

EXHIBIT N

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF TEHAMA

3 IN RE LARRY POHLSCHNEIDER,

Case No.

4 On Habeas Corpus,

5 DECLARATION OF KAMALA
6 LONDON, PH.D. RE CSAAS IN
SUPPORT OF PETITION

7 I, KAMALA LONDON, PH.D. DECLARE UNDER PENALTY OF PERJURY:

8 My Background and Research

9 1. I have my doctorate in developmental psychology. I am currently an
10 associate professor and associate chair of Psychology at the University of Toledo. I
11 am also the associate chair of the University of Toledo Research Ethics Board. I
12 specialize in research in the field of forensic developmental psychology. My
13 specific area of research is in autobiographical memory and suggestibility in
14 children. My CV is attached as Exhibit 1 to this declaration.

15 2. In the present case, I have been asked by NCIP pro bono counsel Mr.
16 Thom Seaton to review the case records and to offer an expert opinion regarding
17 the Child Abuse Accommodation Syndrome (CSAAS) and the testimony of
18 prosecution expert, Dr. Ray Carlson in this case.

19 3. I have reviewed the following documents:

- 20 a. Description of the material from trial counsel's file.
21 b. Court of appeal opinion affirming the Larry
Pohlschneider conviction
22 c. The Court of appeal opinion affirming the Albert
Harris conviction.
23 d. Clerk's Transcript, which includes the transcript of the
24 police interviews with the children.
25 e. Summary of Pohlschneider Trial Transcript
26 f. The Clerk's Trial Transcript in Pohlschneider's trial.
g. The Reporter's Trial Transcript in Pohlschneider's trial

27 4. In 1993, I received a bachelor's of arts degree with a double major in
28 psychology and political science with honors from Grand Valley State University .

1 in Allendale, Michigan. In 1997, I received my master's degree in experimental
2 psychology with a minor in statistics from the University of Wyoming in Laramie,
3 Wyoming. In 2001, I received my Ph.D. in developmental psychology with a minor
4 in statistics, also earned at the University of Wyoming. I graduated with honors
5 in both psychology and statistics. From 2001 until July 2005, I was a post-
6 doctoral fellow at the Johns Hopkins University School of Medicine, Division of
7 Child and Adolescent Psychiatry in Baltimore, Maryland. The focus of my post-
8 doctoral training was in forensic developmental psychology.

9 5. I am a member of the American Psychological Association, the
10 American Psychological Society, the American Psychology and Law Society, the
11 Society for Research in Child Development, the American Psychological
12 Association's Division 37 – Child, Youth and Family, and Division 37's subsection
13 on Child Maltreatment. I served as the editor of the Division 37 publications *The*
14 *Review* and *The Advocate*.

15 6. I have authored or co-authored two books and over 25 articles or
16 chapters on autobiographical memory development and on statistics.

17 7. I have presented my research at numerous national and international
18 professional conferences and invited colloquia. I was one of approximately a dozen
19 international scholars invited to attend a 2003 National Institute of Health funded
20 week-long conference on disclosure of child sexual abuse held in Stockholm,
21 Sweden. I was one of the lead speakers at the conference.

22 8. I have provided consultation for a number of court cases throughout
23 the United States in Alabama, Maryland, Colorado, Minnesota, Florida,
24 Washington D.C., North Carolina, New Jersey, Ohio, Indiana, Massachusetts,
25 Florida, Nevada, California, Iowa, Utah, Missouri, Texas, Illinois, Wisconsin,
26 Louisiana, New Hampshire, and New York. Additionally, I have been qualified as
27 an expert and have testified in military court (Fort Knox, Kentucky). Abroad, I
28 have consulted on cases in Australia, New Zealand and Indonesia.

9. My full Report is attached to this declaration as Exhibit 2.

1 Academic Studies Challenging CSAAS

2 10. Dr. Maggie Bruck of Johns Hopkins Medical School (my mentor
3 during my four year fellowship in forensic developmental psychology at Johns
4 Hopkins) first wrote about these issues in 1995 with Stephen Ceci (Cornell
5 University distinguished faculty member) in *Jeopardy in the Courtroom: A*
6 *scientific analysis of children's testimony*. The next significant addition to this line
7 of argument appeared in 1998 (Bruck, Ceci & Hembrooke, 1998), in *American*
8 *Psychologist*, the flagship journal of the American Psychological Association.

9 11. It has been asserted that, when questioned, children will initially
10 deny their abuse, but with repeated questioning, they will slowly divulge its
11 details. It is further claimed that these disclosures are frequently recanted, but
12 with additional support their disclosures will be re-instated. The most popular
13 embodiment of this model was proposed by Roland Summit (1983) and was termed
14 the Child Sexual Abuse Accommodation Syndrome (CSAAS). Summit, R.C., *The*
15 *Child Abuse Accommodation Syndrome*, *Child Abuse & Neglect*, 7: 177-193. Dr.
16 Summit did not write his paper to be used as a tool to determine whether a child
17 had been abused, but to provide a therapeutic tool to be used to assist children
18 who in fact had been abused. He explained, "The purpose of this paper, then, is to
19 provide a vehicle for more therapeutic response to legitimate victims of child
20 sexual abuse and to invite more active, more effective clinical advocacy for the
21 child within the family and within the system of child protection and criminal
22 justice." (at 179-180)

23 12. In March 2005, the most comprehensive article on the scientific
24 evaluation of (CSAAS) appeared in a peer-reviewed journal that focuses on
25 psychology and the law *Children's Disclosure Of Sexual Abuse: What Does The*
26 *Research Tell Us About The Ways Children Tell?* London, Bruck, Ceci & Shuman,
27 2005, *Psychology, Public Policy & The Law*, 11: 194-226. In my attached Report, I
28 summarize some of the findings from our 2005 review of the literature but focus on
publications that were available in the year 2001 or earlier.

