

1 A. Yes, sir.

2 Q. At any time prior to him pleading guilty, did he advise
3 you he was having any sexual relationship with Jack Walls?

4 A. No, sir.

5 MR. ALEXANDER: That's all I have, Your Honor.

6 MS. DICKEY: I have no questions, Your Honor.

7 THE COURT: You may step down. Thank you.

8 MR. ALLEN: Call Dr. James Moneyppenny.

9 THE COURT: Just a moment. I'm getting signals
10 here that we need to have just a little short break.

11 So, court is going to be in recess for about
12 seven or eight minutes.

13 MR. ALEXANDER: Judge, this is our last witness.

14 THE COURT: Well, I know, but I don't care --

15 MR. ALEXANDER: I'm just letting everybody --

16 THE COURT: -- if it takes just ten minutes.

17 MR. ALEXANDER: I'm just letting everybody know
18 that we don't have a whole lot more witnesses.

19 (WHEREUPON, COURT WAS IN RECESS, AND AT 4:06
20 P.M., COURT RECONVENED)

21 THE COURT: Thank you for that pause. All
22 right. Call your next witness.

23 MR. ALLEN: Call Dr. James Moneyppenny.

24 (WHEREUPON, DR. JAMES MONEYPPENNY, HAVING FIRST
25 BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH

1 AND NOTHING BUT THE TRUTH, TESTIFIED AS FOLLOWS, TO-
2 WIT:)

3 DIRECT EXAMINATION

4 BY MR. ALLEN:

5 Q. State your full name, please.

6 A. James Russell Money Penny.

7 Q. And your occupation?

8 A. I'm a psychologist.

9 Q. Could you give me your educational background, please?

10 A. I have a bachelor's degree with majors in psychology and
11 sociology. I have a master's degree with a major in agency
12 counseling. I've a specialist degree in education and a Ph.D.
13 degree in counseling psychology.

14 Q. Hence, the fact that you are a doctor.

15 A. Yes.

16 Q. Okay.

17 THE COURT: A medical doctor?

18 THE WITNESS: No. I'm a doctor of philosophy
19 and a licensed psychologist.

20 THE COURT: Okay.

21 Q. (Resumed by Mr. Allen) Tell me about your occupational
22 background.

23 A. I've been in private practice in Little Rock since
24 Nineteen Eighty-Two. I have a general practice. I see people
25 for therapy. I see a lot of people on referral from their

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1 physicians. I've a couple of specialty areas. One is in the
2 area of human sexuality. One is in the area of neuro-
3 psychology.

4 I'm also called upon to testify in court as I am today. I
5 have a number of consulting contracts where I provide services.
6 I do two days a week at the Arkansas Department of Corrections.
7 I also do all of the preemployment screening and evaluations
8 for several law enforcement agencies, including the Arkansas
9 State Police, the city of Little Rock, Department of Community
10 Punishment, a company that's running private prisons and
11 several other small law enforcement agencies.

12 Q. Is it safe to say, then, that forensic psychology is a --
13 something you are an expert in?

14 A. Specialty area, yes.

15 Q. Okay. Tell me, if you will, about your exposure to
16 pedophilia and sexual abuse in children.

17 A. Well, many of the -- I guess the primary avenue is -- and
18 a number of my patients over the years -- many people have been
19 exposed to sexual abuse in their lifetime.

20 So, I guess many of the patients that I see have that
21 either as a presenting problem, or as what we call a collateral
22 problem. It may not be what precipitated them to come in for
23 treatment.

24 Q. You're referring to victims, now.

25 A. Yes.

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1 Q. Okay. What about pedophiles themselves?

2 A. I've had experience working with them down at the prison
3 in various capacities. And, of course, much of my continuing
4 education focuses around evaluation and treatment, some of
5 which has been treatment for pedophiles.

6 Q. Okay. And in connection with that continuing education,
7 have you had occasion to subscribe to the Journal of Sex
8 Research?

9 A. Yes.

10 Q. Could you tell the judge about the Journal of Sex
11 Research?

12 A. Well, it's just a -- one of the main journals in the field
13 of sexuality. It's been around for many years. I'd say what's
14 called a peer review journal. What that means is not anybody
15 -- not just anybody can publish an article. It has to be
16 subjected to a process of review by one's peers to ensure that
17 it meets certain standards of scholarship and accuracy.

18 Q. Okay. Is there such an article that was in the Nineteen
19 Ninety-Seven Journal of Sex Research that you feel is relevant
20 to the issues in this case?

21 A. Yes, I do. Yes, I do.

22 Q. I'll show you a -- by the way, I'd like to submit that
23 he's qualified to testify and give expert opinions in the field
24 of psychology.

25 MS. DENNIS: I have no objection, Your Honor.

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1 THE COURT: All right. He'll be received.

