

**DEPARTMENT OF THE NAVY
GENERAL COURT MARTIAL
NAVY AND MARINE CORPS TRIAL JUDICIARY
HAWAII JUDICIAL CIRCUIT**

UNITED STATES

v.

**JOHN DOE
CORPORAL
U.S. MARINE CORPS**

**DECLARATION OF
DR. PAUL SIMPSON, Ed.D.**

27 August 2020

I, Paul Simpson, Ed.D., declare under penalty of perjury:

1. I am Dr. Paul Simpson, a psychologist specializing in forensic and clinical psychology. I received my doctorate from Northern Arizona University in 1990, with a concentration in counseling psychology. I am a licensed psychologist in the State of Arizona (#1967) since 1991. I have testified and/or consulted as an expert in approximately 300+ state and federal trials and approximately 50 courts-martial for the U.S. Airforce, Army, Marines, and Navy. In 1997 I authored a book on memory and suggestibility. I am an instructor for the State Bar of Arizona and have provided trainings on numerous topics, including thirteen presentations on the topic of Eyewitness Memory and twice regarding Alcohol Blackouts and Sexual Assault. For the past four years I have been an instructor for the U.S. Air Force's JAG school at Maxwell AB. This training has been part of their Advanced Sexual Assault Litigation Course (ASALC). In addition, I have provided day-long trainings regarding sexual compulsions / sexual offense in over 300 cities in all 50 states over a span of 11 years.

2. Through my education, training, and military justice experience, I have become knowledgeable about the impacts of subconscious influences and cognitive biases on memory formation and recall. I have developed scientifically grounded, evidence-based expertise on the topics of hindsight bias, secondary gain, and the malleability of memory in general.

3. There has been significant research in the field of psychology regarding how memory works. With my training and experience in the specialized area of sexual assault and memory, I am able to assist the defense in exploring dynamics and various phenomena specific to this specialized field of study. This field is highly technical and complex.

4. The recollection of events (i.e., memory recall) is a reconstructive process. In other words, when an individual is asked to recall an event, it is not as if they go into their brain and pull an exact, carbon copy recording of what occurred. Rather, memories are recalled as a result of a reconstructive process. It is also well-established in the psychological literature that when individuals are asked to describe or explain events or actions they may not readily recall, they may

be prone and vulnerable to filling in the blanks when constructing their memories. This has been repeatedly demonstrated in experimental, empirically validated studies.

5. Source misattribution is a psychological concept in which a person does not accurately link the original source of a memory to what is later recalled and retold to others. There are many potential causes of source misattribution. A basic example would be an eyewitness hearing from the police that a suspect was carrying a gun and later coming to believe that the suspect was carrying a gun without actually having seen a gun.

6. The concept of transience of memory is that memory generally deteriorates and gets worse over time. Research has shown that a significant percentage of people experience major errors in their memory over the course of time, even for events that could be considered memorable or important events.

7. Suggestion and suggestibility refer to the psychological concept that memories can be affected and distorted by suggestion that is external to the individual. A person can suggest or insist that something occurred in a particular way or that an event should be conceptualized in a certain way and that can potentially lead an individual to recall their memories in a new light and cause distortion in their memory to conform with the suggestion.

8. Hindsight bias is the concept that a person will restructure their beliefs or understandings about an event in order to conform with information later obtained. There is significant research on the subject of hindsight bias that shows that a memory can be reconstructed to fit that person's current beliefs or knowledge. The context provided by the new information can restructure that person's understanding and beliefs about what they remember occurring.

9. Motivated memory refers to several different concepts in which a person may consciously or unconsciously have a motivation to distort a memory. Embarrassment, shame, or self-justification are factors that can motivate a person to reconceptualize past events or create inaccurate memories in order to prevent negative feelings and conform with other beliefs that individuals may have about themselves. This is a subconscious process that occurs outside of a person's awareness.

10. Imagination inflation is a concept in which a person thought about or imagined something occurring which did not actually occur, however, the individual later remembers that thing having occurred. A basic example of this would be someone intending to say something during a conversation but forgetting to say it and later, believing falsely that they actually said that thing during the conversation.

11. It is important to note that none of these aforementioned psychological concepts operate in a vacuum. Multiple concepts can interact to distort an individual's memory. For example, suggestion, hindsight bias, and motivated memory can all be applicable to a situation and lead a person to have a false and/or inaccurate memory about an event that occurred.

12. My research experience and training would likely allow me to provide scientifically grounded insights into these areas, insights that would be beyond the typical knowledge of a person without medical and/or psychological training.

13. I have discussed the case of United States v. Corporal John Doe with his defense counsel and they have informed me of the charges and allegations in the case.

14. With regards to the allegation, I have been given the following hypothetical scenario.

a. Cpl Doe and the complaining witness had a sexual encounter in June of 2019 that she claimed was not consensual. She described a forceful situation to NCIS, but her initial reaction was to consider their encounter more of a misunderstanding or awkward moment. As a result of her allegation, the complaining witness was given an expedited transfer away from Hawaii. There is also evidence that she sought and received psychological counseling in the wake of coming forward with her allegation.

15. Based upon the hypothetical in the above paragraph, there are undoubtedly various psychological and cognitive phenomena at play that may have the real potential to distort and inaccurately skew both an individual's memory of an event as well as their perception and characterization of an event. These opinions are based solely on the above hypothetical. Given that, my final opinion is subject to change based upon more complete information and the ability to review all relevant information in this case.

16. I would need approximately 10 hours to review the evidence in this case and consult with defense counsel.

Executed this 27th Day of August 2020

BY: _____

Paul Simpson, Ed.D.