UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BEN BAKER and CLARISSA GLENN,

Plaintiffs,

v.

CITY OF CHICAGO, *et al.*,

Defendants.

Master Docket No. 19-cv-1717
16-cv-8940
Judge Franklin U. Valderrama

ORDER

Plaintiffs Ben Baker and Clarissa Glenn allege that they were falsely arrested by current and former Chicago Police Department (CPD) officers, including former Sergeant Ronald Watts (Watts), Officer Kallat Mohammed (Mohammed), among others (collectively, the Defendant Officers) as part of a shakedown scheme. R. 238, SAC.[1] Baker was convicted of one offense and pled guilty to a second and served a total of ten years in prison for a crime he alleges he did not commit. *Id.* ¶ 4. Glenn pled guilty and was sentenced to one year of probation. *Id.* Plaintiffs subsequently received Certificates of Innocence. Baker and Glenn sued the Defendant Officers, several CPD supervisors,[2] and the City of Chicago (collectively, Defendants) under 42 U.S.C. § 1983 for wrongful arrests and convictions and analogous state law claims.

[1]Citations to the docket are indicated by "R." followed by the docket number or filing name, and, where necessary, a page or paragraph citation.

[2]Supervisory Defendants Philip Cline, Debra Kirby, and Karen Rowan, as well as Defendant Officers Miguel Cabrales and Kenneth Young Jr. were dismissed from the lawsuit with prejudice pursuant to a stipulation of dismissal on August 14, 2024. R. 377.

The parties have disclosed numerous expert witnesses and filed motions to bar or limit the testimony of said expert witnesses. The Court subsequently held a *Daubert* hearing during which two of the parties' expert witnesses, Dr. Allison Redlich and Dr. Alexander Obolosky, testified. R. 378. In this Order, the Court addresses Defendants' motion to bar Dr. Redlich and Plaintiffs' motion to bar Dr. Obolsky. The Court will address the remaining motions to bar in separate orders.[3]

Background

Plaintiffs Ben Baker and Clarissa Glenn allege that Defendant Officers, led by Watts, fabricated drug or gun charges against Plaintiffs as part of a shakedown scheme. SAC. The Defendant Officers allegedly planted drugs in Baker's mailbox and subsequently on his person, and falsely arrested him on July 11, 2004 and March 23, 2005, respectively. *Id.* ¶¶ 24–29, 46–57. Baker went to trial on both cases—the first was dismissed on a motion to suppress but Baker was convicted for the second and sentenced to fourteen years in prison. *Id.* ¶¶ 41, 66. Subsequently, the Defendant Officers allegedly planted drugs in Baker and Glenn's car, and Baker and Glenn both pled guilty to possession of a controlled substance in connection with their arrest on December 11, 2005. *Id.* ¶¶ 77, 90, 95–96. Baker received a four-year sentence and Glenn received one year of probation. *Id.* ¶ 4. Baker served almost ten years for a crime he alleges he did not commit. *Id.* ¶ 1.

Plaintiffs subsequently applied for, and the Circuit Court of Cook County granted Plaintiffs a Certificate of Innocence (COI) pursuant to the Illinois Petition

[3]The Court previously granted Defendants' motion to bar Shairee Lacky, R. 380, and Plaintiffs' motion to bar Celeste Stack, R. 381.

for Certificate of Innocence statute, 735 ILCS 5/2-702. SAC ¶ 146; *see also* R. 295, Pls.' Mot. Bar Obolsky at 1. Plaintiffs then sued Watts and other Defendants. SAC.

Plaintiffs and Defendants have both retained numerous experts. Plaintiffs have filed six motions to bar Defendants' experts' testimony, and Defendants have filed five[4] motions to bar Plaintiffs' experts' testimony, all brought pursuant to the Federal Rules of Evidence 702 and 703 and the Supreme Court's decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). As stated above, this Order addresses the parties' respective motions to bar Dr. Allison Redlich and Dr. Alexander Obolsky. Plaintiffs have retained Dr. Redlich, a psychologist, to testify about false guilty pleas—meaning guilty pleas made by people who are factually innocent. Defendants have retained Dr. Obolsky, a forensic psychiatrist, to opine that Plaintiffs entered a guilty plea knowingly, intelligently and voluntarily. Defendants have moved to bar Dr. Redlich's opinions, R. 302, Defs.' Mot. Bar Redlich, and Plaintiffs have moved to bar Dr. Obolsky's opinions, Pls.' Mot. Bar Obolsky. The Court held *Daubert* hearings as to Dr. Redlich and Dr. Obolsky on August 14, 2024. R. 378.

Legal Standard

Rule 702 of the Federal Rules of Evidence governs the admissibility of expert testimony. Fed. R. Evid. 702[5]; *Artis v. Santos*, 95 F. 4th 518, 525 (7th Cir. 2024). Rule

[4]Two of Defendants' motions attack the same expert witness, Dr. Shane, based on two different categories of opinions.