2 Q. (Resumed by Mr. Allen) Could you describe the article
3 that we're talking about, which I'm marking Defendant's Exhibit
4 Number Three?

5 A. Well, this is an article that -- what it is, is a review
6 of findings from what's called National Samples on
7 Psychological Correlates of Child Sexual Abuse. And I think
8 the particular relevance here is that it provides a context in
9 the field of child sexual abuse.

10 For many years, there have been certain preconceived
11 ideas about how sexual abuse comes about, and, more
12 importantly, what happens as a result. What are the effects?
13 And, unfortunately, it's a very difficult topic to study.

14 People are -- I know you probably can tell by now, are
15 reluctant to discuss it openly. And the research that has come
16 out in regards to it has been flawed in some important ways.
17 Unfortunately, this flawed research has led to many
18 preconceived ideas or many beliefs that professional and lay-
19 people have about child sexual abuse and its effects.

20 The purpose of this article was an attempt to try to avoid
21 some of these difficulties in research by obtaining a more
22 representative sample. Much of the previous research was based
23 just on what we call a clinical sample or a legal sample.

24 And to give you, I guess, an example of what that would
25 be, for example, if you wanted to know what are the effects of

1 rape, and if you go down to, say, the rape crisis center, and
2 all the raped women that come in, you talk with them and see
3 what's happened to them, and you form some opinions about what
4 the effects are.

5 Now, those opinions are okay as far as they go, but
6 they're limited to those people, and they can't necessarily be
7 generalized to the broader population. In reality, in rape as
8 well as in child sexual abuse and many other things, the
9 clinical sample, the people that come into our offices that we
10 can study easily, represent only a small portion of the actual
11 population.

12 So, this article was an effort to get a broad based sample
13 of people who, in fact, have had histories of childhood sexual
14 abuse, and to try to examine in, I guess, better detail what
15 exactly happened to this broader based sample.

16 Q. Now, the old view on the effects of C.S.A., child sexual
17 abuse, what was the old view on it?

18 A. Well, the article points out several things. One is the
19 beliefs that -- I'll just paraphrase from the study, if I may.

20 One is what they call causality. That the presence of
21 childhood sexual abuse, in fact, causes later psychological --

22 Q. Can we do this real short?

23 A. Okay.

24 Q. The effects are permanent. The old view was that the
25 effects were permanent. Is that --

1 A. Well, the effects were pervasive. That they were intense
2 and that they affected men -- boys and girls in the same
3 fashion.

4 Q. Okay. Now, what did they -- what was done to determine
5 that those old views were incorrect?

6 A. Well, what they did was --

7 THE COURT: Okay.

8 A. -- they asked a --

9 THE COURT: Just a moment.

10 A. -- broader range of people.

11 THE COURT: Tell me who "they" are. Who is
12 "they?"

13 THE WITNESS: The people who were conducting the
14 study.

15 THE COURT: And who is that?

16 THE WITNESS: Their names are Bruce Rind from
17 the Department of Psychology at Temple University,
18 and Philip Tromovitch, Graduate School of Education
19 at the University of Pennsylvania.

20 THE COURT: All right. Go ahead.

21 A. (Resumed by the witness) As I said before, they --
22 actually, what they did was, they reviewed several other
23 studies that had already been --

24 Q. (Resumed by Mr. Allen) How many studies?

25 A. There were -- well, seventeen, and seven they felt were

1 good enough for inclusion, that met some fairly rigorous
2 criteria for inclusion.

3 Q. So, their opinions are based on a compilation of seven
4 studies.

5 A. Right.

6 Q. Okay.

7 A. Which, that was part of the problem. A lot of small
8 studies can't really say a whole lot and are generalized. So,
9 they were able to group everything together and try to make
10 some better sense of it.

11 And, I guess to make a long story short, the gist of it
12 is, what they found was really contrary to what previously
13 had been the so-called conventional wisdom. That, in fact,
14 when many of these people were asked, you know, "How this
15 affected you? How are you doing?" You know, "What is your
16 psychological adjustment?"

17 What they found was, far fewer people who had been victims
18 of sexual abuse claimed that, one, that it had any lasting
19 effect, and relatively few claimed that it had any kind of a
20 severe effect, which that was very surprising. The other thing
21 is that they found that boys seemingly were much less likely to
22 say that this has been a problem than girls.

23 Now, they looked into that a little bit further, and what
24 they found was that boys and girls typically go through a
25 different experience. Girls typically are abused at a younger

1 age. They're much more likely to be forced into this, or
2 coercion turns out to be a big factor. And it turned out that
3 much of the female abuse was father/stepfather incest kind of
4 thing. So, the father/stepfather incest, the force and the
5 younger age all played into that.

