9157823 Exp: 6/08/2020
(Description of ID) ISS: 12/15/2014

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Vernale J. Hickman
(Signature of Notary Public)

My commission expires Oct 10/2020

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

Description of Attached Document

Type or Title of Document

Statement of Evaluation

Document Date

November 4, 2016

Number of Pages

03

Signer(s) Other Than Named Above

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Manual Submission Route to Deposit Operations

DSG350 (Rev 01-01/15)



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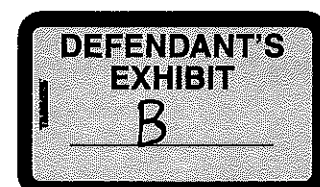
PSYCHOLOGICAL ADDENDUM

Having read the report submitted by Ron Nieberding, Ph.D. (dated October 25, 2016) as well as the critique provided by David Benedek, M.D., Paul Montalbano, Ph.D., and Roxanna Sheaffer, Psy.D. of the Walter Reed Military Medical Center, I have been asked to give a brief response.

The team from Walter Read makes a distinction between a clinical evaluation and a forensic evaluation. They emphasize that forensic evaluations look to detect potential malingering behavior via the respondent's "response style" and place a heavy emphasis on collateral data. I have no quarrel with their definition of the procedures, but feel that it is necessary to point out that clinical evaluations have frequently been utilized and have played valuable, clarifying roles in helping to shed light on a respondent's behavior and psychological state in forensic settings. Often times a clinical report will rely on behavioral observations over time, in addition to the content shared by the client, to assess for consistency or whether one is "exaggerating" or "faking bad" for a specified secondary gain. The utilization of clinical data drawn for the interview by a skilled clinician is frequently more valid and useful than standardized measures that have been normed on vastly different linguistic and cultural groups. One should not dismiss the potential utility of such measures, but neither should one discount a clinical examination that does not rely so heavily on such measures.

In addition, a full forensic evaluation was conducted by Dr. Nieberding, which concurred with Dr. Fabri's diagnosis of PTSD, and also showed that there was no evidence that the respondent was malingering or "faking bad" during their evaluation. From a strategic point of view, one might assume that if the respondent stood to benefit from being seen as "impaired" it would definitely have been during the evaluation with the prosecution's mental health expert. The fact that there was no indication of malingering seems to demonstrate that the respondent has consistently engaged in a forthright manner in terms of all the psychological evaluations, including the evaluation conducted by Dr. Fabri. This finding would indicate that the difference between a "clinical" and "forensic" evaluation would have little to no bearing on the validity of Dr. Fabri's findings.

In terms of third-party, collateral data; it seems that there is a significant amount of information available to the court. There are aspects where things are consistent, and areas where there are inconsistencies. This is part and parcel of the discussion that the mental health professionals who have evaluated the respondent can discuss in the court in front of a jury. There is substantial research that speaks to the potential for memory deficits and inconsistencies due to the experience of trauma, the context in which the questioning takes place, and the amount of time that has passed between reported events and subsequent questioning. The theoretical grounding is solid, but it remains to be discussed how pertinent these factors will be for this particular case.



But this conversation cannot take place unless the testimony of the experts is allowed to be examined in detail.

There was also some concern about the use of the word “credibility” in Dr. Fabri’s report. In my personal experience, I have been in front of judges who make the same point that the Walter Reed team makes – that credibility is a judicial issue – and is not to be determined by the mental health professional. Some of these justices have counseled mental health experts to use phrases like “I find the respondent believable because...” or “this particular emotional presentation is understandable given the trauma narrative...” etc. I have also been in other courtrooms where the judge has specifically asked the expert “Do you find the respondent to be credible?” So, while I believe that this is a legitimate semantic point, I also believe it is a minor semantic point. I think that more weight and consideration should be given to Dr. Fabri’s documentation of the ways in which the respondent’s reported narrative and emotional comportment are “consistent” with what one might expect to see from someone who has endured the type of experiences that she reports. Again, these are issues and observations that would need to be explored in more detail, perhaps through a thorough cross-examination; but this will not be possible to accommodate if Dr. Fabri’s testimony is not considered in front of a jury.

Another point of contention in the response to Dr. Fabri’s report was her use of the word “filter” in describing the memory deficits associated with the respondent. This is a problem that can arise when a psychological expert attempts to explain complex neurobiological functioning in ways that will be accessible and useful for the forensic adjudicators. The word “filter” may cause some confusion, or at least variations in understanding, as it can both be used as a noun and a verb.

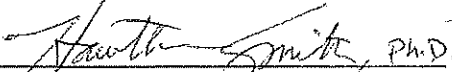
In the context of Dr. Fabri’s report, thinking of a “filter” as a noun would not be an accurate representation of the mechanisms involved in memory recall and processing. But it may be the notion of the word “filter” as a verb that is most problematic in this case. The Walter Reed team seemed to infer that “filter” referred to a conscious process that the respondent would use strategically – not only to avoid painful memories, but to garner some specific secondary benefit. This is not how I understood the findings in Dr. Fabri’s report.

It seems that “filter” was used to help describe the disconnect that occurs between the brain’s memory storage and retrieval functions. As the neuroscience points to an involuntary “dislocation” or “disconnection,” those words may have been more precise than the word “filter.” As stated in my earlier submission to the court, there is a strong body of evidence that demonstrates that sensory data and subjective experiences are initially processed through the amygdala, which serves as a sort of “alarm center” in our brain. When the amygdala is excessively activated, or exists in a chronic state of alarm, it impacts our ability to efficiently organize and codify memories. For people suffering from chronic traumatic stress, the pre-frontal cortex (which is the brain’s “thinking center” and the area of most high-level executive functioning) becomes more disengaged from the retrieval and reflection processes of remembering. The traumatized person also lacks the capacity to intentionally focus on what is important to the given context. As such, memories may be misfiled, inaccessible, or overly intrusive.

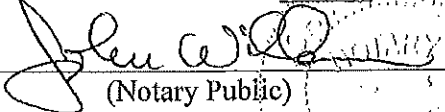
When a person is highly traumatized, they may not be able to organize and arrange memories in a systematic and logical way. Memories are scattered in unlikely places, and it may be that a particular memory is inaccessible when one is looking for it because it is not located in the place that would normally make sense. It may also be that a survivor of trauma may come upon memories in unexpected places when they were not seeking them. This can be observed in clinical symptomatology, including intrusive thoughts and flashbacks that stem from emotional triggers that can serve to reactivate a survivor's traumatic response. These triggers can often be context driven (like being interrogated, or being in a crowded room with powerful authority figures), and a survivor who had been functioning fairly well emotionally, may manifest acute psychological distress and memory deficits. I believe that this way of looking at "dislocation," "inaccessibility" or "disconnection" may be a more fruitful way of understanding Dr. Fabri's notion of a "filter."

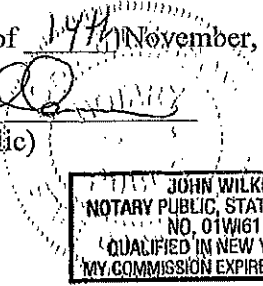
The team from Walter Reed also noted that Dr. Fabri had in mind that she would be "assessing a torture survivor," and that this presupposition would color her findings, and perhaps work against her objectivity in the case. Beyond my knowledge of Dr. Fabri's reputation for being an ethical and highly-skilled practitioner – it is worth stating that the literature also shows that it is not everyone who experiences torture or other human rights abuses that develops full-blown PTSD. As not all survivors develop PTSD, it is also true that not all survivors develop memory deficits of the sort being described in this case. Dr. Fabri's conceptualization that she was engaging with a survivor of torture would have no bearing on the findings subsequent to that contextual statement. It is incumbent upon people in Dr. Fabri's position as a clinical service provider and evaluator, to make discerning diagnostic and behavioral differentiations among the clients with whom she works. Believing that someone is a torture survivor would have no impact on those subsequent findings.

In sum, there is a great deal of scientific literature that speaks to the existence of memory difficulties that are in line with the reported findings and observations in Dr. Fabri's report. There are also significant questions posed by the team from Walter Reed about discrepancies in the respondent's narrative over time that should be considered. In my mind there is no doubt that the possibility exists that the respondent has deficits in episodic memory that are linked to dislocation and disconnection between her memory's alarm system, storage system, and executive functioning. The probability as to whether these processes are impacting the respondent in this particular case can only be fully fleshed out through detailed testimony and cross-examination. It seems that it would be useful to explore this area of inquiry and make an informed decision as to its importance in this case by listening to the experts who have had the chance to examine the respondent thoroughly. The court risks missing valuable information if these outstanding issues are not discussed and fully examined before a jury.


Hawthorne Smith, Ph.D.

Sworn before me this date of 14th November, 2016.


(Notary Public)


JOHN WILKINSON
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01W6117040
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES 10/12/2020

Psychological Evaluation

Name: Odeh, Rasmieh
Case Number: 13-cr-20772
Date of Birth: May 22, 1947
Date of Report: October 25, 2016

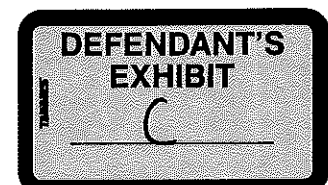
IDENTIFYING INFORMATION AND REASON FOR REFERRAL:

Ms. Odeh is a 69 year old female of Middle Eastern descent. She was referred for a psychological evaluation by the Honorable Gershwin A. Drain, United States District Judge for the Eastern District of Michigan. The order for the evaluation, dated August 29, 2016, was issued pursuant to a recent Appellate Court decision. This ruling vacated the defendant's conviction for violation of 18 U. S. C. 1425(a), Knowingly Procuring Naturalization Contrary to Law, pending further court proceedings.

As outlined in the previously mentioned judicial order, the current evaluation focused on addressing three specific issues; 1. Whether the defendant suffered from Post-traumatic Stress Disorder (PTSD) at the time of the charged offense, 2. Whether the defendant was malingering, presumably at the time of the charged offense, and 3. Whether the defendant's reported PTSD manifested itself in the way her expert claims. A fourth issue regarding the defense expert's methodology will be addressed elsewhere.

