

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FILED  
JUL - 7 2022  
JOHN T. FREY  
Clerk of the Circuit Court  
of Fairfax County, VA

JOHN C. DEPP, II,

Plaintiff and Counterclaim Defendant,

v.

Civil Action No.: CL-2019-0002911

AMBER LAURA HEARD,

Defendant and Counterclaim Plaintiff.

**BENCH MEMORANDUM IN SUPPORT OF  
ADMISSION OF STATEMENTS FOR PURPOSES OF MEDICAL TREATMENT**

Ms. Heard's statements to treating psychologists, psychiatrists, and other care providers regarding abuse endured by Mr. Depp are reliable because they occurred in the context of receiving treatment long before her allegations of abuse were public, and are therefore reliable and should be admitted under the hearsay exception pertaining to medical treatment.

Rule 2:803(4) "Statements for purposes of medical treatment" provides an applicable hearsay exception. It permits admission of the following hearsay statements:

Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to the diagnosis or treatment.

Va. S. Ct. R. 2:803(4). In *Campos v. Commonwealth*, 67 Va. App. 690, 713-715 (2017), the Court of Appeals held the exception applicable where a sexual assault nurse treated the patient and authorized admission of a statement by a juvenile victim identifying the perpetrator. *Id.* at 711. The Court of Appeals surveyed Virginia Supreme Court cases and determined that there are "two distinct exceptions" to the hearsay rule in the medical treatment context. *Id.* The first is that a patient's statements regarding "past pain, suffering, and subjective symptoms" are admissible

to show the basis of the physician's opinion. *Id.* (Noting that this is not technically hearsay because the statements are not offered for their truth). The second exception “permits a hearsay statement made for the purpose of medical diagnosis *or treatment* to be introduced for its truth.” *Id.* In *Campos*, the Court of Appeals stated, “**reliability is the touchstone for determining admissibility of a patient's out-of-court statements that are made for diagnosis and treatment purposes.**”<sup>1</sup> *Id.* (emphasis added). Thus “the rule’s emphasis on reliability requires a court to focus on the declarant’s motive rather than that of the care provider.” *Id.*

Ms. Heard went to several psychiatrists and psychologists for the purpose of getting treatment for her volatile and violent relationship with Mr. Depp, including occasionally attending in joint sessions with Mr. Depp. As part of the treatment, Ms. Heard revealed Mr. Depp’s violence and abuse toward her. For example, on December 17, 2015—long before Mr. Depp and Ms. Heard’s relationship ended and long before there were any public allegations of abuse—Ms. Heard informed her psychiatrist, Connell Cowan, who provided psychotherapy for Ms. Heard, that Mr. Depp was physical with her and pushed her down. Att. A, Cowan Tr. 53:16-55:4. Dr. Cowan’s contemporaneous notes state, “Amber related that he started the physicality – pushed her down.” Att. B, Def’s Ex. 1057 at DEPP9122. This statement falls squarely within the medical treatment hearsay exception. It also falls under exception 2:803(3), as it shows Ms. Heard’s “then existing state of mind,” “her physical condition,” her “intent,” and her “bodily health.” Va. S. Ct. R. 2:803(3); *see also Kelly v. Laderer*, 100 Va. Cir. 87, 88 (Norfolk 2018)

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<sup>1</sup> The Court of Appeals noted that in *Jenkins v. Commonwealth*, 254 Va. 333, 492 S.E.2d 131 (1997), the Virginia Supreme Court declined to apply the hearsay exception where it found that a two-year-old was too young to “appreciate the need for furnishing reliable information.” *Id.* Likewise, in *Lawlor v. Commonwealth*, 285 Va. 187, 738 S.E.2d 847 (2013), the Virginia Supreme Court declined to apply the exception because “the incarcerated defendant in *Lawlor* would not be as honest in his potentially punishment-reducing conversation with a drug treatment counselor as he would be in seeking medical treatment from a physician.”

(citing Friend & Sinclair, *The Law of Evidence in Virginia*, § 15-21(a) (7th ed. 2012) (“beyond the requirement that the declaration relate to a condition existing at the time the statement is made, ‘the exception is relatively free of restrictions.’”). Moreover, this report of violence, and others like it were made long before any public allegations of abuse and long before Ms. Heard obtained a domestic violence restraining order, and Dr. Cowan was treating Ms. Heard for precisely these issues. For those reasons, these statements, and the other reports by Ms. Heard contained in Dr. Cowan’s treatment notes and deposition testimony, are completely reliable and should be admitted in evidence.

For the same reason, the statements made by Mr. Depp and Ms. Heard to other care providers, including Dr. Amy Banks, a psychiatrist seen by the couple jointly<sup>2</sup>; Dr. Bonnie Jacobs, Ms. Heard’s psychiatrist; and Erin Falati, a nurse to Ms. Heard from 2014 to 2016, should be admitted. Ms. Heard’s statements to these providers about Mr. Depp’s abuse were made for the purpose of treatment and predate all public allegations by months, and often years, and are therefore reliable. Many of these statements fall under other hearsay exceptions as well, for instance Rules 2:803(3) and 2:803(0)(B), and, in addition to those exceptions, this Court should adhere to Rule 2:803(4) and admit the statements Ms. Heard made to treating professionals about the abuse.