1 13. A set of studies provides some relevant data on the issue of denial
2 and recantation during forensic evaluation. We identified 17 studies (all published
3 by the year 2001) that examined rates of denial and recantation by children who
4 actually have sustained sexual abuse, in fact, asked directly about being abused
5 when they were assessed or treated at clinics. All of these studies were available
6 by the year 2001 (and many of them had been previously reviewed by Bruck and
7 colleagues).

8 14. For the 6 methodologically superior studies, the average rate of
9 denial was only 14% and the average rate of recantation was only 9%.

10 15. Thus, sexually abused children **do not** usually deny or recant the
11 details of their abuse. In other words, although children who actually have been
12 sexually abused do not spontaneously disclose their abuse, they will tell, and few
13 will recant, if they asked in an interview conducted using proper interviewing
14 techniques. (See, my Declaration and Report re Police Interviews filed in this
15 case). The studies published subsequent to the year 2001 are consistent with
16 these earlier studies.

17 16. A fatal weakness of CSAAS is that **non-abused children can show**
18 **the same patterns that were proposed in CSAAS-** namely they may deny
19 abuse and reluctantly disclose abuse when pressured by adults. Therefore, denial
20 and recantation can also typify cases where no abuse occurred.

21 **Scientific Acceptability of Dr. Ray Carlson's Testimony and the**
22 **Availability of Experts In 2001 Who Would Have Refuted Dr.**
23 **Carlson's Testimony.**

24 17. Dr. Ray Carlson's testimony was not based on an unbiased summary
25 of the scientific literature. Rather, his testimony was based on clinical beliefs. He
26 did not cite any scientific literature outside of that by Roland Summit. And, even
27 then, he ignores Summit's follow-up publication (Summit, 1992) that cautioned
28 against the misuse of CSAAS.

 18. On page 33 of the trial transcript, Dr. Carlson was asked if he was
"...familiar with something called Child Sexual Abuse Accommodation Syndrome?"

1 Dr. Carlson replied "...that that particular term was first applied back in about
2 1982. A fellow by the name of Dr. Sumner (sic) wrote an article in a journal, I
3 believe it was a Journal of Family Therapy or Family Therapy and Social Work."
4 Dr. Carlson goes on to say that "And basically what Dr. Sumner (sic) did in that
5 article was to flesh out a particular kind of syndrome which he had frequently
6 observed..." (p. 33).

7 19. The publication to which Dr. Carlson referred was published in the
8 journal *Child Abuse and Neglect* in 1983 by Roland *Summit* (not Sumner).
9 Despite the claim that a specific syndrome existed, the 1983 paper contained no
10 data and seemed to be predicated solely on clinical intuition.

11 20. Importantly, Summit published a second article on CSAAS in 1992
12 that Dr. Carlson completely ignores. Almost a decade after his first publication,
13 Summit (1992, p. 156) clarified, "It should be understood without apology that the
14 CSAAS is a clinical opinion, not a scientific instrument." Summit entitled his
15 1992 paper "*Abuse of the Child Sexual Abuse Accommodation Syndrome. CSAAS,*
16 then, was one clinician's opinion. Further, Summit's opinion about CSAAS was
17 predicated not on interactions with abused children but rather based on
18 interactions with his adult patients seeking psychiatric help back in the 1970's
19 and earlier. Summit's stated in his 1992 paper that CSAAS has been misused by
20 clinicians.

21 21. Dr. Carlson fails to point out that Summit clarified in his 1992 paper
22 that *CSAAS was Summit's own clinical opinion which was based on Summit's*
23 *adult female population of women seeking psychiatric services by him.*

24 22. As noted, non-abused children may deny abuse and reluctantly
25 disclose abuse when pressured by adults. Dr. Carlson failed to state that CSAAS
26 cannot distinguish between initial accusations of abuse which are true from those
27 which are false.

1 23. Next, Dr. Carlson testified that it was his experience that going back
2 and forth, where a child makes allegations, then denies allegations, then makes
3 allegations is something he has seen happen many times.

4 24. Had an expert on CSAAS been called by the defense counsel, the
5 expert could have testified that the scientific literature does not support the notion
6 that children undergoing abuse assessment frequently show this “flip—flopping” of
7 disclosures, denials, and recantations. There is no scientific literature to support
8 these statements. In fact, the scientific literature shows that denial and
9 recantation are not common.