During the first contact for the psychological evaluation, Ms. Odeh was informed about the limits of confidentiality. She was told the evaluation was being conducted in compliance with a court order. She was informed that information for the evaluation would be obtained from several sources including; background information, clinical interviews, formal assessment instruments, and collateral sources. She was told the information she provided was not private and may be contained in a report which would be filed with the court. She was also informed that the examiner may be called by the attorneys or the court, to testify about the findings or opinions offered in the report. In addition, a Statement of Understanding form, a document that summarized the administrative and procedural aspects of the evaluation process, was reviewed with Ms. Odeh who verbally indicated these issues were explained to her and that she understood them. It should be noted an Arabic translator was present throughout the entirety of the evaluation process.

When asked to discuss her understanding of the rationale for the current evaluation the defendant stated, "The evaluator spent 18 hours with me, the court declined to, refused for her to be a witness so we appealed ... the case went back to court and the government asked for their Psychologist to sit with me for 18 hours."



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SOURCES OF INFORMATION:

The following documents and sources of information were reviewed in the process of formulating the opinions offered in this report:

- Orders for a psychological evaluation, entered by the Honorable Gershwin A. Drain, United States District Judge for the Eastern District of Michigan, dated August 29, 2016, and September 28, 2016.
- Discovery information including copies of:
 - Data, report (dated 2014) and testimony from Dr. M. Fabri
 - Trial transcripts from the defendant's 2014 court hearing
 - Exhibits 1 A through Exhibit 14
 - Letters of reference regarding the defendant
 - Krivine article, Jerusalem Post magazine
 - Testimony provided to the United Nations, dated 1979
 - State Department cables, dated 1970s
 - Arabic Binder
 - Journal of Palestine Studies article, dated 1980
 - Written confession of the defendant, dated March 1, 1969
 - Video clip of the defendant addressing supporters
 - Video clip of the defendant receiving a Community Leadership Award, dated 2013
 - Affordable Care Act application, dated 2013???
 - Sentencing Memorandums and transcripts from the Government and Defense counsel, dated 2014
 - Presentence report dated 2014
 - Rule Violation report, St. Clair County (MI) jail, dated November 24, 2014
 - Government and Defense Motions regarding Mental Examination, dated 2016
 - Facebook post, remarks made by the defendant at an award ceremony, dated September 24, 2016
- Mental Status Examination, Testing, and Clinical Interview sessions conducted on October 3rd, 4th, 5th, 6th, and 11th, 2016 (total = 17 hours).

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Formal Assessment Instruments:

- Wechsler Adult Intelligence Scale - IV (WAIS-IV)
- Wide Range Achievement Test - 4 (WRAT-4)
- Validity Indicator Profile (VIP)
- Test of Memory Malingering (TOMM)
- Clinician-Administered PTSD Scale for DSM-5, Past Month/Worst Month Version (CAPS-5)
- Minnesota Multiphasic Personality Inventory-2-Restructured Form (MMPI-2-RF)

BACKGROUND INFORMATION:

Information contained in this section was obtained from available records and from direct communication with the defendant, with the assistance of an Arabic translator.

PERSONAL HISTORY:

The defendant reported she was born on May 22, 1947, in Jerusalem, in a small village in the heart of the city. During her first year of life, Ms. Odeh indicated her family was forced to leave their home, described as large and well furnished, due to the invasion of their homeland by Zionist forces. With few possessions in hand, the family reportedly walked to the neighboring city of Ramallah to avoid the ongoing violence, and eventually settled in a refugee camp, remaining there for the next four or five years. In the early 1950s, Ms. Odeh's father immigrated to the United States, leaving the family behind. At about this same time her family left the refugee camp, due to a reduction in Middle East tensions, and moved into a two-bedroom home in a nearby area. The defendant and her extended family; including her mother, five siblings, grandfather, uncles, aunts, and cousins (a reported total of 18 people) settled there for the next several years. During much of this period, Ms. Odeh stated she attended a day care facility where her grandmother worked. Many of the children at this facility were reportedly from relatively wealthy families, "They had much more than me ... but I never let anyone look down on me."

Ms. Odeh indicated she is the second youngest child in her family and has four sisters and one brother, although at least two of her siblings are reportedly deceased. When asked to describe her childhood she stated, "The boys were treated better, but I was well behaved and people liked me because I was good in school." The defendant also recounted a story from age four or five when she was reportedly lost for two days after wandering away from the family home. Ms. Odeh stated she was searching for "America" because she knew her father was there and she wanted to find him.

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When asked to describe her parents, the defendant stated, "My father went to the US in 1952, he was a good man but he wasn't around much ... when I came to this country I cared for him, he died of a heart attack ... my mother, there was no support for her, she cried all the time, it was hard for me to see her that way." The defendant's mother reportedly died in 1984, although the cause of death was unknown.

During her youth, Ms. Odeh indicated she enjoyed school and was motivated to achieve. She described with pride her academic achievements, e.g., passing her exams in 6th, 8th and 12th grade. She denied any behavioral problems during this time and reported she often volunteered to tutor other students. After completion of high school the defendant stated she worked in the child care field, teaching kindergarten for one year before enrolling at a university in Lebanon where she studied medicine. She was reportedly unable to return to the university for her second year, however, after being denied this opportunity by government officials.

In February 1969, Ms. Odeh was arrested, charged, and eventually convicted of offenses related to "terrorist" activities in a military court. Specifically, she was convicted of assisting in the bombing of a grocery store, where two individuals were reportedly killed, and the British Embassy, in Jerusalem where no one was reportedly injured, although the building was damaged. After her arrest and during the initial interrogation phase, which reportedly extended over a 25-day period, the defendant stated she experienced significant physical, emotional, and sexual abuse, at the hands of her Israeli captors. She served a prison sentence of 10 years (1969-1979), before being released in a prisoner exchange program.

After her release from prison, the defendant moved to Lebanon where she worked with Palestinian refugees, providing educational and health care services. She reportedly continued this work for approximately four years, before moving to Syria for less than a year. From 1983, until 1994, Ms. Odeh worked in Jordan where she was involved in a variety of employment activities. While continuing her work with refugees, she also helped conduct research projects for university professors. She also enrolled in English as a second language classes and eventually obtained an undergraduate degree in Law after attending several universities in Jordan. She reportedly spent three months with her father in the United States in 1987-1988, but returned to the Middle East for the next six years.

In 1994, Ms. Odeh, who has never married or had children, moved to the United States in order to care for her father who had been diagnosed with cancer. She moved in with relatives just outside of Detroit, Michigan, and obtained a visa with the assistance of family members. She remained in Michigan for approximately 10 years, caring for her father for most of that time until he passed away in 2003. A year later, she lost another family member to cancer, her only brother.

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In 2004, the defendant applied for and was granted citizenship. She moved from Michigan to Illinois, and for the past 12 years, with the exception of a period of incarceration in 2014, related to the instant offense, Ms. Odeh has been living and working in the Chicago area. She initially lived with family members, but moved out on her own in 2007. Ms. Odeh volunteered with the AmeriCorps organization, a group dedicated to providing occupational and educational opportunities for disadvantaged individuals, and was later hired by this group. After several years with AmeriCorps she was hired (2006) as the Associate Director of the Arab-American Action Network and has received several awards for her efforts to assist refugees, and her community outreach, particularly with women. Since moving to Chicago she also pursued and obtained a Master's Degree in Criminal Justice from Governor's State University, in University Park, Illinois, graduating in 2013.

MEDICAL AND PSYCHIATRIC HISTORY:

Based on available records, the defendant's early medical history is relatively unremarkable. She denied experiencing any significant injuries or illnesses throughout her childhood and adolescence. As a result of reported treatment during her incarceration in Israel, Ms. Odeh indicated she lost her sight for a period of one month and also experienced some degree of hearing loss in both ears due to physical abuse in prison. In her early 20s she also experienced an appendicitis. Years later she reported having back surgery to correct a herniated disc, and has also complained of stomach ulcers, left leg weakness, and persistent headaches. More recently she was treated for hypertension and elevated cholesterol, although she stated her new physician recently took her off medications originally prescribed to treat these conditions, in order to assess the possible etiology of these issues.

The defendant indicated she has rarely used alcohol over the course of her life and denied any problems with illicit or misuse of prescription medication. She did report smoking up to four packs of cigarettes daily for approximately 20 years (1979-1999). During the period of assessment, the defendant was being monitored by her personal physician, but was not prescribed medication for any medical condition.

Following a psychological evaluation in July 2014, Ms. Odeh was diagnosed with Post-traumatic Stress Disorder. She denied participation in mental health treatment at any time in her life, nor has she ever been prescribed medication for a psychiatric condition. When asked how she attempts to manage her stress on a daily basis she stated, "I read the Koran, I work out and exercise."

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LEGAL HISTORY:

As indicated previously, Ms. Odeh spent approximately ten years (1969-1979) in an Israeli prison, after being convicted on charges related to participation in acts of terrorism. While incarcerated she reportedly attempted to escape (1975), although little specific information was available regarding this incident. More recently, she was arrested in July 2013, and charged with Providing False Information on Immigration Documents which were reportedly completed in 2004. During her legal proceedings related to this charge she was incarcerated at the St. Clair County (MI) jail, but was subsequently released on bond pending the appeal of her conviction. While at St. Clair County she did receive an incident report for insolence.

BEHAVIORAL OBSERVATIONS:

As indicated previously, the current evaluation was conducted at the DePaul University Law School, Chicago, Illinois, on five separate days, beginning on October 3rd and ending on October 11th, 2016. Ms. Odeh arrived on time for each evaluation session and was appropriately dressed. She initially verbalized some hesitancy to fully engage in the assessment process, fearing she would be asked to discuss unpleasant and potentially painful topics. She also appeared visibly anxious at times, which she indicated was specific to the assessment process. She complained of an upset stomach, reflux, and headaches, and was anxious for the evaluation to be concluded as quickly as possible. Over time, however, she became somewhat more relaxed. In addition, she was cooperative and appeared to put forth a concerted effort during formal testing sessions.

MENTAL STATUS EXAMINATION:

Ms. Odeh initially presented as somewhat reticent, but became more interactive over time. She was typically responsive to questions from the examiner, often providing elaborate and detailed answers. While she occasionally relied on the interpreter to clarify a question or a response, her general command of English appeared to be good. Her speech was coherent, and normal in rate and tone, although she spoke with an accent. She was able to correctly answer standard orientation questions such as: her name, her location, and the current day, date, month, and year. She also accurately reported her date and place of birth, and other personal historic information.