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<sup>2</sup> Dr. Banks testified that Ms. Heard reported violence by Mr. Depp in front of him without contradiction. **Att. C at 86:9-14**. That evidence should be admitted as well as an admission by silence. “A declaration in the presence of a party to a cause becomes evidence, as showing that the party, on hearing such a statement, did not deny its truth; for if he is silent when he ought to have denied, there is a presumption of acquiescence.” *Sanders v. Newsome*, 179 Va. 582 (1942).

April 29, 2022



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**CERTIFICATE OF SERVICE**

I certify that on this 29<sup>th</sup> day April, 2022, a copy of the foregoing was served by hand-delivery to counsel below as follows:

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John C. Depp, II*

# Attachment A



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**CONFIDENTIAL - PURSUANT TO THE PROTECTIVE  
ORDER**

**Transcript of Laurel Anderson,  
Ph.D., CCN**

**Date:** February 21, 2022  
**Case:** Depp, II -v- Heard

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VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

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JOHN C. DEPP, II, :  
Plaintiff, : Case No.  
v. : CL-2019-0002911  
AMBER LAURA HEARD, :  
Defendant. :

----- x

THIS TRANSCRIPT HAS BEEN MARKED CONFIDENTIAL  
PURSUANT TO THE PROTECTIVE ORDER

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Videotaped Deposition of  
LAUREL ANDERSON, PH.D., CCN  
Conducted Remotely via Zoom  
Monday, February 21, 2022  
1:00 p.m.

Job No.: 433788  
Pages: 1 - 214  
Reported By: AMY L. STRYKER, CCR



CONFIDENTIAL - PURSUANT TO THE PROTECTIVE ORDER

Transcript of Laurel Anderson, Ph.D., CCN

Conducted on February 21, 2022

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1           Videotaped Deposition of LAUREL ANDERSON,  
2           PH.D., CCN, conducted remotely.

3

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5           Pursuant to subpoena, before AMY L.  
6           STRYKER, Certified Court Reporter and Notary  
7           Public of the State of Maryland.

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A P P E A R A N C E S

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CONFIDENTIAL - PURSUANT TO THE PROTECTIVE ORDER

Transcript of Laurel Anderson, Ph.D., CCN

Conducted on February 21, 2022

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A P P E A R A N C E S C O N T I N U E D

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4

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CONFIDENTIAL - PURSUANT TO THE PROTECTIVE ORDER  
Transcript of Laurel Anderson, Ph.D., CCN  
Conducted on February 21, 2022

5

1 A P P E A R A N C E S C O N T I N U E D

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3 ON BEHALF OF THE WITNESS:

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11 ALSO PRESENT:

12 LUCIEN NEWELL, AV Technician

13 DREW HALTON, Videographer

14

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CONFIDENTIAL - PURSUANT TO THE PROTECTIVE ORDER

Transcript of Laurel Anderson, Ph.D., CCN

Conducted on February 21, 2022

19

1 A Yes. 13:09:48

2 Q Okay. So as I understand it, on 13:09:49

3 October 1, 2015, Mr. Depp and Amber Heard came in 13:09:53

4 for couples counseling at -- for 3 1/2 hours? 13:09:58

5 A Yes. 13:10:02

6 MR. CHEW: Objection; leading. 13:10:03

7 Q That was a "yes"? 13:10:05

8 MS. BIRTJA: You can go ahead and answer 13:10:10

9 again, Ms. -- Dr. Anderson. They're just 13:10:12

10 concerned that with the objection you may have 13:10:14

11 gotten cut off. So just go ahead and state your 13:10:16

12 answer again. 13:10:18

13 THE WITNESS: Yes. Whether they were in 13:10:18

14 for the full 3 1/2 or not, I don't know, but that 13:10:20

15 was the amount of -- that was when the session 13:10:26

16 started, and they came in when they came in and -- 13:10:27

17 not together. And it took 3 1/2 hours to actually 13:10:31

18 do that first session. 13:10:36

19 Q So as I understand it, for that first 13:10:38

20 session, Mr. Depp and Amber Heard did not come in 13:10:42

21 together? 13:10:44

22 A I don't believe that they did. 13:10:45

# Attachment B

ann henry (29) joey davis (52)

10/1/15 #1 2 ½ Presenting: [REDACTED]

❖ [REDACTED]  
❖ [REDACTED]

○ [REDACTED]  
○ [REDACTED]

❖ | [REDACTED]  
○ [REDACTED]  
○ [REDACTED]

❖ | [REDACTED]  
○ [REDACTED]

❖ fighting

- J says: no one likes you, getting fame from me, falling out of love with you, whore
- A says: fat old man, hits him in jaw, but fully in the co-dependent role and fights with him, bites the bait, doesn't answer directly when he asks her a question

○ [REDACTED]  
❖ [REDACTED]

