IN THE COURT OF APPEALS OF IOWA

No. 6-453 / 95-1148

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CLERK SUPREME COURT

STATE OF IOWA,
Appellee,

vs.

KEVIN MAURICE GRIFFIN,
Appellant.

Appeal from the Iowa District Court for Polk County, Gene L. Needles, Judge.

Kevin Maurice Griffin appeals his convictions, following a jury trial, for first-degree kidnapping and willful injury in violation of Iowa Code sections 710.1, 710.2, and 708.4 (1993). **AFFIRMED.**

Terry Wright, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney General, John P. Sarcone, County Attorney, and Mary Pat Hoffman, Assistant County Attorney, for appellee.

Heard by Habhab, P.J., and Cady and Vogel, JJ., but decided en banc.

VOGEL, J.

Kevin Maurice Griffin appeals his convictions, following a jury trial, for first-degree kidnapping and willful injury in violation of Iowa Code sections 710.1, 710.2, and 708.4 (1993). We affirm.

In October of 1994, while staying at a motel, Griffin choked and beat his common-law wife, Dee Dee, sexually abusing her anally while she was unconscious, and inserted a beer bottle in her vagina. Dee Dee's injuries were severe, needing treatment from a trauma surgeon. She was bruised and cut by glass all over. The police described the bed and walls of the motel room as covered in blood. Griffin was charged with first-degree kidnapping and willful injury. Following a trial, a jury found Griffin guilty as charged.

Griffin appeals.

Griffin raises four arguments on appeal. First, there was insufficient evidence to show the confinement was not merely incidental to the underlying assault. Second, the State violated his constitutional rights by using peremptory strikes to exclude African-Americans from the jury panel. Third, the State executed an illegal warrantless search on his motel room. Last, the district court abused its discretion in allowing a State witness to testify beyond the limits of expert witness testimony.

I. *Kidnapping.* Griffin contends there was insufficient evidence to support the kidnapping conviction because Dee Dee's confinement was incidental to the assault. To support this contention, Griffin asserts: (1) Dee Dee voluntarily came to

his motel room to smoke crack cocaine; (2) her sister, who was also staying in the motel, knew which room she was in; and (3) the evidence reflects the only time Dee Dee was unable to leave the room was during the assault.

The scope of review is for correction of errors of law. Iowa R. App. P. 4. We examine the record to determine if substantial evidence, together with all reasonable inferences arising from the evidence, supports the jury's verdict. *State v. Terry*, 544 N.W.2d 449, 451 (Iowa 1996). The verdict binds this court if it is supported by substantial evidence. *Id.* Substantial evidence means such evidence as could convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt. *State v. Crone*, 545 N.W.2d 267, 270 (Iowa 1996). The evidence is viewed in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the record. *State v. Phanhsouvanh*, 494 N.W.2d 219, 223 (Iowa 1992); *State v. Walker*, 538 N.W.2d 316, 319 (Iowa App. 1995). We consider all evidence presented at trial, not just the evidence supporting the verdict. *State v. Constable*, 505 N.W.2d 473, 478 (Iowa 1993).

Iowa Code 710.1 (1993) provides:

> A person commits kidnapping when the person either *confines* . . . or removes a person from one place to another, knowing that the person who confines or removes the other person has neither the authority nor the consent of the other to do so; provided, that to constitute kidnapping the act must be accompanied by one or more of the following:

> 3) The intent to inflict serious injury upon such person, or to subject the person to a sexual abuse.

(Emphasis added.) The confinement element must be more than incidental to the commission of the underlying offense, in this instance, sexual abuse. *State v. Ledezma*, 549 N.W.2d 307, 311 (Iowa App. 1996); *State v. Tryon*, 431 N.W.2d 11, 14 (Iowa App. 1988). Confinement may exist if it substantially increases the risk of harm to the victim, significantly lessens the risk of detection, or significantly facilitates escape following the commission of the underlying offense. *State v. McGrew*, 515 N.W.2d 36, 38 (Iowa 1994); *State v. Rich*, 305 N.W.2d 739, 745 (Iowa 1991).