Her mood ranged from depressed, when discussing losses she has experienced over the course of her life, to pleasant, when recounting more positive historical events, e.g., passing her academic exams, winning an award for community service. Her affective expression was equally wide ranging. She became tearful when recalling her imprisonment, but was able to smile and even laugh on occasion when discussing more light-hearted moments from her past. When asked about her sleep patterns over the past few months the defendant stated, "It is hard for me to sleep, maybe a few hours here and I have dreams, nightmares that wake me up."

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Recently, Ms. Odeh also indicated she has become more isolated and has greater difficulty concentrating than in the past. She attributed these difficulties to her concern regarding the current court proceedings, however. She denied any difficulties with her memory at the present time and none were noted during formal cognitive testing.

Results of the mental status examination further indicated Ms. Odeh's thought processes were coherent, although she tended to drift off topic on occasion. She was able to return to the original topic of discussion, however, without prompting. The content of her thoughts were highlighted by themes of persecution (at the hands of her captors) and empowerment (related to her own struggle and her ability to empower others). The defendant did not exhibit evidence of delusional thinking, and denied any history of auditory or visual hallucinations. She also denied any current or past ideation, plan, or intent of engaging in acts of self harm. When asked to describe the factors that may have played a role in the problems she has encountered in life she stated, "The Israelis are to blame for this and the people who supported them."

ASSESSMENT OF COGNITIVE ABILITIES:

The defendant was administered the Wechsler Adult Intelligence Scale-IV (WAIS-IV), a recently revised and well validated instrument designed to provide a comprehensive assessment of an individual's level of cognitive functioning. Ms. Odeh's WAIS-IV results are as follows:

<u>Individual Subtests (By Index)</u>	<u>*Scaled Score</u>
Verbal Comprehension Index	
Similarities	8
Vocabulary	4
Information	9
Perceptual Reasoning Index	
Block Design	8
Matrix Reasoning	9
Visual Puzzles	7
Working Memory Index	
Digit Span	6
Arithmetic	9
Processing Speed Index	
Symbol Search	10
Coding	8

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For reference purposes, a scaled score is a standard score with a mean (average) of 10 and a standard deviation of 3. In other words, a scaled score of 10 is equivalent to a score falling at the 50th percentile.

Scale	Composite Score	Percentile Rank	** Confidence Interval
Verbal Comprehension (VCI)	83	13th	78-89
Perceptual Reasoning (PRI)	88	21st	82-95
Working Memory (WMI)	86	18th	80-94
Processing Speed (PSI)	94	34th	86-103
Full Scale (FSIQ)	84	14th	80-88

** Measured at the 95% Confidence Interval, which suggests there is a 95% probability her "true" scores fall within the confidence interval, although this assumes adequate motivation.

When considering the obtained WAIS-IV results, several issues should be kept in mind which may have potentially impacted the defendant's performance. First, the WAIS-IV was administered with the assistance of an interpreter. The interpreter's role was primarily to ensure the instructions for each subtest were understood by the examinee. The use of an interpreter, while necessary and appropriate for many non-native English speakers, may have influenced the defendant's responses, simply by her presence in the testing room. Second, item selection and normative data (data against which individual examinees performance is compared) for the WAIS-IV was obtained using a population of English speaking individuals from the United States. Examinees for whom English is not their native language would potentially be at a disadvantage, particularly on items that are more verbal in nature, because their performance is being compared to native English speakers.

With these issues in mind, the obtained results indicated Ms. Odeh's overall (Full Scale) I.Q. fell within the low average range of intellectual abilities. Three of the four index scores; VCI – which measures verbal concept formation, verbal reasoning, and knowledge acquired from one's environment; PRI – which measures perceptual and fluid reasoning, spatial processing and visual-motor integration; and WMI – which assesses the ability to temporarily retain information in memory, perform some mental operation on this information and produce a result, also fell within the low average range. Her result on the Processing Speed Index (PSI) – a measure of the ability to quickly and correctly scan, sequence or discriminate simple visual information, was higher and fell within the average range.

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When assessing her scores on an individual subtest level, no significant cognitive strengths were noted. Her scaled score on the Vocabulary subtest, however, was identified as a significant cognitive weakness.

The defendant was also administered the Wide Range Achievement Test 4 (WRAT4), a norm referenced test that measures basic academic skills of word reading, sentence comprehension, spelling, and math computation.

The defendant's results on the WRAT4 are provided in the Score Summary Table listed below:

Subtest/Composite	Standard Score	Percentile Rank	** Confidence Interval
Word Reading	66	1st	59-76
Sentence Comprehension	72	3rd	65-81
Spelling	72	3rd	64-83
Math Computation	74	4th	65-86
Reading Composite	67	1st	62-74

** Measured at the 95% Confidence Interval, which suggests there is a 95% probability her "true" scores fall within the confidence interval, although this assumes adequate motivation.

When reviewing the WRAT4 results, the language and normative issues that potentially impacted Ms. Odeh's performance on the WAIS-IV, should also be given consideration when discussing the WRAT4 data.

Overall the WRAT4 results are somewhat lower than expected, when compared to prior cognitive testing results. However, it appears the defendant's performance on the WRAT4 may represent an underestimate of her true academic abilities due to a pattern of responding known as intra-subtest scatter (ISS). More specifically, on all four of the WRAT4 subtests the defendant exhibited a pattern of ISS which occurs when an individual responds correctly to a number of items, misses a few more difficult items, and then correctly answers questions of greater difficulty (items on the WRAT4 are arranged in order of increasing difficulty and it is assumed that if an individual correctly answers more difficult items, they should be able to correctly answer easier items). When this pattern occurs, it is likely that non-intellectual factors (e.g., carelessness, distractibility, fatigue) likely contributed to the lower than expected level of performance.

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PERSONALITY ASSESSMENT:

With the assistance of the interpreter, Ms. Odeh completed the Minnesota Multiphasic Personality Inventory-2-Restructured Form (MMPI-2-RF), a routinely administered personality assessment instrument designed to assist in the evaluation of characteristic personality traits and tendencies. Results indicated the defendant responded to the test items in a consistent manner, suggesting she understood the content of the items. Validity indicators indicated Ms. Odeh reported experiencing a significant level of personal distress. She also endorsed an unusually high number of items indicative of somatic and cognitive difficulties that are uncommonly endorsed by medical patients. She also tended to present herself as slightly more virtuous than most. Due to the excessive nature of her item endorsement in these areas, the following interpretive hypotheses should be viewed with caution.

Clinical scale elevations suggest the defendant is potentially preoccupied with her physical functioning and may develop symptoms in response to stressful situations. While this tendency may be related in part to her current life circumstances, it may also represent a more long-standing personality trait. MMPI-2-RF data also suggest Ms. Odeh is likely suspicious of others and harbors feelings of being unfairly treated, perhaps to the point of overt persecution. She also reported a variety of unusual experiences, although given her history, these results would not be unexpected.

ASSESSMENT OF RESPONSE STYLE:

Response style assessment is the process of evaluating the approach an individual takes to the task of assessment. This type of assessment allows the examiner to evaluate the effort an individual puts forth to complete an instrument, as well as determine the probability of that effort reflecting the examinee's true level of functioning. This type of assessment allows for the evaluation of possible exaggeration, or feigning, of mental illness, or cognitive impairment, as well as any attempt on the part of the examinee to engage in positive or negative impression management. Instruments containing sound validity and reliability were utilized, and the defendant's performance was compared to that of individuals with documented cognitive and psychiatric impairment.

The defendant was administered the Validity Indicator Profile (VIP), an often used forensic instrument designed to assist in the assessment of response style, or how an individual approaches, or responds to formal cognitive testing. On both the Non-verbal and Verbal portions of the instrument, the defendant was compliant in her approach to these items, and these results were considered to be valid. These results suggest Ms. Odeh responded to the items in a manner commensurate with her abilities and applied sustained effort.

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The defendant was also administered the Test of Memory Malingered (TOMM), a routinely used forensic instrument designed to assist in the determination of exaggerated or malingered memory difficulties. Her scores on the individual trials of the TOMM were: Trial 1 = 42, Trial 2 = 47. These results suggest the defendant did not make a deliberate attempt to feign the presence of memory deficits that would have provided an indication of malingering.

DIAGNOSTIC IMPRESSIONS AT THE TIME OF THE INSTANT OFFENSE:

In an effort to assess possible diagnostic considerations for the defendant, she was administered the Clinician-Administered PTSD Scale for DSM-5 (CAPS-5) along with the Life Events Checklist. The CAPS-5 is a semi-structured interview consisting of 30 items developed to assist in the determination of PTSD. Information gathered from the subject is largely based on self-report, and only one item, a global rating provided by the examiner, addresses the issue of validity.

Based on the CAPS-5 results, the defendant appeared to meet criteria for a diagnosis of PTSD, beginning shortly after her incarceration in Israel in 1969. The index event was her reported physical and sexual trauma experienced over several weeks during a period of interrogation. Over the next 47 years, however, the defendant indicated the severity of her symptoms has fluctuated. Several years into her decade long incarceration, the defendant reported a remission of symptoms for an undetermined amount of time, despite remaining in captivity, surrounded by reminders of her trauma. Ms. Odeh also described a lengthy period of time from approximately 2007, until her arrest in 2013, as the "best time of her adult life." During this period she was reportedly working full time, was enrolled in college classes and ultimately obtained a Master's degree. She also moved into her own apartment, and had her own car, developments she was very happy with. While she undoubtedly experienced symptoms (e.g., disturbing dreams, anxiety) during this period that were problematic, her behavior suggests she was quite functional and well connected within her community.

These examples suggest that over time, the degree to which the defendant met full criteria for a diagnosis of PTSD likely fluctuated, particularly with regard to criteria C (persistent avoidance of stimuli associated with the traumatic event), and criteria G (significant distress or impairment in social, occupational or other important areas of functioning). Specifically, while the defendant has at times been reluctant to share information regarding her reported trauma, at other times she has spoken openly about her experiences. For example, in a recent (September 2016) speech she stated, "I spent 10 years in an Israeli prison. I experienced brutal torture and sexual assault." In addition, while it is clear Ms. Odeh has faced significant hardships over the course of her life, it can also be said she has overcome a great many obstacles and has not allowed her burdens to define or limit her.