6 Q. What is the importance of those findings with respect to
7 this case?

8 A. Well, I think conclusions -- well, twofold. One,
9 conclusions that effects -- now, again, I'll qualify and say
10 these findings or any research findings on a group can't be
11 generalized to any particular single case. But if you look at
12 this from a group, what you say is, sex abuse survivors, as a
13 group, are not nearly as likely to be suffering intense
14 pervasive psychological harm. And boys are likely to
15 experience less than we would expect with girls.

16 Q. You, as a psychologist, could not tell anybody how these
17 boys are going to be five years from now or ten years from now,
18 as far as exhibiting problems resulting from sex abuse, could
19 you?

20 A. No.

21 Q. Any individual boy.

22 A. No.

23 Q. So, what we're talking about are statistics.

24 A. But survivors as a group are much less likely to
25 experience the kind of harm that we normally feared and

1 | thought. You know, we were looking at a very narrow sample of
2 | people of the worst. And the truth is, there's a whole other
3 | population of survivors, you know, who have been able to adjust
4 | and cope.

5 | THE COURT: May I ask you a question on that? I
6 | mean, you're -- you've got your back to me, but I'm
7 | the guy you're talking to.

8 | THE WITNESS: Okay.

9 | THE COURT: Does this study take into effect the
10 | length of time when this -- when abuse starts and
11 | when it ends? Does that play into any factor into
12 | either the boys or the girls that they've talked
13 | about?

14 | THE WITNESS: It would --

15 | THE COURT: Has this been limited to one aspect
16 | of the country? For instance, the northeast?

17 | THE WITNESS: No.

18 | THE COURT: Or is this generally throughout the
19 | United States that they've done this study?

20 | THE WITNESS: This is what they call a national
21 | sample. And while it doesn't perfectly match
22 | population demographics, it's very close. And it
23 | would have taken into account length of time,
24 | indirectly, in the sense that all victims were
25 | included.

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1 Now, some of those victims will have had a
2 onetime experience. Some of the victims will have
3 had a long time experience.

4 THE COURT: Would that not perhaps skew their
5 findings?

6 THE WITNESS: Only if you were attempting to
7 generalize your findings to one group or the other.

8 Now, on the basis of this, I don't know that you
9 can say people with a onetime experience are more or
10 less likely to suffer than those with a longer. Now,
11 clearly, when you think about it, you'd think more
12 would be worse. Well, not necessarily.

13 And an example of how, is, that a onetime
14 experience that, for whatever reason, was experienced
15 as highly traumatizing, you know, it might affect a
16 particular person for a long time in a bad way.

17 On the other hand, there are individuals in the
18 study where they read their -- you know, their
19 narrative accounts of how this has affected them, who
20 experienced sex over a long period of time, but
21 because of various factors, including that particular
22 individual and how they handle things, you know, they
23 may not have reported it as being particularly
24 traumatizing.

25 THE COURT: And did this study -- is this in

1 discussing this with perpetrators generally, or is it
2 limited to pedophiles or is there a section in that
3 study that is limited to pedophiles?

4 THE WITNESS: Well, I think by definition, all
5 of the perpetrators would be considered pedophiles
6 since these all entailed older --

7 THE COURT: Well, but the difference -- there's
8 a difference in perpetrators on young people and that
9 they have been diagnosed as pedophiles, then there's
10 people who have been diagnosed with an axis of
11 pedophile.

12 THE WITNESS: I'm not sure I understand the
13 distinction you're making or -- and how it relates to
14 this.

15 THE COURT: Some may have not been forensically
16 evaluated --

17 THE WITNESS: Well, the --

18 THE COURT: -- and some have.

19 THE WITNESS: But the study isn't concerned so
20 much with characteristics of the perpetrator.
21 They're more -- the study was concerned with the
22 long-term effects -- or the effects and long-term
23 effects of the child sexual abuse on the victim.

24 THE COURT: Okay. And it's really generalized,
25 taking into account all perpetrators of various kinds

1 of --

2 THE WITNESS: Well, all perpetrators and all
3 their victims. Yeah. There wasn't any effort that
4 I'm aware of, in reviewing the study, that indicated
5 that they made an attempt to distinguish different
6 types of perpetrators.

7 THE COURT: Well, a twelve-year-old boy who has
8 sex with an eight-year-old girl, and they could be
9 brother and sister, does that make the twelve-year-
10 old boy a pedophile?