Dee Dee and Griffin's relationship was marked with violence, and Dee Dee knew Griffin "whacked out" when he smoked crack cocaine. The couple had just purchased some crack and alcohol. Dee Dee, although she told Griffin she wanted her own motel room, did go to his room on his promise there would be no violence. She then called her sister, Tressa, who was also staying at the hotel; however, Griffin would not let Dee Dee tell Tressa what room she was in. Tressa guessed and Dee Dee secretly confirmed the correct room. Later when Tressa and her boyfriend went to Dee Dee and Griffin's room, Griffin would not let Dee Dee open the door.

Griffin, after using some of the drugs, began abusing Dee Dee, having her disrobe and then checking her body cavities for drugs. He kept her naked to reduce the likelihood she would run out the door. Dee Dee smoked some crack and drank

some alcohol in an effort to escape the reality of the situation. Griffin turned violent, choking Dee Dee, beating and hitting her with a broken beer bottle, forcing a bottle in her vagina, and sexually abusing her anally. Dee Dee was unable to free herself. She passed out and did not awaken until the next day. Once Griffin was gone, Dee Dee was able to call Tressa. Griffin returned just as Tressa was approaching the room. He said, "She's not going anywhere with you till I'm done with her." Dee Dee mouthed a plea to her sister to call the police. They arrived within a short time.

Although Dee Dee entered the motel room voluntarily, everything that happened after that point was nonconsensual. Dee Dee was confined as she lost the ability to leave almost immediately. We find there was substantial evidence for the jury to find Griffin guilty of kidnapping, satisfying the element of confinement in section 710.1.

II. ***Jury Strikes.*** Griffin claims his sixth and fourteenth amendment rights were violated when the State used peremptory strikes to exclude the only two African-Americans on the jury panel. As this is a constitutional issue, our review is de novo. *State v. Niehaus*, 452 N.W.2d 184, 187 (Iowa 1990).

The Equal Protection Clause prohibits a prosecutor from using peremptory challenges to purposefully strike potential jurors because of their race. *Batson v. Kentucky*, 476 U.S. 79, 85-87, 106 S. Ct. 1712, 1716-18, 90 L. Ed. 2d 69, 80-81 (1986). A defendant must first make a prima facie case of discrimination. *Purkett v. Elem*, ___ U.S. ___, ___, 115 S. Ct. 1769, ____, 131 L. Ed. 2d 834, 839 (1995) (per

curiam). The burden of production then shifts to the State to offer a non-discriminatory reason for the strike. *Id.* Unless a discriminatory intent is inherent in the explanation the reason given will be deemed race neutral. *Id.* at ___, 115 S. Ct. at 1771, 131 L. Ed. 2d at 839. The burden of persuasion then rests with the defendant, after which the court makes the determination whether the defendant has proved purposeful discrimination. *Id.* at ___, 115 S. Ct. at 1770-71, 131 L. Ed. 2d at 839. Because the trial judge's finding whether purposeful discrimination exists largely turns on the evaluation of credibility, we, as a reviewing court, ordinarily should give those findings great deference. *State v. Knox*, 464 N.W.2d 445, 448 (Iowa 1990).

Griffin is African-American. Two prospective jurors were also African-American. If the prosecution struck those two persons without other reasons, we could find a constitutional violation. However, the prosecution articulated she struck the two African-Americans as they had both sat on a jury involving a willful injury where the jury came back with a lesser-included offense verdict. The prosecutor had a note to strike a white juror for the same reason, although the defense struck that person before the prosecutor had the opportunity. We find the defendant has failed to prove purposeful discrimination as the reasons given by the prosecution were racially neutral. There was no violation of Griffin's sixth and fourteenth amendment rights.

III. ***Search Warrant.*** Griffin claims the police conducted an illegal, warrantless search of the motel room, as he misunderstood what he was consenting to and thus his consent was not voluntarily given. As this is a constitutional issue, our review is de novo. *Niehaus*, 452 N.W.2d at 187.

Warrantless searches and seizures are unreasonable per se unless they fall within one of the exceptions to the warrant requirement of the fourth amendment. *State v. Vincik*, 436 N.W.2d 350, 353 (Iowa 1989). A warrantless search is proper, however, when performed pursuant to the defendant's consent. *State v. Myer*, 441 N.W.2d 762, 765 (Iowa 1989). For consent to be valid, it must be voluntary and uncoerced. *State v. Holland*, 389 N.W.2d 375, 381 (Iowa 1986). The burden is on the State to establish voluntariness by a preponderance of the evidence. *State v. Garcia*, 461 N.W.2d 460, 462 (Iowa 1990), *cert. denied*, 499 U.S. 909 (1991). The fact that a defendant is in custody, standing alone, is insufficient to demonstrate a coerced consent to search. *Id.*

Both Griffin and his brother testified they did not know what the request for consent entailed. The brother's main objective was to retrieve Kevin and Dee Dee's personal items from the room. Detective Rowley testified he asked for oral consent to search the motel room while Griffin was in the patrol car in handcuffs. Following the request, Griffin's brother signed the consent-to-search form for the handcuffed Griffin, with Griffin's approval. Rowley also testified he later read the consent form

to Griffin at the jail. After that, Griffin signed the form. We find the search was made with Griffin's consent.