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Of greater importance to the current evaluation, however, is her mental status and functionality at or near the end of 2004, when completing the application process for citizenship. This issue will be addressed in the following section.

When asked to discuss her life circumstances at or near the time of the instant offense Ms. Odeh stated, "My father passed in 2003, and then my only brother passed in 2004 ... I was in Michigan and then moved to Chicago ... I did volunteer work for AmeriCorps ... I was living with family and then I applied for naturalization ... I got a set of questions, some said ever, I did not know the difference like, Have you ever been in jail? ... there were some questions about the US and some other questions but they did not mention other places in the world ... I said no to certain questions and they thought I was lying ... the interviewer was an African American woman, she was very kind ... She gave me a paper with 10 questions and left (the room) ... the only questions she asked me was, Have you ever been a prostitute? ... then I took the oath."

Information obtained from prior court transcripts indicated the defendant completed her application for naturalization on June 2, 2004, and was personally interviewed by an immigration official on November 3, 2004. At the time of the interview the applicant was reportedly administered an oath, and each question from the application was reviewed. Specific questions regarding prior arrests, convictions, or time spent in jail were part of the application falling under the 'Good moral character' section. The defendant responded to these questions in the negative. While the immigration official indicated she did not specifically remember the interview with Ms. Odeh, due to the high volume of interviews she conducted, she did indicate that she was trained to and routinely added the qualifier, "anywhere in the world" to the questions regarding prior criminal offenses.

While conflicting information existed regarding the specific exchange that occurred during the defendant's naturalization interview, there was no suggestion the defendant was experiencing prominent symptoms of PTSD or other major mental illness at that time that would have significantly interfered with her ability to accurately comprehend and respond to such questions.

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DISCUSSION AND OPINION CONCERNING THE QUESTIONS HIGHLIGHTED IN THE JUDICIAL ORDER:

Based on Judge Drain's order dated August 29, 2016, the current evaluation focused on addressing the following issues; 1. Whether the defendant suffered from PTSD at the time of the charged offense, 2. Whether the defendant was (is) malingering, and 3. Whether the PTSD manifested itself in the defendant in the way her expert claims at or near the time of the reported offense. These issues will be addressed separately in the sections below

It is very likely the defendant was experiencing symptoms consistent with many criteria associated with a diagnosis of PTSD at or near the time of the charged offense, although it is difficult to conclude that she met full criteria at that time. As mentioned previously, one of the criterion for this disorder involves the persistent avoidance of issues related to the original trauma. Sometime in late 2003, or early 2004, the defendant reportedly spoke about her imprisonment as part of a documentary entitled, "Women in Struggle." Around that same time the defendant was also in the process of establishing herself in a new city, was actively seeking employment and was volunteering with the AmeriCorps organization, a pattern suggesting she was functional despite her difficulties.

Results from the current evaluation did not suggest the defendant was attempting to feign the presence of memory or psychiatric problems. Personality testing data did suggest she may have a tendency to present herself as somewhat moralistic and may exaggerate the severity of her physical problems at times. This finding may also be related in part to anxiety specific to the evaluation process, however.

Based on the available information, there is little reason to believe the defendant was experiencing an acute phase of PTSD, marked by severe symptoms at or near the time of the reported offense. The notion that a reflexive coping strategy characterized as 'cognitive filtering', was the proximate cause of Ms. Odeh's negative responses to questions about her legal past is highly questionable for a number of reasons. First, the defendant obtained a Bachelor's degree in the field of Law, which one would assume provided her with a sufficient knowledge base regarding the significance of immigration paperwork and potential liabilities for providing inaccurate information. Second, at the time of the interview the immigration official indicated it was her policy to include the words "anywhere in the world" to specific questions about prior arrests, convictions, and jail time. Despite this reported and repeated prompt, to suggest the defendant was able to block out an entire decade of her life when responding to straightforward questions seems implausible. Third, and perhaps most compelling, the defendant seemingly had every reason to want to remain in this country. As she stated, "After I lost my father and brother, I found a safe place, I have a family and I am working for the benefit of all, I don't have another place to go, I want to live the rest of my life in peace here."

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In summary, based on results of the current evaluation, the defendant likely experienced symptoms associated with PTSD at or near the time of the charged offense, although it is difficult to definitively determine if she met full criteria for this disorder at that time. Second, based on testing and interview data, the defendant did not provide indications of a tendency to feign the presence of memory or psychiatric impairment during the current evaluation, or at the time of the alleged offense. MMPI-2-RF data did suggest however, that Ms. Odeh likely exaggerated the severity of her reported somatic complaints, and tended to portray herself as overly moralistic. Finally, the notion that the defendant was capable of repeatedly denying factual data regarding her past, with little or no conscious recognition seems unlikely, particularly in light of her strong desire to remain in this country.

In addition, regardless of the outcome of Ms. Odeh's legal proceedings, her ability to successfully navigate such proceedings may be enhanced the continued use of a translator and by allowing her opportunities to compose herself emotionally should she begin to feel overwhelmed. The defendant would also likely benefit from mental health treatment, should she consent to such treatment at some point in the future.

Respectfully Submitted,

Ron Nieberding, Ph.D.
Licensed Clinical Psychologist



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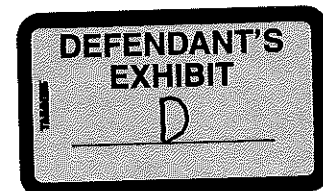
Memorandum For: Cathleen M. Corken and Michael C. Martin, Assistant United States Attorney's Office for the Eastern District of Michigan, 211 West Fort Street, Suite 2001, Detroit, Michigan 48225

SUBJECT: Review of Psychological Assessments of Rasmieh Yousef Odeh conducted by Mary Fabri, Psy.D.

SOURCES OF INFORMATION REVIEWED:

Legal Documents

- a. Transcripts of the Israeli Military Tribunal trial, written testimonials by defendants, verdicts, and various other documents pertaining to the arrest and trial, year 1969 and 1970
- b. State of Israel, Ministry of Welfare, Adult Evaluation Services, Tel Aviv, dated 10 and 11 August 1969
- c. United States State Department Telegrams, dated March 1969
- d. Documents relating to Rasmieh Odeh's attempted prison escape, date of offense 14 June 1975
- e. Document indicating Rasmieh Odeh's sentence was commuted, dated 14 March 1979
- f. United Nations General Assembly, Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories Record of Testimony Taken at the Two Hundred and Sixty-Fourth Meeting, dated 20 and 21 June 1979
- g. Application for Immigration Visa and Alien Registration, dated 26 December 1994
- h. Affidavit from Joseph M. Odeh, dated 27 December 1994
- i. Immigrant Visa and Alien Registration, dated 18 April 1995
- j. Application for Naturalization, dated 02 June 2004 and 03 November 2004
- k. Immigration and Naturalization Service, FD258 Tracking System and FBI Name Check Response, dated 24 September 2004 and 26 October 2004
- l. Jerusalem District Bureau, Regarding Rogation of Resmieh Yousef Odeh, dated 07 April 2010
- m. Affidavit of authenticity of public domain documentation from abroad, dated 14 July 2010
- n. Affidavit of authenticity of foreign public domain documents, dated 22 and 28 July 2010
- o. Jerusalem District Headquarters, Judicial Inquiry, dated 28 July 2010
- p. Bureau of District of Jerusalem, Regarding Resmieh Yousef Odeh - Request to receive the Verdict or a notes of Sentence, dated 28 November 2010



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- q. Israel Police National Headquarters Jerusalem Investigations and Intelligence Department Special Operations Division Interpol and Foreign Liaison Section Legal Assistance Unit, dated 15 September 2010 and 29 May 2011
- r. State of Israel Directorate of Courts, Legal Assistance to Foreign Countries Jerusalem, dated 31 May 2011
- s. U.S. Department of Justice, Criminal Division Office of International Affairs, 06 July 2011
- t. U.S. Department of Homeland Security, Custody Receipt for Seized Property and Evidence and Fingerprints, dated 20 October 2011
- u. Department of Homeland Security, Custody Receipt for Seized Property and Evidence of original copy of "Women in Struggle," dated 02 June 2014
- v. Affidavit of Mary R. Fabri, Psy.D, dated 18 July 2014
- w. United States District Court-Eastern District of Michigan Southern Division, Evidentiary Hearing, dated 21 October 2014
- x. United States District Court-Eastern District of Michigan Southern Division, Jury Trial - Volume I through V, dated 04-07 and 10 November 2014
- y. Government's Proposed Trial Exhibit List, dated 04 November 2014
- z. St. Clair County Sheriff Department Jail Rule Violation Report, dated 24 November 2014
- aa. County of St. Clair, Michigan, Inmate/Detainee Lockdown Review, dated 30 November 2014
- bb. Email communications regarding Ms. Oden's detention at St. Clair County, dated 07 and 09 December 2014
- cc. Email communications with St. Clair County Sheriff's Office, dated 05 December 2014
- dd. Mary R. Fabri, Psy.D., Curriculum Vita
- ee. Presentence Investigation Report, dated 29 December 2014
- ff. Addendum and Revisions to the Presentence Report, dated 08 January 2015
- gg. Addendum to the Affidavit of Mary R. Fabri, Psy.D 18 July 2014, dated 09 February 2015
- hh. Government and Defense Sentencing Memorandums, dated 25 February 2015
- ii. Government's Supplemental Brief to Sentencing Memorandum, dated 04 March 2015
- jj. Sentencing Transcript, dated 12 March 2015
- kk. United States Court of Appeals argued 14 October 2015
- ll. United States District Court-Eastern District of Michigan Southern Division, Government's Motion for Brief in Support of Mental Examination of Defendant by Government's Expert and Exhibit A (oral argument transcript), dated 08 July 2016
- mm. N-400 Adjudication Processing Worksheet, various dates
- nn. N-400 Pre-Processing Worksheet, various dates
- oo. Record of IBIS Query, no date
- pp. "The Student's Voice" and instructions on using chemicals and materials to make explosives and directions on preparing to use them, etc.
- qq. St. Clair County Inmate Maintenance Comments, various dates
- rr. Analysis of Hebrew Documents, no date
- ss. Document titled, "The Subject: Testimony on authenticity of foreign public domain documents"