[5]The operative version of Rule 702 came into effect on December 1, 2023. The Rule was amended "to clarify and emphasize that expert testimony may not be admitted unless the proponent demonstrates to the court that it is more likely than not that the proffered testimony meets the admissibility requirements set forth in the rule." Fed. R. Evid. 702 Advisory Committee Notes to 2023 Amendments. The Seventh Circuit has applied the preponderance standard for many years prior to the amendment, however. *See*, *e.g.*,

702 allows the admission of testimony by an expert—that is, someone with the requisite "knowledge, skill, experience, training, or education"— to help the trier of fact "understand the evidence or [ ] determine a fact in issue." Fed. R. Evid. 702. An expert witness is permitted to testify when (1) "the testimony is based on sufficient facts or data," (2) "the testimony is the product of reliable principles and methods," and (3) the expert has reliably applied "the principles and methods to the facts of the case." *Id.*

The district court serves as the gate-keeper who determines whether proffered expert testimony is reliable and relevant before accepting a witness as an expert. *Daubert*, 509 U.S. 57. "[T]he key to the gate is not the ultimate correctness of the expert's conclusions," rather, "it is the soundness and care with which the expert arrived at her opinion[.]" *C.W. ex rel. Wood v. Textron, Inc.,* 807 F.3d 827, 834 (7th Cir. 2015) (cleaned up).[6] Under Rule 702 and *Daubert*, the district court must "engage in a three-step analysis before admitting expert testimony. The court must determine (1) whether the witness is qualified; (2) whether the expert's methodology is scientifically reliable; and (3) whether the testimony will assist the trier of fact to

Gopalratnam v. Hewlett-Packard Co., 877 F.3d 771, 782 (7th Cir. 2017). The Advisory Committee explained that the amendment was necessary in part because "many courts have held that the critical questions of the sufficiency of an expert's basis, and the application of the expert's methodology, are questions of weight and not admissibility," which is an "incorrect application" of the Rule. Fed. R. Evid. 702 Advisory Committee Notes to 2023 Amendments. However, noted the Committee "[n]othing in the amendment imposes any new, specific procedures." *Id.*

[6]This Order uses (cleaned up) to indicate that internal quotation marks, alterations, and citations have been omitted from quotations. *See* Jack Metzler, *Cleaning Up Quotations*, 18 Journal of Appellate Practice and Process 143 (2017).

understand the evidence or to determine a fact in issue." *EEOC v. AutoZone, Inc.*, 2022 WL 4596755, *13 (N.D. Ill. Sept. 30, 2022) (cleaned up). The focus of the district court's *Daubert* inquiry "must be solely on principles and methodology, not on the conclusions they generate." *Daubert*, 509 U.S. at 595. The expert's proponent bears the burden of proving by a preponderance of the evidence the expert's testimony satisfies Rule 702. *See United States v. Saunders*, 826 F.3d. 363, 368 (7th Cir. 2016). District courts have broad discretion in determining the admissibility of expert testimony. *Lapsley v. Xtek, Inc.*, 689 F. 3d 802, 810 (7th Cir. 2012).

Analysis

I. Defendants' Motion to Bar Dr. Redlich

Plaintiffs retained Dr. Allison Redlich, a psychologist and criminology professor at George Mason University, to testify about false guilty pleas. R. 334, Pls.' Redlich Resp. at 1–2. Dr. Redlich identified three findings about false guilty pleas: (1) not all defendants who plead guilty are factually guilty; (2) not all defendants who plead guilty had sufficient information to make an informed decision to plead guilty; and (3) not all defendants who plead guilty did so voluntarily. *Id.* at 2 (citing R. 334-1, Redlich Report at 2). Dr. Redlich then opined that Plaintiffs' guilty pleas had the following risk factors of being false: (1) prosecutors made a package deal, whereby Plaintiffs would receive reduced sentences only if both pled guilty; (2) based on the record at the time, it would have been futile for both Plaintiffs to proceed to trial; and (3) Plaintiffs both got extreme discounts from the maximum sentence they could have received had they gone to trial and lost (together, the Three Risk Factors). *Id.* (citing

Redlich Report at 11–13). Defendants move to bar Dr. Redlich's testimony, arguing that it does not satisfy Rule 702 or *Daubert*—primarily because her opinions are not based on reliable methodology and she makes improper credibility determinations. Defs.' Mot. Bar Redlich at 2–11. Alternatively, Defendants move to limit her testimony. *Id.* at 11–15. As stated above, the Court held a *Daubert* hearing as to Dr. Redlich's opinions on August 14, 2024.