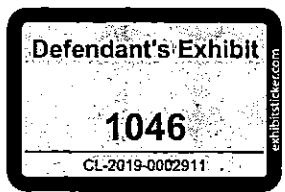
○ [REDACTED]  
○ [REDACTED]

❖ [REDACTED]  
○ [REDACTED]  
○ [REDACTED]

❖ [REDACTED]  
○ [REDACTED]  
○ [REDACTED]

❖ [REDACTED]  
○ [REDACTED]

○ [REDACTED]  
○ [REDACTED] fighting [REDACTED]  
○ [REDACTED]  
■ [REDACTED]



[REDACTED]

❖ 10/6/15#2 A 21/3

❖ plan



[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- *he hits her--no closed fist, she hits back and now starts it for pride, bec/f hit her*
- [REDACTED]
- [REDACTED]

*flights they are hitting. no closed fist. when pushes is dangerous. sacks him.*

• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]

❖ 10/7/15 #3 13 ½

• [REDACTED]  
• [REDACTED]

• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]

• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]

• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]  
• [REDACTED]

[Redacted]

he fighting and heard her be shitty at him  
on a private plane from rocknrio in Brazil on way home.

she yelling, aggressive, says not  
aggressive. your baby's.

- he tries to deescalate, says can't do this, won't do it, threatens relationship divorce. she more upset. tries to reframe it all as an argument, not fighting, can we move on; do you love me, not acknowledging that she's fighting. she feels alienated from his world, .
- he says she jumps. she says he picked a fight about when the fight started but really just fighting

[REDACTED]

- [REDACTED]
- [REDACTED]

- [REDACTED] threatens marriage, triggers A
- [REDACTED] then go after him w/o talking about what you're really feeling
- [REDACTED]

- [REDACTED] don't know how to de escalate, need to stop for now, take a break, have time away from the fight. owe a different kind of communicatn.
- [REDACTED]

❖ 10/14/15 #4couple 3 hours

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

❖ 10/21/15 #5 2 hours couple then amber

[REDACTED]

❖ 10/24/15 #6 1 ½ hours

❖ 10/29/15 #6

❖ 11/12/15 #7 6:15-7:30



o [REDACTED]

❖ 12/4/15 #8

o no show

❖ 12/10/15 #9 no show

❖ 12/15/15 phone 45 min #10

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o [REDACTED] then last night  
(Monday) she slapped him as he sat there talking incoherently and  
suggesting that will be with another woman.  
o [REDACTED] then this AM he wanted to fight, [REDACTED]  
but then they fought, her too; and  
he pulled out hair, bruised her face, kicked her leg, hit her in the head.  
o should she call police? doesn't want to divorce, wants to want to  
divorce. will she have advantage if she leaves him but files w/ police  
for abuse first?

o [REDACTED]

❖ 12/17/15 #11 5:30-7:45:

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

❖ 1/13/16 #12

o didn't fight on island till last day on island started ot get into something. he got aggressive, threatening, didn't touch him. hid in bathroom. she threw can at him, since home fighting, then she better.

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o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

❖ 1/20/16 #13

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

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[REDACTED]

❖ 6/18/16 #14 Johnny 1 ½

○ [REDACTED]  
○ [REDACTED]  
○ [REDACTED]  
○ [REDACTED]

Deleted: c

○ fight on her 4/22 birthday, he late, huge fight, his mother died on 20<sup>th</sup> and she left on 23<sup>rd</sup> and he said would file for divorce, she did it immediately and restraining order.

○ [REDACTED]  
○ [REDACTED]  
○ [REDACTED]  
○ [REDACTED]

○ [REDACTED]. He wants his name cleared, can't get it but she has domestic violence charge against her in history and he doesn't. was chaotic violent but gave as good as she got. And started it. His finger tip and his chin.

○ [REDACTED]

❖ 7/13/16 #15 3 hours amber in person

○ [REDACTED]  
○ [REDACTED]

○ [REDACTED]

○ [REDACTED]

○ [REDACTED] He accuses

io on phone. He scaring her, threw pone hit her, holdsher hair, Rachel gets in between. If he hits me one more time I'll call the police. Hismen come in. I leave. Calls a lawyer

o [REDACTED]

o Lawyer says file restraining order.--johnny depp hit me and lived with for years.

o [REDACTED]

❖ 7/27/16 #16 johnny 1 hour

o [REDACTED]

❖ 7/28/16 johnny 1/2 hour?

o [REDACTED]

o [REDACTED]  
❖ 7/28/16 Amber 1 hour in london  
o [REDACTED]  
o [REDACTED]  
o [REDACTED]  
o [REDACTED]  
o [REDACTED]

❖ 8/2/16 Johnnybbb Johnny Johnny Johnny 1 hour 50 min in office?  
o [REDACTED]  
o [REDACTED]  
o [REDACTED]  
o [REDACTED]  
o [REDACTED]  
o [REDACTED] And she wild and  
o [REDACTED] attacked.  
o [REDACTED]  
o [REDACTED]  
o [REDACTED] screaming, abusive.  
o [REDACTED]

❖ 8/3/16 30 min had connection  
o [REDACTED]  
o [REDACTED]

❖ 11/23/16 amber.

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

o [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]