

Paul Simpson, Ed.D.

Forensic Psychologist, Listed in the National Register of Psychologists
2292 W. Magee Rd., Suite 220
Tucson, AZ 85742

Office: (520) 355-1000

FAX: (520) 355-2000

doc@ArizonaForensics.com / www.ArizonaForensics.com

March 26, 2021

Capt James T. Kirk, USAF JAG
Defense Office
1234 Maple Dr.
Anytown, TX 12345

RE: Potential sentencing testimony in the A1C Octavius Olsen court-martial

Greetings Capt. Kirk:

You have explained to me that your client has accepted the pretrial agreement offered by the government and will confess to having sexually assaulted an adult female. You and I have discussed the importance of conducting a risk assessment to assist the trier-of-fact in sentencing. During the past 30 years I have conducted well over 1000 evaluations for State, Federal and Military courts. Over a span of 15 of those years I have also provided over 300 trainings for peers (psychologists, social workers, probation officers, etc.) regarding sex crimes and psychosexual evaluations. This has included a series of CLE courses for the State Bar of Arizona.

In my lectures I have emphasized the important distinctions between various sex offenses and how those differences impact risk to the community and rehabilitation potential for the offender. Listed below are common elements that increase future risk for sex offense. These items are from published, peer-reviewed research and listed in well-recognized risk actuarials (the STATIC 99R/2002R, SONAR, and SVR-20).

I. Demographic Risk Factors

Personal Characteristics of an Offender

- Age
- History of long-term intimate relationships
- Social influences that support sex offending
- Attitudes that support sex offending
- Problems with general self-regulation
- Problems with sexual self-regulation
- Sexual deviancy
- Significant mental health problems
- Identified as a psychopathic deviate
- Unrealistic plans for education or career
- Negative attitude towards future counseling

Personal History

- Childhood sexual abuse
- Extensive substance abuse
- Lack of stable employment
- Suicidal / homicidal ideation
- Prior involvement with the criminal justice system

- Prior sentencing occasions for anything
- Any sentencing for non-sexual violence
- Any community supervision violation
- Juvenile arrest for sexual offense
- Prior sentencing for sexual offenses
- Accelerated rate of sex offending
- Any sentencing for non-contact sex offense
- Years out of prison prior to alleged sex offense
- “High density” sex offenses in the past

Victim Demographics

- Male victim(s)
- Young, unrelated victim(s)
- Any known, unrelated victim(s), any age
- Any stranger victim(s)
- Physical harm to the victim
- Use of weapons or threats of death in sex offenses

II. Protective Factors

In addition to elements that increase risk, a forensic evaluator also considers “*protective factors*” that lessen risk. These are also research-driven findings. Here are the elements in the *Structured Assessment of PROtective Factors* (SAPROF).

Internal Items

- Intelligence
- Secure attachment in childhood
- Empathy
- Coping
- Self-control

Motivational Items

- Work
- Leisure activities
- Financial management
- Motivation for treatment
- Attitudes towards authority
- Life goals
- Medication compliance

External items

- Social network
- Intimate relationships
- Professional care
- Living circumstances
- External controls

III. Response to Government’s Objection of an Expert for Sentencing

You have provided Capt. Meandering’s response of 23 Mar 18 for my review. I have had the pleasure of meeting Capt. Meandering and recognize him to be an officer of great integrity and considerable legal knowledge and skill. I am the first to acknowledge I am not an attorney and I

readily leave legal matters to greater minds than mine. But I would humbly offer a forensic psychologist's response to some of Capt. Meandering's objections.

"The accused has the burden to establish a reasonable probability (1) the expert would be of assistance to the accused," (p.1)

As described in the previous section, a forensic psychologist considers a myriad of aggravating and protective factors when conducting a sex offender risk assessment. This is borne out of years of research-driven training and experience. The subtle distinctions between a myriad of sex crimes can offer critical information to the trier-of-fact in considering sentencing for your client.

"why the defense counsel is unable to gather and present the evidence the expert assistant would be able to develop." (p. 1)

I humbly submit that over three decades of professional training and psychological evaluations have provided me an opportunity to learn some things that might not be readily apparent to attorneys, juries or judges. As such, I sometimes have something to teach that is worth knowing. I never presume to be an attorney. It's equally respectful when attorneys don't presume to be psychologists. We have different roles and different giftings.

"Given the government has not secured the services of any similar experts; the due process concerns of..." (p.2)

I assume that government will claim aggravating elements in its sentencing argument. Your client should be afforded the benefit of a better-informed sentencing argument from defense.

- There are any number of specifics in this case that could be argued as mitigation.
- Your client might be calculated as a low risk to reoffend based on scientific actuarials.
- The specifics of sex offender treatment programs available in-custody and while on probation can also be explored for the court's benefit. This could offer a practical argument for the court's consideration of balancing penalty with rehabilitation.

By way of closing I would summarize the following:

- A forensic psychologist considers a myriad of aggravating and protective factors when conducting a sex offender risk assessment. This is borne out of years of research-driven training and experience. This is typically beyond the scope of a defense attorney's ability to argue alone.
- The focus of the forensic psychosexual evaluation and/or testimony is solely to serve the trier-of-fact. During sentencing, both government and defense have the opportunity to question the evaluating psychologist and elicit testimony regarding aggravating or mediating factors.

Thank you for the opportunity to provide feedback on these matters. Please contact me with any questions you might have.