IV. ***Battered Woman Syndrome Testimony.*** Griffin argues testimony by a witness for the State about domestic violence and battered woman syndrome should not have been allowed by the district court. We review for an abuse of discretion. *State v. Seevanhsa*, 495 N.W.2d 354, 355 (Iowa App. 1992). In order to show an abuse of discretion, one generally must show that the court exercised its discretion "on grounds or for reasons clearly untenable or to an extent clearly unreasonable." *State v. Blackwell*, 238 N.W.2d 131, 138 (Iowa 1976) (quoting *State v. Burnor*, 132 Vt. 603, 326 A.2d 138, 140 (1974)).

Laurie Schipper is the executive director of the Iowa Coalition Against Domestic Violence. She has worked in related areas for ten years with noteworthy credentials. Although Ms. Schipper had never met Dee Dee or Kevin, she was called by the State to testify regarding battered woman syndrome. Griffin filed a motion in limine regarding the State's intended use of Ms. Schipper as an expert on domestic violence. Griffin argued (1) Ms. Schipper was not qualified as an expert, (2) her testimony was not relevant under Iowa Rule of Evidence 702, and (3) her testimony would be a comment on the state of mind or the credibility of the victim, Dee Dee. The State argued Ms. Schipper's testimony would help to educate the jury of what is typical behavior of someone who suffers from battered woman syndrome. The State agreed to not solicit any information concerning the credibility of any witness and to

not have Ms. Schipper testify directly about the facts in this case. The court overruled defendant's motion.

Griffin first argues Ms. Schipper was not qualified as an expert. "[B]efore any expert's evidence is used to assist a fact finder in arriving at the truth, it should be shown the expert's opinion provides reliable data. This is particularly important where the testimony seeks to characterize a normal reaction as a characteristic symptom of a traumatic event." *State v. Pansegrau*, 524 N.W.2d 207, 211 (Iowa App. 1994). Ms. Schipper has a B.S. degree in social work from Iowa State University. She has been executive director of the Iowa Coalition Against Domestic Violence since November of 1993. From 1985 to 1993 she was the executive director of the Assault Care Center in Ames, and provided counseling to over 2000 women. Her experience ranges from direct counseling to administrative functions. Some of Ms. Schipper's work has been published, including an article for the Iowa Medical Society Journal. She assisted in the Supreme Court Task Force Report on Domestic Violence.

The determination of the admissibility of opinion testimony is within the discretion of the district court. *State v. Hulbert*, 481 N.W.2d 329, 332 (Iowa 1992); *State v. Hall*, 297 N.W.2d 80, 85 (Iowa 1980); *State v. Gartin*, 271 N.W.2d 902, 912 (Iowa 1978). Once the district court finds the threshold requirements of Iowa Rule of Evidence 104(a) regarding the qualifications of a witness have been met, all further inquiry regarding the extent of the witness's qualifications go to the weight the fact

finder can give such testimony under Iowa Rule of Evidence 104(e). *Hutchison v. American Family Mut. Ins. Co.*, 514 N.W.2d 882, 885 (Iowa 1994). We find the district court did not abuse its discretion in allowing the testimony of Ms. Schipper over Griffin's objection that she was not qualified as an expert.

Griffin next argues Ms. Schipper's testimony was not relevant under rule 702 as it would not assist the trier of fact as to the any of the elements of the crimes charged. The rule provides:

> If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

Iowa R. of Evid. 702.

The use of testimony regarding various psychological syndromes including battered woman syndrome has been addressed in Iowa and in many other jurisdictions. Expert testimony concerning battered woman syndrome is accepted in at least thirty-one states. *State v. Stringer*, 897 P.2d 1063, 1068 (Mont. 1995) (citing *Bechtel v. State*, 840 P.2d 1, 7 (Okla. Crim. App. 1992)).