11 THE WITNESS: No, it would make him a sex
12 abuser.

13 THE COURT: Well, certainly it would. And there
14 is a difference in a sex abuser and a pedophile.
15 That's what I was getting at. And I'm trying to find
16 out what you're -- what this study that you're
17 telling me about, what it's actually based upon. I'm
18 -- because I know you all want me to pay attention to
19 this --

20 THE WITNESS: In only --

21 THE COURT: -- and I'm trying to do that.

22 THE WITNESS: In one of the studies, they
23 described the -- you know, the criteria to -- well,
24 actually, the criteria for sexual abuse. Because if
25 it were two eight year olds, for example, you

1 probably wouldn't call it sex abuse. It probably
2 would be called pedophilia or whatever. They -- and
3 I think in the one, that they said there had to be at
4 least a five year age difference in order for them to
5 define it as such.

6 THE COURT: All right. Thank you.

7 Q. (Resumed by Mr. Allen) There would be aggravating factors
8 that could make traumatic events to children -- C.S.A. events
9 to children more likely to cause more lasting effects. Is that
10 a true statement?

11 A. That's what they believe, yes.

12 Q. Would me going to a child and beating the child up and
13 holding a knife to his throat while I performed sex on -- got a
14 child to perform sex on me, would that be an aggravating
15 factor?

16 A. I would certainly think so.

17 Q. All right. But it's not present in this case as far as
18 you know.

19 A. I'm not aware of the specifics on any of the individual
20 cases, no.

21 Q. Now, you've heard testimony from Dr. Chaumont, and you've
22 heard testimony from Dr. -- I say Dr. Chaumont -- Ms. Chaumont
23 and Mr. Henderson.

24 A. Yes.

25 Q. Neither of those persons were licensed psychologists. Is

1 | that correct?

2 | A. That's correct.

3 | Q. Is it also correct that neither of those people's
4 | licensure, nor those people's training, give them the ability
5 | to make a -- give a psychological diagnosis?

6 | A. I believe that's a fair statement, yes.

7 | Q. All right. And is it true that neither of those people
8 | have the training or the licensure to interpret behavioral test
9 | results?

10 | A. I can't speak for Mr. Henderson -- or Dr. Henderson,
11 | because I'm not familiar with the terms of his licensure as an
12 | L.P.C. For psych examiners, I --

13 | Q. That's Ms. --

14 | A. Ms. Chaumont.

15 | Q. -- Chaumont.

16 | A. I believe the law states that they need to have -- those
17 | activities need to be supervised by a psychologist.

18 | THE COURT: Co-signed by a supervisor?

19 | THE WITNESS: Yes, sir.

20 | THE COURT: Did you hear Ms. Chaumont say that?

21 | THE WITNESS: Yes.

22 | THE COURT: Okay.

23 | MR. ALLEN: I have no further questions.

24 | MS. DENNIS: I have a couple, please.

25 | CROSS-EXAMINATION

- 1 BY MS. DENNIS:
- 2 Q. Dr. Money Penny. Am I correct? That's your name?
- 3 A. Yes.
- 4 Q. Okay. Where did you find this article?
- 5 A. It was in the Journal of Sex Research.
- 6 Q. Okay. And tell us the circumstances when you found this.
- 7 How you decided to tell Mr. Alexander and Mr. Allen about it.
- 8 A. Well, I received a call from Mr. Allen asking me if I
- 9 would be willing to do an evaluation.
- 10 Q. Of whom?
- 11 A. Mr. Walls.
- 12 Q. Okay. Have you evaluated Mr. Walls?
- 13 A. I've had an opportunity to see him on one occasion.
- 14 Q. Okay. Would you agree with the diagnosis that he's a
- 15 pedophile?
- 16 A. Yes.
- 17 Q. Okay. You understand that the purpose for this hearing
- 18 today is for these victims to tell this judge how his rape
- 19 affected them and impacted their lives.
- 20 A. Yes.
- 21 Q. Have you talked to Josh?
- 22 A. No, I have not spoken with any of the victims.
- 23 Q. You haven't talked to any of the victims, have you?
- 24 A. No, I haven't.
- 25 Q. You're wanting the judge to use an article where some

1 victims just got over it.

2 A. Well, not just some victims. The article suggests -- or
3 indicates that their research shows that most victims get over
4 it.

5 Q. And do you believe everything you read?

6 A. I believe it's a sound study.

7 Q. Have you taken the time to -- in your expertise to come
8 here to testify, to learn anything about what happened to these
9 boys?

10 A. No.

11 Q. Thank you.

12 MS. DENNIS: That's all I have.

13 MR. ALLEN: No further questions.

14 THE COURT: You may step down.

15 MR. ALEXANDER: That's all we have at this time,
16 Your Honor, other than the documentary evidence
17 that's been introduced and that's to go along.

18 THE COURT: Are you talking about the letters,
19 etcetera?

20 MR. ALEXANDER: Pardon?

21 THE COURT: Are you talking about the letters
22 and things of that nature?

23 MR. ALEXANDER: Yes, sir, like letters.

24 THE COURT: All right. Anything else?

25 MR. ALEXANDER: I think we've agreed to get them