10 25. Dr. Carlson said he was unaware of the percentage of cases where
11 this “flip-flopping” occurs. As reviewed above, the literature published by the year
12 2001 reveals the percentages of recantations are quite low- the vast majority of
13 studies find recantation happens in fewer than 10% of cases.

14 26. Dr. Carlson further testified, “it is safe to say that some aspects of it
15 (CSAAS) will always be there, yeah.” (p. 41) **There is no scientific**
16 **justification to say that “some aspects” of CSAAS will “always be there.”**
17 The notion that some aspect of CSAAS will be present in *all sexual abuse cases*
18 was never put forth by Summit and certainly is not supported by the
19 contemporary scientific literature. Dr. Carlson did not testify about the scientific
20 literature that shows when children are asked about abuse, using proper
21 interviewing techniques, most will accurately tell, especially if they have told
22 someone before. Further, recantation rarely occurs among children who actually
23 experienced sexual abuse.

24 27. Furthermore, his testimony about “flip-flopping” disclosures is
25 misleading because this pattern of halting disclosures also characterizes those of
26 children who make false allegations. At the beginning they may simply assent to
27 leading suggestive techniques, but with time and encouragement expand and
28 embellish their narratives. Thus Dr. Carlson’s testimony about disclosures and

1 recantations is not based on a firm overview of the scientific literature on
2 children's memory and development.

3 28. Dr. Carlson also testified that prior abuse makes children more
4 vulnerable to "accommodating" the perpetrator. He agreed that victims of abuse
5 were easy targets for new perpetrators. (p. 39). There is no scientific literature on
6 this issue. I have reviewed the literature on disclosure extensively, and I am
7 unaware of any studies that have attempted to predict current disclosure rates
8 according to past victimization rate.

9 29. Had experts in the field (including Drs. Maggie Bruck, Stephen Ceci,
10 Phillip Esplin, James Wood) been contacted to consult as an expert or called as a
11 witness in the trial of this matter in January of 2001, such experts would have
12 directed counsel to the plethora of materials available to him that substantially
13 undercuts the scientific reliability of CSAAS, the propositions of Dr. Carlson, and
14 specifically the unreliability of CSAAS as a predictor of disclosure patterns of child
15 sexual abuse victims.

16 30. Dr. Carlson made a number of claims that did not have a valid
17 scientific foundation. Counsel at the original trial apparently did not call an expert
18 witness and, therefore, the unsupported claims of Dr. Carlson went unchallenged.

19 **Summary of Testimony that Could Have Been Provided in the Year
20 2001 on CSAAS**

21 31. The following list summarizes the testimony that could have been
22 provided in the year 2001 to challenge and refute CSAAS and Dr. Carlson's
23 testimony:

24 a. CSAAS is not a scientific instrument but rather a
25 clinical opinion of psychiatrist Roland Summit.

26 b. Summit (1992) published a follow up to his 1983 paper
27 where he cautioned practitioners against the "abuse" of CSAAS.

28 c. The concept of CSAAS assumes that abuse did occur; it
is a misuse of CSAAS to attempt to use it for diagnostic purposes.

1 d. Non-abused children can show the same patterns that
2 were proposed in CSAAS- namely they may deny abuse and
3 reluctantly disclose abuse when pressured by adults. Therefore,
4 denial and recantation can also typify cases where no abuse occurred.

5 e. Studies published by the year 2001 fail to support the
6 notion that abused children usually show a syndrome-like cluster of
7 behaviors.

8 f. Denial and recantation occur in a marked minority of
9 cases and rarely occur if the child actually has been abused and has
10 made the initial accusation in response to questions posed by an
11 unbiased interviewer using proper interviewing methods.

12 g. I am unaware of a single study that has examined
13 disclosure rates according to prior abuse.

14 Current State Of Research

15 32. Studies conducted since 2005 affirm my opinion that recantation
16 among children who actually have suffered abuse is infrequent. More
17 significantly, my review of the literature and my expertise in psychology, statistics
18 and on the effect of the use of suggestive interviewing techniques (discussed in
19 detail in my companion declaration and report describing the interviews conducted
20 in this case) confirms my opinion that the highest recantation rates reported in
21 published scientific reports comes from studies where the children were
22 suggestively interviewed, came to make allegations, and later retracted the
23 allegations (e.g., in the McMartin case). Much lower recantation rates are seen in
24 valid abuse cases. The greater the suggestive nature of the interviews, the more
untrustworthy the report becomes.

25 33. In the present case, the complaining witnesses continue to say that
26 abuse never occurred. That is, they continue to recant the abuse allegations that
27 were made in 2001 during the highly pressured interviews. Their continued
28 recantations, made as adults, should not be ascribed to factors such as pressure

1 from other family members or others which have sometimes been linked to
2 recantations by children.

3 I declare under the laws of the State of California, the State of Ohio and the
4 United States that the foregoing is true, that I am competent to make the
5 foregoing statements and that if required to testify in Court, I would testify to the
6 statements made in this Declaration and in my attached Report.

7
8 Executed at Toledo, Lucas County, Ohio on April 17, 2015.

9
10 *Kamala London*

11 Kamala London, Ph.D.

12 Declarant
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