In a case involving indecent contact with a child, our supreme court found expert testimony opining on the truthfulness of a complaining witness is not admissible. *State v. Myers*, 382 N.W.2d 91, 97 (Iowa 1986). The court also expressed the opinion that children are generally truthful when relating acts of sexual abuse. *Id.* After reviewing decisions from other jurisdictions, the court stated, "it

seems that experts will be allowed to express opinions on matters that explain relevant mental and physiological symptoms present in sexually abused children." *Id.* In *State v. Gettier*, 438 N.W.2d 1 (Iowa 1989), where the defendant was tried for third-degree sexual abuse, the court held testimony regarding typical symptoms exhibited by a person after being traumatized was admissible.

Ms. Schipper gave a definition of domestic violence as a systematic pattern of abuse. She then described the components of domestic violence and various techniques batterers may use to control their victims. Next she defined the term "battered woman syndrome"[1] as a set of characteristics and effects caused by victimization by violence. She gave examples of the syndrome as it typically manifests itself.

Testimony in this case revealed that after Dee Dee had been severely injured by Griffin, she made a plea to her sister to summon the police for help. While hospitalized, she cooperated in the initial investigation by telling the police the details of the severe physical and sexual abuse Griffin subjected her to. At a re-interview, Dee Dee refused to talk with the police. Later, at her deposition, she changed her story, denying she was held by Griffin against her will. At trial, Dee Dee cooperated and told her story as she did in the initial investigation. She admitted lying during her deposition in an effort to protect Griffin. Dee Dee's inconsistent statements opened

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[1] No objection was made at trial regarding the specific use of the term, "Battered woman syndrome" and as such, error was not preserved.

the door for Griffin's attorney to attack Dee Dee's credibility. She had changed and even recanted her story in the months prior to trial.

One of the areas Ms. Schipper addressed in her testimony was why victims sometimes refuse to testify against their batterers, or recant the initial allegations of abuse in an effort to protect the batterer from criminal prosecution.

In *Arcoren v. U.S.*, 929 F.2d 1235 (8th Cir. 1991), the victim, after being sexually abused by her husband, reported the incident to police and hospital personnel. At trial, however, the victim recanted her story. Finding no abuse of discretion in allowing testimony regarding battered woman syndrome, the court stated:

> A jury naturally would be puzzled at the complete about-face [the victim] made, and would have great difficulty in determining which version of [the victim]'s testimony it should believe. If there were some explanation for [the victim]'s changed statements, such explanation would aid the jury in deciding which statements were credible.

Arcoren v. U.S., 929 F.2d 1235, 1240 (8th Cir. 1991). The court further stated:

> [The expert] expressed no opinion on whether [the victim] suffered from battered woman syndrome or which of her conflicting statements were more credible. [The expert] merely provided expert information to aid the jury in evaluating the evidence. [The expert]'s testimony did not interfere with or impinge upon the jury's role in determining the credibility of witnesses.

Id. at 1241.

In *State v. Koss*, 551 N.E.2d 970 (Ohio 1990), evidence of battered spouse syndrome was admitted into evidence as relevant, specialized knowledge that is

unknown to the average juror and aided the jury in the determining the credibility of a woman who had recanted her pretrial accusations.

In *State v. Cababag*, 850 P.2d 716 (Haw. App. 1993), the court stated:

> [The expert]'s testimony was evidence that at the trial of an alleged male batterer of a woman with whom he is living, where the woman recants her pretrial accusations that she was battered by the male, one reasonable explanation for the recantation is the battered housemate/spouse syndrome. This evidence of the battered housemate/spouse syndrome was relevant specialized knowledge that was unknown to the average juror and aided the jury in determining the credibility of the woman's testimony.

State v. Cababag, 850 P.2d 716, 722 (Haw. App. 1993); *see also State v. Borrelli*, 629 A.2d 1105 (Conn. 1993) (holding the subject of battered woman syndrome is beyond the knowledge of the average juror and therefore meets the threshold test for admissibility of expert testimony).