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- tt. Various documentations regarding allegations of Ms. Odeh being tortured and seeking resolution of Mr. Yousef Odeh's claim for damages and compensation of the loss of his home, various dates

Miscellaneous Documents

- a. Krivne, D. (1977, August 5). Flawed insight on torture. *The Jerusalem Post Magazine*, pages 4-5 and 15-16
- b. Antonius, S. (1980). Prisoners for Palestine: A list of women political prisoners. *Journal of Palestine Studies*, 9(3), 29-80.
- c. Petition for Name Change, dated 09 December 2004
- d. National Insurance Producer Registry application, dated 02 October 2013
- e. 73 letters on behalf of Ms. Odeh, two of which are medical treatment letters, various dates ranging between January and February 2015

Medical and Mental Health Records

- a. Heartland Alliance-Marjorie Kovler Center, Kovler Intake Evaluation form and Client Intake Form, dated 18 April 2014
- b. Heartland Alliance-Marjorie Kovler Center Notice of Privacy Practices and Consent for Treatment Assignment of Benefits and Release of Information, dated 18 April 2014
- c. Heartland Alliance Release of Information, dated 11 July 2014
- d. National Center for PTSD: Clinician-Administered PTSD Scale for DSM-5 Past Month Version, dated 11 and 12 July 2014, and Hopkins Checklist-25 (HCL-25), Hebrew version

Other Collateral Data Reviewed

- a. Khoury, B.C. (Director/Writer/Producer/Camera). (2004). *Women in struggle* [Documentary]. Retrieved from <https://www.youtube.com/watch?v=v0Va7-cNxf8>
- b. Loutfi, A. (Director). (1993). *Tell your tale little bird* [Documentary]. Retrieved from https://www.youtube.com/watch?v=wdkoxBjKM1Q&feature=youtu.be&ab_channel=ArabLotfi
- c. Chicago Cultural Alliance. (13 May 2013). *Outstanding Community Leader award recipient Rasmea Yousef*. [Online Video], Chicago Cultural Alliance Annual 2013 MOSAIC fundraiser. Retrieved from <https://www.youtube.com/watch?v=7Xxrl8aj8aQ>
- d. *Radio Autonomia: Zapatismo in the Bay -- July 2015 Show (Rasmea Odeh)* [Audio]. Retrieved from <https://radioautonomia.wordpress.com/2015/07/26/radio-autonomia-zapatismo-in-the-bay-july-2015-show-rasmea-odeh/>
- e. Leins, D. (25 March 2015). *Rasmea Odeh sentenced to 18 months in federal prison*. [Online Video]. Retrieved from <https://www.youtube.com/watch?v=Yn-pycJVLuA>

Other video or audio recordings without identifiable reference information

- a. Rasmea mobilization highlights [Video].
- b. *Rasmea Odeh International Working Women's Day 2016* [Video]. *Padayon Multimedia*.
- c. *Rasmea Odeh at the people's Thanksgiving 2015* [Video]. *Padayon Multimedia*.
- d. *Rasmea Odeh (06 November 2014)* [Video].
- e. *Department of Homeland Security interview with Stephen Webber (31 July 2013)*. [Video].

Review of Psychological Assessment of Rasmieh Yousef Odeh

Report on Findings

1. **Introduction:** In response to your request for an assessment of the methodology utilized by Dr. Mary Fabri, Psy.D., in reaching her diagnostic conclusions and opinions as noted in her affidavit (dated 18 July 2014), addendum to the affidavit (dated 09 February 2015), and her testimony (21 October 2014) we offer the following observations:
2. The referral questions that were posed for Dr. Mary Fabri, according to her affidavits, included:
 - a. Mr. Jim Fennerty referred Ms. Odeh to the Kovler Center for an evaluation of her mental health functioning and for psychological support on March 05, 2014.
 - b. Mr. Fennerty also posed the question, if it is found that Ms. Odeh has a psychological disorder could it affect her interpretation of questions about being arrested, convicted, or in prison on an application for naturalization.
 - c. Mr. Michael Deutsch requested that Dr. Fabri conduct a follow up assessment of Ms. Odeh's mental health functioning following her one month detention (10 November 2014 – 11 December 2014) at the St. Clair County jail.
3. In our view the question posed to Dr. Fabri to inquire if a psychological disorder could affect Ms. Odeh's interpretation of questions about her legal history on an application for naturalization required an investigation into the defendant's mental state at the time of the alleged offense, often referred to as a MSO evaluation. A MSO evaluation requires a careful reconstruction of the defendant's thought processes and behavior during the time frame of alleged misconduct. A comprehensive MSO forensic evaluation is the standard for questions regarding psychiatric diagnosis and mental state at the time of alleged criminal behavior, and a forensic evaluation differs significantly from a traditional clinical assessment.

The second referral issue (item b), in essence is asking about the accused's diagnosis and mental state at the time of the alleged misconduct. This misconduct includes falsely answering questions on an application for Immigrant Visa and Alien Registration (Optional Form 230 Part III) o/a December 1994, application for Naturalization (Form N-400) o/a 02 June 2014, and during Ms. Odeh's interview with the immigration officer o/a 03 November 2014 at which time Form N-400 was reviewed. Since these questions are posed in the context of ongoing legal proceedings, they necessitate a more rigorous approach that is comprehensive, gathers information from multiple sources and thoroughly assesses the response style of the individual being evaluated. Such an approach must include considering the potential for the evaluatee to misrepresent information.

4. There are significant differences between forensic and clinical assessments. A forensic assessment addresses the psychological problems and questions that are raised in the course of legal proceedings. A clinical assessment is usually conducted to identify symptoms, establish a provisional diagnosis (or differential diagnosis) and generate a

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problem list identifying symptoms of distress that may be targets for clinical intervention (treatment).

Because forensic evaluators recognize that persons referred in the context of legal proceedings may have motives other than receipt of treatment for psychological distress when they present for evaluation, the evaluator should seek to interpret not only the content of an evaluatee's response to questions but also the evaluatee's response style, (i.e., their approach to the questions posed in the diagnostic interview and psychological testing), to determine the validity of the interview and testing data. Similarly, forensic evaluators rely on third-party collateral data (observations and facts collected from sources other than the evaluatee) to confirm or reject hypotheses related to diagnoses and mental state generated from data obtained from the evaluatee.

5. Dr. Fabri stated she assessed for "consistency" and "credibility" by meeting with Ms. Odeh over several sessions. If a defendant is consistently feigning psychopathology or consistently minimizing or denying psychopathology, this would not be detected with this methodology. Forensic evaluators carefully distinguish between assessing response style and assessing credibility. Evaluatee credibility is an issue experienced forensic examiners scrupulously avoid and the courts typically forbid forensic examiners from serving as "human lie detectors." Determining credibility is typically considered the province of the trier of fact. Additionally, Dr. Fabri administered no psychological measures to assess response style in order to confirm or disconfirm her observations of the reliability of Ms. Odeh's self-report.

A forensic evaluation includes the collection and review of collateral data (e.g. clinical interviews, investigative/criminal documentation, medical records, educational records, etc.) in order to seek convergent validity. Convergent validity is the degree to which two measures of constructs that theoretically should be related are in fact related. This principle guides and tests various hypotheses, so that appropriate conclusions and recommendations can be established. Dr. Fabri testified that she had not asked to review Ms. Odeh's Form N-400 or to review any other collateral data that would have been pertinent to her answering the referral questions, specifically asking if a psychological disorder could affect her interpretation of the questions related to Form N-400. Dr. Fabri testified that she partially watched the video "Women in Struggle," per the recommendations of Ms. Odeh's attorneys. She testified that she was primarily following a "structured interview" to assess for PTSD. In her testimony, Dr. Fabri identified herself as a "clinician," who was "looking to make a diagnosis."

Dr. Fabri testified that she reviewed no collateral data because "I'm an objective evaluator...I want to meet with the client and find out from her in her own words." A forensic evaluator collects collateral data aside from the evaluatee's self-report to make conclusions. Both the Specialty Guidelines for Forensic Psychology and Principles of Forensic Mental Health Assessment recommend utilizing multiple sources of information. The Specialty Guidelines (9.02) state that "forensic practitioners ordinarily avoid relying solely on one source of data, and corroborate important data whenever possible." Further, in a forensic context data may be biased when it is based solely on the

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self-report of the individual who may have ulterior motives for presenting in a certain manner to avoid negative consequences. Conducting a clinical interview which is based on the self-report of the evaluatee may be appropriate in settings in which the plan is to engage in clinical interventions, such as therapy, but it is not the recommended methodology in forensic evaluations. Administering various psychological tests, including measures of response style, is another way of gathering additional information that may help answer the referral question.

6. If Dr. Fabri had requested and reviewed collateral data she would have discovered various inconsistencies among Ms. Odeh's reports about how she filled out the immigration forms, her legal history and imprisonment. According to the trial testimony transcript Ms. Odeh's testimony about how her application for a visa was completed was inconsistent. She initially testified that her brother completed a sample form for her, which she then copied onto a new form. She later testified that she had only filled in the biographical information but not the other answers. Again, Dr. Fabri did not appear to inquire specifically about how and why Ms. Odeh filled out the immigration forms as she did.

The United Nations General Assembly report indicated that Ms. Odeh alleged witnessing her father, Yousef Odeh, being tortured when they were in custody in 1969. According to the Department of State Telegram, dated 10 March 1969, a United States consular official interviewed Mr. Odeh while in custody. The official did not indicate that Mr. Odeh was tortured. According to the Israeli trial transcript, on 04 June 1969 Mr. Odeh reported that during his confinement "They didn't beat me at all." He stated that he was released from confinement after 15 days with assistance from the American Consulate. This is also inconsistent with Ms. Odeh's reports.

Ms. Odeh has alleged, to Dr. Fabri that her father witnessed her being sodomized by interrogators and "beat" as she was naked. According to the article *Flawed Insight on Torture* (dated 05 August 1977), Ms. Odeh reported her father could not have witnessed her being sodomized because he was not present during that incident. On 04 June 1969, Mr. Odeh reported witnessing his daughter being "beat" but never saw her undressed. Again, the reports of others are not consistent with Ms. Odeh's report to Dr. Fabri.

