

Affidavit of Fact

STATE OF TEXAS §
 § SS.
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Michael Mouw, who being by me duly sworn, did depose and state upon oath as follows:


1. My name is Michael Mouw. I am over twenty-one years of age and am fully competent to make this affidavit. I am an licensed physician.
2. Except where stated that I have been told by someone else, I have personal knowledge of all the facts set forth herein, and all such facts are true and correct.
3. I was the emergency room physician at Brackenridge Hospital who examined Christy Chaviers on August 15, 1991. I later testified at the trial of Fran Keller. I have reviewed my trial testimony before giving this affidavit.
4. At the time I examined the child in 1991, I had only been in practice 5 years, and had not done many child sex abuse exams. Although my estimate of "30 or so" at the time may have seemed accurate, 20 years later it seems like that estimate may have been generous. But at the time, when starting out, you don't know yet how little you know. Reading my testimony now, I was probably overconfident in my level of expertise. Although I had done quite a few rape exams on adults, I had really had minimal specific training in the area of pediatric sexual abuse.
5. What I *had* been taught, which was stressed, was that if kids make an outcry about inappropriate sexual contact, they're probably not making it up. And also that masturbation, and insertion of objects into the vagina was not normal in

young children, and often was a sign of sexual abuse. We were also taught that absence of findings of trauma on exam does NOT mean rape hasn't occurred, i.e., that visible trauma was only helpful if it was present. So after hearing the story (hearsay, not directly from the child), with references to "glue" coming out of his "pee pee", and about inserting objects into her vagina, I was probably already convinced she had been abused when I did the exam.

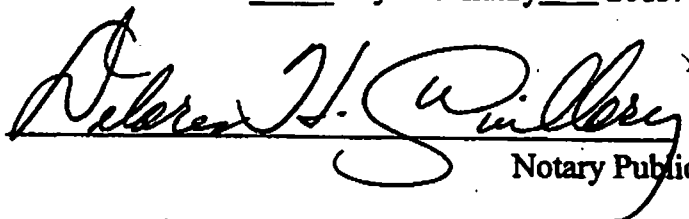
6. I was convinced at that time that there was injury to the hymen at the "3 o'clock" and "9 o'clock" locations. The tear to the posterior fourchette at the introitus I saw could have been caused by masturbation.
7. Years after the trial, I attended a medical seminar which included a slide presentation of hymens with normal variants. One slide of a normal hymen was so similar to what I had observed when I examined Christy, I realized I had mistakenly identified normal discontinuity at those locations as lacerations. This was new information to me. While my testimony was based on my good-faith belief at that time, I now realize my conclusion is not scientifically or medically valid, and that I was mistaken.
8. I now believe the child's hymen was a normal variant. I did not use a culposcope. If I had used a culposcope and taken photos that could have been reviewed later by other experts, I believe other experts would have shared this conclusion.
9. Examinations of children suspected of having been molested are now routinely conducted with culposcopic magnification. At about the time I examined the child, there was a transition toward all these exams being done with the culposcope, which is now the standard procedure taught to SANE examiners. The magnification of the culposcope greatly facilitates the accuracy of this exam, as well as the taking of photographs. If you do not use a culposcope, you can mistake normal variants in hymens of children for child sexual abuse.
10. In 2009, I saw an article in the Austin Chronicle about this case. I contacted the

author of the article, who put me in touch with the attorney for the Innocence Project. I was contacted this year by Keith Hampton. This is the first time I have been asked to give an affidavit about this case.

FURTHER AFFIANT SAYETH NOT.


Michael Mouw

SUBSCRIBED AND SWORN TO before me this 3rd day of January 2013.


Notary Public