In Wisconsin, expert testimony on battered woman syndrome may be introduced as one explanation for a victim's recantation in domestic abuse cases. *State v. Bednarz*, 507 N.W.2d 168, 171-72 (Wis. App. 1993). The court stated:

> While there are various possible explanations for [the victim]'s recantation, one explanation could be that the recantation is consistent with [battered woman syndrome]. An untrained lay person does not know that recantation can be suggestive of posttraumatic stress in the form of the battered woman's syndrome. The expert opinion was thus permissible to enlighten the jury and allow it to intelligently consider the syndrome as one possible explanation for [the victim]'s behavior.

Id. at 172. The court found the admission of such expert testimony was discretionary based on the facts in each case. *Id.*

In Michigan, expert testimony on battered woman syndrome is admissible only when it is: (1) relevant, (2) helpful to the jury, and (3) the expert is properly qualified. *People v. Christel*, 537 N.W.2d 194, 196 (Mich. 1995).[2] Such testimony is relevant and helpful when needed to explain a victim's actions, delays in reporting the abuse, or recanting allegations of abuse. *Id.* The expert may not opine regarding the defendant's guilt, the truthfulness of the victim, or whether the victim is a battered woman. *Id.*

The trial court ruled Ms. Shipper's testimony was admissible under rule 702. We find no abuse of discretion.

Finally, Griffin argues Ms. Schipper's testimony would be an impermissible comment on Dee Dee's credibility or state of mind. In *State v. Nunn*, 356 N.W.2d 601 (Iowa App. 1984), Nunn stabbed and killed her boyfriend after a long, violent relationship. A social worker testified as to "battered woman syndrome" to explain why Nunn may have believed her life was in peril and that use of a deadly weapon was necessary. "[T]he trier of fact is not obliged to accept opinion evidence, even from experts, as conclusive. It may be accepted in whole, in part, or not at all." *State v. Nunn*, 356 N.W.2d 601, 604 (Iowa App. 1984) (quoting *State v. Shultz*, 231 N.W.2d 585, 587 (Iowa 1975)).

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[2] In *Christel*, the court found the district court erred in admitting the expert testimony on battered woman syndrome, since the testimony was not relevant in that particular case. *People v. Christel*, 537 N.W.2d 194, 205 (Mich. 1995). The court further found the error was harmless in light of the substantial evidence in the case. *Id.*

In this case, the expert's testimony did not go as far as in the *Nunn* case. Ms. Schipper never met with Dee Dee. She offered no opinion as to whether Dee Dee suffered from battered woman syndrome. She offered no opinion as to whether Dee Dee was a credible witness or made any comment on Dee Dee's state of mind. What she did offer was information from her experience working with thousands of abuse victims. The jury was free to dismiss Ms. Schipper's testimony as simply not applying to this case. If, however, Ms. Schipper's testimony provided the jury with some assistance in understanding why a victim would recant her story, then the jury was free to draw on such testimony. We find no abuse of discretion.

AFFIRMED.

All judges concur except Habhab and Streit, JJ., who specially concur, and Sackett, C.J., and Huitink, J., who concur in part and dissent in part.

HABHAB, J. (specially concurring)

I concur with the majority, but write separately on the battered woman syndrome testimony. The line between the admissibility and inadmissibility of testimony in this area of the law is extremely fine.

It is clear under *State v. Myers*, 382 N.W.2d 91, 96-97 (Iowa 1986), that experts and non-experts alike cannot testify regarding the credibility of witnesses. In *State v. Gettier*, 438 N.W.2d 1, 4 (Iowa 1989), a psychologist was permitted to testify as to characteristics that are exhibited after people have experienced trauma. The psychologist's testimony was framed in a general context, equally applicable to any major trauma such as natural disaster, muggings, or sexual assault. *Id.* The psychologist in *Gettier* listed a number of symptoms, such as fear of staying alone, sleep disturbance, social and sexual impairment, and hyper-alertness. *Id.* There was independent evidence that the victim exhibited some of these symptoms. *Id.*

As I read *Gettier*, I believe there is no abuse of discretion in the admission of expert testimony limited to an explanation of the effects of post-traumatic stress disorders and the typical reaction of a victim. *See id.* The testimony is relevant for it shows only the typical symptoms exhibited by a person (not the victim) after being traumatized.

Thus, in the case at bar, I believe the testimony is admissible as long as its purpose shows only the typical symptoms exhibited by a person being traumatized and then only if there is independent testimony that the victim experienced some of the trauma symptoms.