The transcripts of her Israeli military trial indicated that Ms. Odeh was apprehended on 28 February 1969 and wrote a written confession the next day (01 March 1969). The transcripts indicate that on 02 March 1969 she wrote a statement indicating that she showed the police "the spot in British Consulate where I placed the box." On 07 March 1969 she provided another written confessional. The confessions were her involvement in the bombing at the Supersol supermarket and the placement of a "box" containing explosives at the British consulate.

According to the article *Prisoners for Palestine: A List of Women Political Prisoners*, Ms. Odeh reported "We had placed a bomb there to protest Britain's decision to furnish arms to Israel. Actually we placed two bombs, the first was found before it went off so we placed another." However, she later told the author that she did not know where the

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bombs had been placed. According to the Government's Sentencing Memorandum of the United States, both the film *Women in Struggle* and *Tell Your Tale Little Bird* two participants admitted their role and Ms. Odeh's role in the bombings of a supermarket and the British Consulate.

The military trial transcript and United Nations General Assembly report documented that Ms. Odeh recanted her written confessions saying she was told what to write and to confess so the torture would cease. But according to the United Nations General Assembly report, she reported that she was still interrogated and tortured. She stated she was interrogated for 45 days. She stated "the first 25 days after I was arrested, I was subjected to torture and interrogation, day and night." On the other hand, according to Dr. Fabri's affidavit "Ms. Odeh reported that the torture during the first seven to ten days was continuous, and that she was not allowed to sleep. She also stated she was tortured for a total of 25 days and detained at Moscovia for 45 days."

These inconsistencies are examples of the importance of reviewing all collateral data and inquiring into the discrepancies between reports to gain clarification. Requesting and reviewing additional collateral information can provide potential diagnostic information as well as information that may shed light on the possibility of feigning. Hence, Dr. Fabri's conclusion that she "found a high degree of convergence between self-report during diagnostic interviewing, behavioral observations, and testing data" and there was no indication of feigning was limited since she did not obtain additional relevant collateral data that would have provided her more information to differentially test competing explanatory hypotheses. Dr. Fabri did not gather any information from third-party sources and did not appear to request or review any additional information. Much of this information was available at the time of Dr. Fabri's initial evaluation.

7. According to Dr. Fabri's testimony, she stated that her intention in her assessment of Ms. Odeh was, "I was seeing her at an assessment as a torture survivor." That statement suggests that her initial assessment was not completely objective and is suggestive of potentially bias. Dr. Fabri did not independently verify Criterion A, having experienced trauma, of the diagnostic criteria for Posttraumatic Stress Disorder (PTSD). Rather she appears to assume it before Ms. Odeh is evaluated.

Moreover, we noted that Dr. Fabri utilized her clinic's (Heartland Alliance – Marjorie Kovler Center for the Treatment of Survivors of Torture) standard intake assessment forms (i.e., those forms administered to persons who present to the clinic seeking treatment for the psychological sequelae of torture) rather than more broad measures of psychological distress. Thus, her assessment tended to be oriented toward assessing Ms. Odeh as a presumed "torture survivor" (as opposed to assessing whether or not torture actually occurred) and not necessarily assessing her for a wider range of psychopathology and sufficiently ruling in or ruling out feigning. Her approach would not be sufficient to answer the medico-legal referral questions (i.e., mental state and diagnosis at the time of the completion of the immigrant visa or naturalization application or when interviewed by the immigration officer).

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In addition, there is concern that Dr. Fabri had a presumption that because Ms. Odeh was identified as a “torture survivor” that she may have a particular psychiatric condition, specifically PTSD. Such an approach would potentially undermine the validity, thoroughness, and objectivity of the evaluation. In any psychological assessment a clinician wants to be aware of and minimize the effect of potential confirmation bias.

Confirmation bias is the tendency to interpret evidence or information in a manner that confirms one’s existing beliefs or theories. Given Dr. Fabri’s extensive work with trauma and victims of torture, such bias may potentially lead to a predilection toward assuming that torture occurred and that the torture resulted in PTSD. This bias may contribute to overlooking evidence to the contrary, such as psychiatric symptoms that may have been due to the consequences of more recent events unrelated to alleged history of torture. It also tends to overlook the possibility that even if Ms. Odeh has PTSD that there were other potential sources psychopathology other than the alleged torture or that there were multiple sources of trauma of which the torture is only one.

8. Moreover, Dr. Fabri testified that she was asked to evaluate Ms. Odeh’s mental status and how she was psychologically functioning. Ms. Odeh reported not being in intimate partner relationships because how being tortured has affected her. A review of the 73 letters from Ms. Odeh’s supporters asking for leniency shed some additional light on Ms. Odeh’s functioning. The letters indicated no significant concerns about her mental well-being or health until after she was detained in 2014.

There was no indication that Dr. Fabri performed a structured mental status examination or assessed in depth how Ms. Odeh’s legal situation and the potential legal consequences were impacting her. Dr. Fabri concludes in her affidavits and testimony that Ms. Odeh is only being impacted by symptoms of posttraumatic stress. While Dr. Fabri considers how her legal situation may reactivate or impact what she believes is Ms. Odeh’s PTSD, she did not appear to carefully consider how the prospect of being deported or confined might impact her psychological well-being or consider how a desire to avoid being deported or confined might serve as a motivation to avoid disclosure of her full legal history.

A letter written on-behalf of Ms. Odeh by Lina Baroudi, Attorney at Law, wrote that in her experience “the majority of naturalization applicants misunderstand the question on the application for naturalization relating to prior arrests and convictions—almost all of my clients understand the question as being exclusive to a criminal history in the United States.” She explained how that misunderstanding occurs based on other immigration applications that specifically ask for a criminal history in “any country other the United States” or “in or outside the United States.” She made no mention that her clients had misunderstood such questions because of PTSD or any other psychiatric condition.

Additionally, Dr. Fabri did not appear to thoroughly assess for any co-morbid psychiatric diagnosis. Such conditions may be relevant to how Ms. Odeh was managing the stressors she experienced at the time of the evaluation. Such stressors could include the possible outcome of her pending legal case (e.g. confinement, deportation, fines, etc.). In addition, according to the United Nations General Assembly report Ms. Odeh reported a history of

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temporary blindness and deafness, and migraines as a result of being tortured. Dr. Fabri noted that Ms. Odeh stated, "The soldiers beat me all over, my face and body." Under such conditions a screening for traumatic brain injury or neurocognitive impairment is often recommended to assess for any memory problems or aphasia that may have contributed to Ms. Odeh's psychological functioning or her approach to the immigration forms and interview.

According to Dr. Fabri's addendum to her initial affidavit she conducted a follow up evaluation on 09 January 2015. Dr. Fabri concluded that Ms. Odeh's experience with being arrested, going to trial, being convicted, and "imprisonment" resulted in a "reactivation of PTSD symptoms." Her report indicated no consideration for other possible causes for Ms. Odeh's symptoms. For example, some of the difficulties as a result of being detained reported by Ms. Odeh may have been normal reactions to arrest, conviction and confinement. Ms. Odeh's symptoms may have been consistent of a diagnosis of Adjustment Disorder or listed as a problem related to Imprisonment or Other Incarceration.

9. Evaluations that assess the accused's mental state at the time of the offense require an inquiry into the mental state of the individual at that time. To accomplish this, the forensic examiner asks detailed questions about the individual's thoughts and actions during the time period of the alleged offense or offenses.

Dr. Fabri did not document an evaluation of Ms. Odeh's mental state at the time of the alleged misconduct. Per our review, there were at least three different occasions in which Ms. Odeh indicated no prior legal history. As previously noted, she indicated no legal history on her application for immigrant visa and alien registration which was dated 26 December 1994, on her application for naturalization which was dated 02 June 2014, and during her interview with the immigration officer on 03 November 2014 which encompassed a review of her Form N-400.

There was no reported evidence that Dr. Fabri sought to establish the cognitive or emotional state of Ms. Odeh at the time she filled out these applications or at the time of her interview with the immigration officer. On the contrary, during her testimony Dr. Fabri noted that in 2004, the time period in which Ms. Odeh completed Form N-400, Ms. Odeh was not having any acute psychiatric symptoms or other problems by stating, "Not that she shared with me." On examination she speculated that the death of Ms. Odeh's brother possibly could have triggered symptoms, but there was no documented assessment of this and how it may have impacted her mental state. In fact, Ms. Odeh testified on 07 November 2014 that her brother had passed away approximately a month prior to her interview (03 November 2004) with Jennifer Williams, the immigration officer.

10. During her testimony, Dr. Fabri explained the concept of "filters" and how it may have impacted Ms. Odeh's interpretation on two of the questions on Form N-400. She stated, "That she [Ms. Odeh] would look at this and it was narrowed focus of time frame, she could potentially, I mean, I don't know what went on in her mind." If Dr. Fabri did not

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know "what went on in her mind," how could she conclude that automatic filtering occurred. If Dr. Fabri did not inquire about her mental state at the time, what is the basis for concluding that this automatic filtering occurred. Dr. Fabri did not appear to assess Ms. Odeh's mental state at any of the three periods in question or consider other possible explanations as to why Ms. Odeh approached and answered the forms or the interview questions with the immigration officer. In particular, she did appear to consider the hypothesis that Ms. Odeh was simply deliberately answering incorrectly to avoid negative consequences. Further, Dr. Fabri did not assess for possible memory related problems that may have negatively impacted her mental state at the time that she completed the immigration application forms and immigration interview. Overall, Dr. Fabri did not appear to engage in a thorough, comprehensive assessment before concluding that Ms. Odeh's answers to the form were solely due to an automatic filtering process secondary to PTSD.

Dr. Fabri testified to the concept of "filters" and how they are "automatic" as an explanation for how Ms. Odeh answered certain questions related to her legal history on Form N-400, but at no other point in time. She did not lay the scientific foundation for this speculative hypothesis. She did not reference the research, literature, or studies that would assist in understanding this concept. There is no mention of "filters" in the Diagnostic and Statistical Manual of Mental Disorders Fifth edition (DSM-5) or in the vast body of literature on PTSD. If "filters" is a form of dissociation this was not explained by Dr. Fabri. Since her explanation of automatic filters during her testimony was unclear, it is difficult to understand. She also testified that "survivors of severe trauma" develop "filters." It is unclear what she means by "severe trauma" as there is no specific qualifier to determine the severity of a traumatic event. Severity can also be assigned to the degree of impairment resulting from a psychiatric disorder.

