

## FYI: United States v Doak

*The Eleventh Circuit rejects a Daubert challenge to a forensic interviewer's expert testimony, finding that the testimony provided a reliable and helpful framework to provide to the jury*

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In *United States v. Doak*, No. 19-15106, 2022 US App. LEXIS 25072 (Sept. 7, 2022), Mack Doak was convicted of transporting his three adopted daughters across state lines so that he could sexually abuse them. His wife, Jaycee Doak, was convicted of aiding and abetting him. They argued that the trial court erred in admitting a FBI forensic interviewer's expert testimony.

Relying on *United States v. Frazier*, 387 F.3d 1244, 1260 (11th Cir. 2004) (en banc) and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 590, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993), the Court stated that the proponent of expert testimony bears the burden of showing that its expert is qualified, that the testimony is reliable, and that the explanations will help the jury. To be admissible, proposed expert testimony must be supported by appropriate validation—i.e., good grounds, based on what is known. When a witness relies on experience, she must (1) explain how it leads to and supports the conclusion she has reached and (2) show how it can be reasonably applied to the facts.

The Doaks contended that the expert's testimony about how "children disclose incidents of abuse" was not shown to be reliable because she failed to explain how her experience supported her opinions. They also argued that her testimony was not helpful to the jury—that she only provided "common sense observations" and that those observations prejudicially bolstered the girls' credibility. The Court disagreed.

The Court found that the expert witness explained the forensic-interview process and described how children pulled out of suspected sexual-abuse situations disclosed that information. Her testimony about the process was reliable because she had handled six thousand such interviews herself. Her firsthand experience equipped her to identify trends in how children process abuse and disclose it. Thus, the Court concluded, because her testimony described her experience interviewing children suspected to be sex abuse victims, it offered a reliable framework to provide to the jury.

Furthermore, the Court stated, it was a helpful framework, too. As the jurors prepared to listen to the three victims testify about being raped repeatedly and suffering traumatic sex abuse, the expert testimony provided context to help the jurors understand why the girls responded differently. It helped the jurors assess why the eldest daughter disclosed the abuse almost immediately and only to Jaycee, and why it took longer for the younger daughters to ask for help.

### Page 1

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Nevertheless, the Doaks argued, the testimony was prejudicial and should have been excluded under Rule 403. The Court again disagreed. Because the expert testimony helped the jury, the Court concluded that its benefit was not substantially outweighed by any prejudicial effect it might have had. Accordingly, the Court held that the district court did not abuse its discretion when it admitted the forensic interviewer's expert testimony.

**Page 2**