MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,

Respondent,

v.

LEWIS C. MARSHALL,

Appellant.

DOCKET NUMBER WD81911

Date: February 25, 2020

Appeal from:
Buchanan County Circuit Court
The Honorable Patrick K. Robb, Judge

Appellate Judges:
Division Three: Alok Ahuja, P.J., Gary D. Witt and Anthony Rex Gabbert, JJ.

Attorneys:
Katharine P. Curry, Columbia for appellant
Richard A. Starnes, Jefferson city for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
LEWIS C. MARSHALL, Appellant.

WD81911 Buchanan County

Before Division Three Judges: Alok Ahuja, P.J., Gary D. Witt and Anthony Rex Gabbert, JJ.

Following a jury trial in the Circuit Court of Buchanan County, Lewis Marshall was convicted of two felony sexual offenses: sodomy; and first-degree sexual abuse. The charges involved Marshall's sexual molestation of a male who was Marshall's step-son, and less than ten years old, at the time of the abuse. The acts of abuse occurred almost twenty-five years before Marshall's trial.

At Marshall's trial the State presented the testimony of Marshall's victim, and of other individuals whom Marshall had sexually abused. The State also presented expert testimony of a licensed clinical social worker. The expert had not counseled any of Marshall's victims. Instead, she offered generalized testimony that victims of childhood sexual abuse often delay their disclosure of the abuse, particularly if the perpetrator is someone with whom the victim has a close personal relationship.

The jury found Marshall guilty on both counts. The court sentenced him to life imprisonment for the sodomy count, and a concurrent term of four years' imprisonment on the sexual abuse count. Marshall appeals.

AFFIRMED.

Division Three holds:

On appeal, Marshall argues that the circuit court erred by admitting the expert testimony concerning delayed disclosure of childhood sexual abuse, because the State failed to demonstrate that its expert's testimony was "the product of reliable principles and methods," and that the expert had "reliably applied the principles and methods," within the meaning of § 490.065.2(1)(c) and (d), RSMo.

In making his arguments, Marshall relies on the factors for admissibility of expert testimony described in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). Thus, he argues that the State's proffer was insufficient because the expert failed to explain the testing or replicability of her analysis, the error rate of that analysis, or the standards and controls governing the application of that analysis. Strict application of the "*Daubert* factors" is not required in a case like this one, however, where the expert offers non-scientific, generalized testimony based on the expert's specialized knowledge. In this context, it is sufficient if the expert has training and experience in a relevant and legitimate field of specialized knowledge, and offers opinion testimony which is grounded in the principles of that specialized field.

The State's expert in this case met these criteria. She testified that she had extensive personal experience counseling child sexual abuse victims, and had extensive training and education concerning the process by which children disclose and process sexual abuse. Finally, the expert and prosecutors referenced and provided the circuit court with copies of academic literature supporting her opinion that delayed disclosure is common among child victims of sexual abuse.

Opinion by: Alok Ahuja, Judge February 25, 2020

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