Dr. Fabri did not adequately explicate how the process of "automatic filters" was triggered or operated during the time frames of filling out the applications or being interviewed or how the filter turns on in response to one question, then turns off in response to another question, then turns back on in response to another. She did not appear to consider alternative hypotheses as to why Ms. Odeh responded negatively about her legal history on the form. Dr. Fabri did not appear to inquire about past episodes of automatic filtering or about episodes of automatic filtering that occurred before, during or after filling out the questionnaires and when she was interviewed by the immigration officer to verify her answers. She did not attempt to understand or explain why, if this "filter" was an "automatic" process that ensued from having PTSD, would the only known instances be during the filling out of the questionnaires or answering questions related to arrest and incarceration?

The scientific foundation of filtering was difficult to explore since it was difficult to understand Dr. Fabri's explanation of filtering during her testimony. A literature search on the concept of filtering in PTSD did not appear to yield any results that were consistent with Dr. Fabri's explanation. The concept of filtering by itself is consistent in the literature with the concept of cognitive distortions. The concept of avoidance or dissociative amnesia may have been a more accurate representation of what Dr. Fabri was

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referring to but this was not clearly explicated. If Ms. Odeh engaged in some form of avoidance, this was also not clearly articulated in her testimony.

It was also not clear whether other PTSD symptoms such as denial, repression, and/or dissociation were viewed by Dr. Fabri as contributing factors as to how Ms. Odeh answered questions about her prior legal history on the application forms and during her immigration interview. However, even if Dr. Fabri's construct of "filtering" was her term for the defense mechanisms of repression and/or denial it is important to note that the literature on PTSD does not support the idea that denial or repression might operate only in response to written stimuli (e.g., applications or other forms). Hence, it is unclear why repression or denial would be occurring in Ms. Odeh's reporting of no legal history when completing the immigration forms and immigration interview, as well as on the National Insurance Producer Registry application, but not occurring when openly speaking about her alleged torture and imprisonment in various settings (i.e. media, Israeli trials, United Nations committee) to include her recent testimony. On 06 November 2014, Ms. Odeh testified, "It's not secret that I have been in the jail. Everybody knows even the embassy in the foreign in United States know that..." On 07 November 2014, she testified, "Yes, I have been in prison in Israel," and "And in general if anybody asked me I have been I jail, I would say yes... And if anybody else from the government asked me if I have been in Israel in the jail, I will say, yes, because it's known, it's not secret. It's not hidden. Why I have to hid that?"

According to the defense counsel's Sentencing Memorandum, Ms. Odeh "became fixated on showing that the arrest involved in the answered questions in her naturalization process had been illegal, and the charge and conviction and imprisonment had been brought about by torture. It was as if she went from blocking out the memory to being unable to think of anything else." It stated "she could not accept being silenced; as a result she clashed with the prosecutor during cross-examination, and also with the Court." The report explained that Ms. Odeh had refused a "favorable plea agreement" in order to "declare the truth about what had been done to her by the Israeli military." This report, too, seems inconsistent with the hypothesis that PTSD prevented Ms. Odeh from acknowledging the fact of her arrest and incarceration.

11. Dr. Fabri administered the Clinician-Administered PTSD Scale for DSM-5 (CAPS-5) and the Hopkins Symptom Checklist-25 (HSCL-25). Overall Dr. Fabri inputted the answers to the different sections on the CAPS-5, but some areas were missed. According to the copy of the CAPS-5 form that Dr. Fabri completed, certain questions on certain items contained no answers. Therefore, the documentation is missing as to how Dr. Fabri arrived at certain conclusions on different sections of the CAPS-5. There were some other areas where follow up questions may have been relevant to help differentiate if the reported problems were related to posttraumatic stress. Dr. Fabri had the option of administering the CAPS-5 to ascertain what Ms. Odeh's self-reported level of PTSD symptoms was at the time frame during the alleged offenses. However, Dr. Fabri chose to administer the CAPS-5 only to ascertain Ms. Odeh's current self-reported level of PTSD symptoms.

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According to Dr. Fabri's affidavit, she determined that the HSCL-25 was indicative of depressive symptoms and anxiety and that these were symptoms of PTSD. She conducted no further evaluation to determine the accuracy of this assessment. She did not evaluate if the depressive symptoms and anxiety were related to the legal stressors or related to cognitive impairment, or other possible psychopathology.

Dr. Fabri testified that she administered the Harvard Trauma Questionnaire, but her affidavit did not indicate that this instrument was administered.

12. Dr. Fabri explained in her testimony that she would not expect to see Ms. Odeh to be symptomatic while talking about her alleged experiences of torture, but that it is afterwards that individuals with PTSD begin to "suffer," or be symptomatic. This does not necessarily hold true for all individuals with PTSD. An individual with PTSD or posttraumatic stress may be symptomatic when they are speaking about their past trauma. Dr. Fabri testified that "So survivors like Ms. Odeh will...have the total capacity [to] talk about what happened to them. She demonstrated it in her session with me, she demonstrated it in the video, and there are probably other times when she's spoken about it." However, Dr. Fabri testified that Ms. Odeh had "dissociated" during one of the sessions and assessed her to be "very acutely symptomatic" so much so that she recommended that Ms. Odeh meet with a psychiatrist, which Ms. Odeh declined. These observations and conclusions appear somewhat inconsistent.
13. An interpreter was used for all but one of the meetings between Dr. Fabri and Ms. Odeh, but there is no indication as to the qualifications of the interpreter. An interpreter should be qualified through meeting training requirements that are specific to the setting, in this case as it relates to mental health issues, knowing the terminology likely to be used in the evaluation, and understands confidentiality and trust.
14. Given that the referral posed specific questions about mental state and ability to accurately complete Form N-400 in 2004, in addition to more specific questions regarding mental state at that time, we suggest a comprehensive forensic evaluation that includes a battery of psychological testing measures. The psychological testing battery should include at the minimum measures that assess response style, personality, psychopathology, malingering, cognitive functioning, and any other possible deficits that might have affected Ms. Odeh's ability to complete the forms accurately. An attempt should be made to use measures that are of Ms. Odeh's language of origin (Arabic), if such measures exist and provide normative data. Although Ms. Odeh has attended college in the United States of America, a measure assessing her comprehension of English may be quite useful and provide a baseline of her understanding of the English language. A testing battery might include measures that assess: intelligence, personality, psychopathology, feigning, memory and cognitive functioning, and neuropsychological functioning.
15. In summary, we believe that the methodology utilized by Dr. Fabri was insufficient to adequately address the questions about Ms. Odeh's diagnosis, psychological functioning


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and her mental state at the time of her alleged misconduct. By approaching Ms. Odeh with the presumption that she was a victim of torture, Dr. Fabri reached conclusions regarding diagnosis without careful consideration of collateral data and without carefully assessing response style through testing, both of which are important elements of a comprehensive forensic evaluation. Moreover, Dr. Fabri apparently failed to investigate or document Ms. Odeh's mental state at the time of the alleged offenses through direct interview, testing, or assessment of collateral data and reached speculative conclusions regarding "filtering" as an explanation for behavior that is lacking in support in the scientific literature regarding post-traumatic stress disorder. The Specialty Guidelines for Forensic Psychologists (Guideline 2.05) stipulate that "forensic practitioners seek to provide opinions and testimony that are sufficiently based upon adequate scientific foundation, and reliable and valid principles and methods that have been applied appropriately to the facts of the case." The methodology that Dr. Fabri employed appear insufficient to conclude that the wrong answers on the questionnaires or during the interview were due to automatic filtering secondary to PTSD.

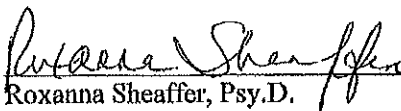
16. POC for the above are Drs. David M. Benedek, M.D., Paul Montalbano, Ph.D., ABPP (Forensic) and Roxanna E. Sheaffer, Psy.D. at the Walter Reed National Military Medical Center, Center for Forensic Behavioral Sciences, (301) 319-5366.



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MAJ, MS
Forensic Psychology Fellow
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Walter Reed National Military Medical Center

CURRICULUM VITAE

RON J. NIEBERDING, Ph.D.

PROFESSIONAL LICENSE:

Licensed Clinical Psychologist

State of Illinois Department of Professional Regulation

EDUCATION:

Doctor of Philosophy, Psychology Department
University of North Texas, Denton, Texas (1994)

Master of Arts, Psychology Department
St. Mary's University, San Antonio, Texas (1985)

Bachelor of Science, Psychology Department
University of Dayton, Dayton, Ohio (1981)

PROFESSIONAL AFFILIATIONS/AWARDS:

American Psychological Association - Member
APA Division 41 Psychology and the Law - Member

Distinguished Mentor Award, Austin Psychiatric Residency Program - 2003

Clinical Faculty of the Year Award, Austin Psychiatric Residency Program - 2002

Supervisor of the Year, United States Department of Justice - 2001

Distinguished Psychology Graduate Student Award - 1985

CURRENT EMPLOYMENT

Private Practice, Clinical and Forensic Psychology

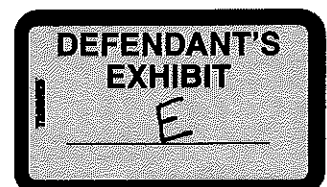
May 2016 – Present

- Conduct Criminal and Civil Forensic evaluations for Federal, State, and County courts
- Provide Consultation services to attorneys and court systems

Lecturer – Department of Psychology, Rosalind Franklin University of Medicine and Science North Chicago, Illinois (Formerly known as the Chicago Medical School)

March 2015 – Present

- Teach Doctoral and Master's level courses in Personality Assessment



Adjunct Professor - Roosevelt University, Chicago, Illinois

May 2014 – Present

- Teach Doctoral and Master's level courses in Personality Assessment and Theories of Psychotherapy

Adjunct Professor - Argosy University, Schaumburg, Illinois

January 2007 - Present

- Teach Doctoral level courses in Personality Assessment, Forensic Psychology, and Psychopathology