The admissibility of such testimony is much clearer if a "misconception" is intimated by the evidence. I specially concurred in *State v. Dodson*, 452 N.W.2d 610, 613-14 (Iowa App. 1989), for I felt there was no error in admitting into evidence the rebuttal testimony of the expert concerning child sexual abuse accommodation syndrome where the defendant in his case attempted to show the child victim was not afraid of him. I felt the testimony of the expert was offered to rebut the apparent misconception that the victim was not afraid of the defendant following the incidents of sexual abuse. *See id.*

In *State v. Seevanhsa*, 495 N.W.2d 354 (Iowa App. 1992), we held that the trial court did not abuse its discretion when it admitted evidence of the sexual abuse accommodation syndrome when the defendant put in issue the question of whether the victim fabricated her testimony to escape from her upbringing. The expert limited her discussion to an explanation of the symptoms common to children who have been sexually abused. *Id.* at 357.

From my reading of the several cases cited, I am drawn to the conclusion that as long as the evidence is offered to dispel misconception concerning how a woman reacts after being "battered", I believe such testimony is admissible. Thus, in the case at bar, I agree that the disputed testimony is admissible only because the recanting and changing of the story of the victim was brought, with significance, into the trial.

Streit, J., joins in this special concurrence.

SACKETT, C.J. (concurring in part; dissenting in part)

I concur in part and dissent in part. I would remand for a new trial.

Defendant, a black man, and Dee Dee, his common law wife, purchased alcohol and crack and went to a motel room rented in defendant's name. They both drank and smoked crack. What followed was violence; Dee Dee suffered injuries. Dee Dee passed out, and when she awakened defendant was gone and she called for help.

Based on Dee Dee's testimony, defendant was convicted of first-degree kidnapping and willful injury. He received a life sentence from which he appeals, contending (1) there was insufficient evidence to show a confinement to support a finding of kidnapping; (2) the State violated defendant's right to a fair trial when it used peremptory strikes to exclude the African-Americans from the jury panel; (3) there was a warrantless search of his motel room; and (4) the testimony of an expert witness should not have been allowed.

I agree with the majority, if Dee Dee's testimony is believed, there is evidence to support the conviction, although I find the issue of confinement extremely close. I agree with the majority on the search warrant issue.

Dee Dee voluntarily entered the room where she allegedly was held hostage. The only testimony that she was not free to leave during the confinement came from her lips, with the exception of testimony of Dee Dee's sister, who Dee Dee had called from the room indicating that Dee Dee was not to leave until defendant was through

with her. By Dee Dee's own admission, during the time period she claims defendant had kidnapped her, she was under the influence of both crack and alcohol, which goes to the reliability of her memory.

Dee Dee changed her testimony during the course of the proceedings and the State sought to introduce evidence from the director of the Iowa Coalition Against Domestic Abuse to explain the typical behavior of someone who suffers from what is termed "battered woman syndrome."

Defendant contends the trial court abused its discretion in both allowing the testimony and in allowing the witness to testify beyond her area of expertise and to matters not relevant.

The question whether Dee Dee told the truth at trial is for the jury. It is basically their duty to consider her prior inconsistent statements in assessing her truthfulness at trial.

Expert testimony introduced for the purpose of giving an opinion on a witness's testimony is not allowed. *See State v. Myers*, 382 N.W.2d 91, 97 (Iowa 1986); *State v. Pansegrau*, 524 N.W.2d 207, 210 (Iowa App. 1994). Experts should not be allowed to give an opinion on matters that directly render an opinion on credibility or truthfulness of a witness. *See State v. Brotherton*, 384 N.W.2d 375, 378 (Iowa 1986).

Though under limited circumstances experts have been allowed to explain normal behavior following abuse, this testimony has been carefully limited. *State v.*

Jetter, 438 N.W.2d 1, 6 (Iowa 1989); *State v. Seevanhsa*, 495 N.W.2d 354, 357 (Iowa App. 1992); *State v. Tonn*, 441 N.W.2d 403, 404-05 (Iowa App. 1989). The trial court and majority in allowing blanket admission of testimony have not followed the earlier directives. Furthermore, I am not convinced the evidence was evidence of behavior the jury would not have understood. The State introduced no evidence this is not a generally understood behavior. Additionally, there was another obvious reason Dee Dee may have changed her testimony to gain favor with the State. The uncontradicted evidence is she was using controlled substances.

I would remand for a new trial.

Huitink, J., joins in this partial dissent.