

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.**”¹ *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)


¹ 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 jointly²; 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.

² 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



Elaine Charlson Bredehoft (VSB No. 23766)
Adam S. Nadelhaft (VSB No. 91717)
Clarissa K. Pintado (VSB No. 86882)
David E. Murphy (VSB No. 90938)
Charlson Bredehoft Cohen
Brown & Nadelhaft, P.C.
11260 Roger Bacon Drive, Suite 201
Reston, Virginia 20190
Telephone: (703) 318-6800
ebredehoft@cbcblaw.com
anadelhaft@cbcblaw.com
cpintado@cbcblaw.com
dmurphy@cbcblaw.com

J. Benjamin Rottenborn (VSB No. 84796)
Joshua R. Treece (VSB No. 79149)
WOODS ROGERS PLC
10 S. Jefferson Street, Suite 1400
P.O. Box 14125
Roanoke, Virginia 24011
Telephone: (540) 983-7540
brottenborn@woodsrogers.com
jtreece@woodsrogers.com

*Counsel to Defendant and Counterclaim
Plaintiff Amber Laura Heard*

CERTIFICATE OF SERVICE

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

Benjamin G. Chew, Esq.
Andrew C. Crawford, Esq.
BROWN RUDNICK LLP
601 Thirteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 536-1700
Facsimile: (202) 536-1701
bchew@brownrudnick.com
acrawford@brownrudnick.com

Camille M. Vasquez, Esq.
BROWN RUDNICK LLP
2211 Michelson Drive
Irvine, CA 92612
Telephone: (949) 752-7100
Facsimile: (949) 252-1514
cvasquez@brownrudnick.com

*Counsel for Plaintiff and Counterclaim-Defendant,
John C. Depp, II*

Attachment A



Planet Depos
We Make It Happen™

**CONFIDENTIAL - PURSUANT TO THE PROTECTIVE
ORDER**

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

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

Planet Depos
Phone: 888.433.3767
Email: transcripts@planetdepos.com
www.planetdepos.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

----- x
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

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

2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

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

1

A P P E A R A N C E S

2

3

ON BEHALF OF PLAINTIFF JOHN C. DEPP, II:

4

BENJAMIN G. CHEW, ESQ.

5

ANDREW C. CRAWFORD, ESQ.

6

BROWN RUDNICK LLP

7

601 Thirteenth Street, NW, Suite 600

8

Washington, D.C. 20005

9

(202) 536-1785

10

and

11

CAMILLE M. VASQUEZ, ESQ.

12

SAMUEL A. MONIZ, ESQ.

13

BROWN RUDNICK LLP

14

2211 Michelson Drive

15

Irvine, California 92612

16

(949) 752-7100

17

and

18

JESSICA N. MEYERS, ESQ.

19

BROWN RUDNICK LLP

20

7 Times Square

21

New York, New York 10036

22

(212) 209-4800

1

2

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

3

4

ON BEHALF OF PLAINTIFF JOHN C. DEPP, II:

5

KATHLEEN T. ZELLNER, ESQ.

6

LAW OFFICES OF KATHLEEN T. ZELLNER

7

& ASSOCIATES

8

1901 Butterfield Road, Suite 650

9

Downers Grove, Illinois 60515

10

(630) 955-1111

11

12

ON BEHALF OF DEFENDANT AMBER LAURA HEARD:

13

ADAM NADELHAFT, ESQ.

14

CHARLSON BREDEHOFT COHEN & BROWN, P.C.

15

11260 Roger Bacon Drive, Suite 201

16

Reston, Virginia 20190

17

(703) 318-6800

18

19

20

21

22

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

2

3 ON BEHALF OF THE WITNESS:

4 MICHELLE A. BIRTJA, ESQ.

5 WOOD SMITH HENNING & BERMAN LLP

6 10960 Wilshire Boulevard

7 18th Floor

8 Los Angeles, CA 90024

9 (310) 481-7600

10

11 ALSO PRESENT:

12 LUCIEN NEWELL, AV Technician

13 DREW HALTON, Videographer

14

15

16

17

18

19

20

21

22

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

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 |

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

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]

- ❖ | [REDACTED]
- [REDACTED]

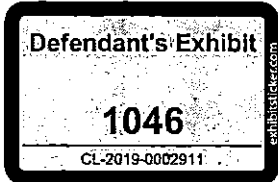
- ❖ fighting
 - J says: no one likes you, getting fame from me, falling out of love with you, whore
 - A says: fat old man, hits him in jaw, but fully in the co-dependent role and fights with him, bites the bait, doesn't answer directly when he asks her a question

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

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

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

fighting



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

flights they are hitting. no closed fist. when pushes is dangerous. socks 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]

[REDACTED]

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

she yelling, aggressive, says not
aggressive. your babyness.

- he tries ot 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]

- 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]

[REDACTED]

CONFIDENTIAL - SECURITY INFORMATION

❖ 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

Formatted: Font color: Red

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.

Formatted: Font color: Red

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]

Formatted: Font color: Red

[REDACTED]

❖ 6/18/16 #14 Johnny 1 1/2

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

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

Deleted: c

○ [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.

❖ 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 leaves. Calls a lawyer

- o [Redacted]
- o [Redacted]

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

- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]

- ❖ 7/27/16 #16 Johnny 1 hour

- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]
- o [Redacted]

- ❖ 7/28/16 Johnny 1/2 hour?

- o [Redacted]
- o [Redacted]
- o [Redacted]
- 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]
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.

○ [Redacted]
○ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
○ [Redacted]
○ [Redacted]
○ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
○ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]
■ [Redacted]

[REDACTED]