PRIOR CLINICAL EXPERIENCE:

**United States Department of Justice
Metropolitan Correctional Center, Chicago, Illinois
Psychology Department – Forensic Studies Unit
July 2003 – May 2016**

Forensic Psychologist

- Conducted approximately 500 forensic evaluations based on referrals from the Federal courts, addressing questions related to trial competency, mental state at the time of the offense, dangerousness, and mental health treatment needs
- Provided expert testimony approximately 50 times in federal court
- Provided mental health services for pre-trial defendants and supervised doctoral level externs

Forensic Consultant – Austin, Texas

July 1998 – June 2003

- Conducted civil (e.g., wrongful death, employment discrimination) and criminal (e.g., trial competency, diminished capacity, death penalty) forensic evaluations
- Provided expert testimony and depositions, and consulted with local attorneys

**Psychology Department
FCI Bastrop, Texas**

July 1998 - July 2003

Chief Psychologist

- Coordinated psychological services for approximately 1,500 correctional inmates.
- Established an informal internship program including the administrative and clinical supervision of doctoral level practicum students, pre-doctoral interns, psychiatry residents.
- Personality and treatment outcome research utilizing MMPI-2, Rorschach, and PCL-R data.
- Drug Abuse Program Coordinator: July 1996 - July 1998.
- Provided supervision and oversight for a team of ten mental health clinicians
- Served as the Mental Health Liaison for the institutional hostage negotiation team
- Coordinated and provided EAP services for staff members

Post-Doctoral Fellowship

Federal Medical Center - Ft. Worth, Texas

October 1994 - June 1996

Forensic, Chemical Dependency, and Health Psychology rotations

- Evaluation of pre-trial inmates

Pre-Doctoral Internship

University of Texas Southwestern Medical Center (Dallas, Texas)

Department of Psychiatry – Parkland Hospital

September 1993 - August 1994 (APA Accreditation)

Inpatient, Outpatient Psychiatric, Consult/Liaison, and Psychiatric ER rotations

OTHER CLINICAL EXPERIENCE:

Child Therapist, Co-Director - Behavioral Medicine Program

Center for Psychological Development

Sherman, Texas (June 1992 - August 1993)

Psychological Associate

Metro-McGee & Associates, Inc.

Arlington, Texas (June 1991 - June 1992)

Intergroup Counseling

Arlington, Texas (June 1990 - June 1992)

Crisis Interventionist

Twin Lakes Psychiatric Hospital

Denton, Texas (February 1989 - May 1990)

Psychotherapist

Gregory G. Young, M.D., Inc.

Dayton, Ohio (June 1985 - August 1988)

Shift Supervisor

Eastway Community Mental Health Center

Dayton, Ohio (August 1981 - August 1983)

PRIOR TEACHING EXPERIENCE:

**Department of Psychology
Doctoral Programs in Clinical and Counseling Psychology
University of Texas at Austin 1999 - 2003**

Adjunct Assistant Professor

- Taught Doctoral and Master's level courses in Cognitive and Personality Assessment, and Mental Health Treatment. Provided clinical supervision for Doctoral level practicum students and served on dissertation committees.

**Psychiatric Residency Program
Austin State Hospital, Austin, Texas 1998 - 2003**

Clinical Supervisor, Teaching Faculty

- Provided supervision for 3rd year psychiatry residents during their forensic rotation. Provided instruction in the assessment, management and treatment of criminal behavior, psychopathy and dangerousness.

**Department of Psychology
St. Edward's University, Austin, Texas 1997 - 1999**

Adjunct Professor

- Taught Master's level courses in Assessment and Treatment of Chemical Dependency.

PUBLICATIONS:

Nieberding, R., Gacono, C., Pirie, M., Bannatyne, L., Viglione, D., Cooper, B., Bodholdt, R., & Frackowiak, M. (2003). The seven cluster solution: MMPI-2 based classification of forensic psychiatric outpatients. *Journal of Clinical Psychology*, 9, 907-920.

Nieberding, R., Moore, J. T., & Dematatis, A. (2002). Psychological assessment of forensic psychiatric outpatients. *International Journal of Offender Therapy and Comparative Criminology*, 46, 350-363.

Nieberding, R., Frackowiak, M., Bodholdt, R., & Rubel, J. (2000). Beware the Razorwire: Psychology behind bars. *Journal of Police and Criminal Psychology*, 15, 11-20.

Gacono, C., Nieberding, R., Owen, A., & Rubel, J. (2000). Treating Conduct-Disorder, Antisocial, and Psychopathic Personalities. In J. B. Ashford, B. D. Sales, & W. Reid (Eds.), *Treating Adult and Juvenile Offenders with Special Needs*. Washington DC: American Psychological Association.

Watkins, C., Campbell, V., Nieberding, R., & Hallmark, R. (1996). On Hunsley, harangue, and hoopla. *Professional Psychology Research and Practice*, 27, 316-318.

Watkins, C., Schneider, L., Haynes, J., & Nieberding, R. (1995). Measuring psychotherapy supervisor development: An initial effort at scale development and validation. *The Clinical Supervisor*, 13, 77-90.

Watkins, C., Campbell, V., Nieberding, R., & Hallmark, R. (1995). The contemporary practice of psychological assessment by clinical psychologists. *Professional Psychology: Research and Practice*, 26, 54-60.

Watkins, C., Schneider, L., & Nieberding, R. (1994). Training effectiveness and student interests in clinical psychology: The director's viewpoint. *The Clinical Psychologist*, 47, 4-8.

Watkins, C., Campbell, V., & Nieberding, R. (1994). The practice of vocational assessment by counseling psychologists. *The Counseling Psychologist*, 22, 115-128.

Watkins, C., Savickas, M., Nieberding, R., & Saine, K. (1992). Studying the vocational counseling process: A preliminary examination. *Counseling Psychology Quarterly*, 5, 17-23.

PRESENTATIONS:

Nieberding, R. (2016, February). Criminal Forensic Investigations. Seminar presented to faculty and students of Consolidated School District 211 (Illinois).

Nieberding, R. (2015, February). Criminal Forensic Investigations. Seminar presented to faculty and students of Consolidated School District 211 (Illinois).

Nieberding, R. (2014, February). Criminal Forensic Investigations. Seminar presented to faculty and students of Consolidated School District 211 (Illinois).

Nieberding, R. (2013, March). An Overview of Forensic Psychology. Seminar presented to the faculty and students, William Fremd High School, Palatine, IL.

Nieberding, R. (2006, April). The Assessment of Dangerousness. Seminar presented to the Psychiatry Residency Program, Feinberg School of Medicine, Northwestern University, Chicago, IL.

Nieberding, R. (2005, March). The Assessment of Dangerousness. Seminar presented to the Psychiatry Residency Program, Feinberg School of Medicine, Northwestern University, Chicago, IL.

Nieberding, R. (2004, March). Inside the Criminal Personality. Seminar presented at the Feinberg School of Medicine, Northwestern University, Chicago, IL.

Nieberding, R., & Moore, T. (2003, March). Assessment and Management of the Psychopath: An Introduction to the PCL-R. Seminar presented to the Psychiatric Residency Program at the Austin State Hospital, Austin, Texas.

Nieberding, R. (2003, January). Correctional Psychology and the Assessment of Dangerousness. Seminar presented to the faculty and students of Southwestern University, Georgetown, Texas.

Kunze, M., & Nieberding, R. (2002, June). The Social and Emotional Development of Children. Seminar presented to members of the Austin and Bastrop mental health community.

Nieberding, R., & Moore, T. (2002, March). Assessment and Management of the Psychopath: An Introduction to the PCL-R. Seminar presented to the Psychiatric Residency Program at the Austin State Hospital, Austin, Texas.

Nieberding, R., & Moore, T. (2001, October). The Clinical Assessment of Dangerousness. Seminar presented at the annual convention of the Society of Police and Criminal Psychology, Austin, Texas.

Nieberding, R., & Moore, T. (2001, August). The Assessment of Dangerousness. Seminar presented to the Psychology Department, VA Medical Center, Temple, Texas.

PRESENTATIONS (Continued):

Nieberding, R., & Frackowiak, M. (2000, March). The seven cluster solution: An MMPI-2 based classification of forensic psychiatric outpatients. Symposium presentation at the annual meeting of the Society for Personality Assessment, Albuquerque, NM.

Rubel, J., & Nieberding, R., (2000, February). Mind-Body Wellness. Seminar presented to the institutional staff of FCI Bastrop, Bastrop, TX.

Nieberding, R., (1999, March). MMPI-2 based classification of forensic psychiatric outpatients. Symposium presentation at the annual meeting of the Society for Personality Assessment, New Orleans, LA.

Nieberding, R., (1998, November). Introduction to the PCL-R: Assessing dangerousness within forensic settings. Two part seminar presented to the professional staff, FCI Bastrop, TX.

Nieberding, R., (1998, April). The Assessment of Malingering. Seminar presented to the Psychology Department of the Temple VA Medical Center, Temple, TX.

Nieberding, R., (1998, Jan-Feb.). The Integration of MMPI-2 and Rorschach data: Implications for report writing and treatment planning. Series of four seminars presented to professional staff of FCI Bastrop, Bastrop, TX.

Gacono, C. & Nieberding, R. (1997, May). The Clinical and Forensic Use of the PCL-R. Seminar presented to regional psychologists, Federal Correctional Institution, Bastrop, TX.

Nieberding, R. (1997, March). Treatment of Substance Abuse and Criminal Thinking with Juvenile and Adult Offenders: A Comprehensive Approach. Seminar presented to the professional staff of the San Diego County Mental Health Department, San Diego, CA.

Nieberding, R., (1997, March). Classification of forensic psychiatric patients: A cluster analysis. Symposium presented at the annual convention of the Society for Personality Assessment, San Diego, CA.

Nieberding, R., Watkins, C., Saine, K. & Clifford, A. (1995, August). MMPI-2 correlates of chronic pain: An examination of the role of anger. Paper presented at the annual convention of the American Psychological Association, New York, NY.

Watkins, C., Campbell, V., & Nieberding, R. (1994, August). The contemporary practice of psychological assessment by clinical psychologists. Paper presented at the annual convention of the American Psychological Association, Los Angeles, CA.