A. Rule 702 and *Daubert*

1. Prior Decisions on False Guilty Pleas

As an initial matter, Defendants point out that there are only a few published cases addressing the admissibility of expert testimony regarding "false guilty pleas" and that Dr. Redlich's opinions related to false confessions have been excluded by four courts due to reliability issues. Defs.' Mot. Bar Redlich at 5–7 (citing *Commonwealth v. Hoose*, 5 N.E.3d 843 (Mass. 2014); *Edmonds v. State*, 955 So. 2d 864 (Miss. Ct. App. 2006); *People v. Powell*, 53 Misc. 3d 171, 175 (S.C. N.Y. 2014); *People v. Oliver*, 45 Misc. 3d 765, 778 (S.C.N.Y. 2014)). Those same concerns "plague her false guilty plea opinions" in this case, according to Defendants. *Id.* at 5.

Plaintiffs agree that only a few courts have addressed the admissibility of expert testimony regarding false guilty pleas, but counter that those federal courts who have addressed the issue have allowed the opinion testimony. Pls.' Redlich Resp. at 4. In fact, assert Plaintiffs both of those cases involved Dr. Redlich. *Id.* (citing *Jones v. Cannizzaro*, 514 F. Supp. 3d 853, 861–63 (E.D. La. 2021); *Sanford v. Russell*, 387 F. Supp. 3d 774, 786–88 (E.D. Mich. 2019)). Not only that, argue Plaintiffs, but courts

in the Seventh Circuit "addressing false-confession testimony routinely allow the exact same type of testimony that Dr. Redlich will offer here—identifying factors commonly present in false confessions." Pls.' Redlich Resp. at 5–6 (citing *Brown v. City of Chicago*, 2023 WL 2561728, at *10 (N.D. Ill. Mar. 17, 2023); *Andersen v. City of Chicago*, 2020 WL 1848081, at *3 (N.D. Ill. Apr. 13, 2020)). As for the state court cases cited by Defendants, those decisions barring Dr. Redlich's were issued at least ten years ago, and are out of step with the current trend in this district regarding the admissibility of expert testimony on false confessions.[7] Pls.' Redlich Resp. at 13–14.

As a preliminary matter, the Seventh Circuit has yet to address the admissibility of expert testimony on false guilty pleas. Nor have the parties cited any in-District case addressing the issue. Plaintiffs analogize such expert testimony to that involving false confessions and urge the Court to find that expert testimony on false guilty pleas is equally admissible. Pls.' Redlich Resp. The Court agrees with Plaintiffs.

In *United States v. Hall*, the Seventh Circuit reversed the district court's exclusion of a false confession expert. The court recognized that "[s]ocial science in general, and psychological evidence in particular, have posed both analytical and practical difficulties for courts attempting to apply Rule 702 and *Daubert*." 93 F.3d 1337, 1342 (7th Cir. 1996) The court explained that "[n]otwithstanding these

[7]As the Court in *Sanford* pointed out, some of these state courts "employed their state law variants of the obsolete *Frye* standard for admission of expert testimony, which was abolished by *Daubert* and the subsequent amendments to Rule 702." *Sanford*, 387 F. Supp. 3d at 787 (citing *Daubert*, 509 U.S. at 584 (holding that the test for admissibility of expert testimony announced by *Frye v. United States*, 293 F. 1013, 1014 (D.C. Cir. 1923) "was superseded by the adoption of the Federal Rules of Evidence")).

difficulties, however, social science testimony is an integral part of many cases, ranging from employment discrimination actions, to family law matters, to criminal proceedings. As such, whether it is hard to do or not, courts must apply the rules of evidence to these experts as faithfully as they can." *Id.* 1342–43. A "district court is not compelled to exclude all expert testimony that may in some way overlap with matters within the jury's experience. The test of Rule 702 is whether the testimony will assist the jury." *Id.* at 1344. The court explained:

> Even though the jury may have had beliefs about the subject, the question is whether those beliefs were correct. Properly conducted social science research often shows that commonly held beliefs are in error. Dr. Ofshe's testimony, assuming its scientific validity, would have let the jury know that a phenomenon known as false confessions exists, how to recognize it, and how to decide whether it fit the facts of the case being tried.

Id. at 1345.

So too here. That is, while a juror's common sense may suggest to them that someone who is innocent would not agree to plead guilty to a crime he or she did not commit, Dr. Redlich's testimony informs the jury that false guilty pleas sometimes do occur and of the risk factors present in such situations.

The Court finds *Jones*, one of the primary cases relied on by Plaintiffs, instructive. In *Jones*, the plaintiff originally was found guilty at trial of charges later dismissed due to *Brady* violations, and he later pled guilty to several other crimes and served twenty-three years in prison before his conviction was vacated based on ineffective assistance of counsel. 514 F. Supp. 3d at 860. The plaintiff sued the district attorney under Section 1983 and disclosed Dr. Redlich as his expert witness on false guilty pleas. *Id.* at 860–61. The defendant moved to bar Dr. Redlich's testimony,

arguing it was not relevant, would not assist the trier of fact, and was not based on reliable methodology. *Id.* at 861. The district court swiftly brushed aside defendant's relevance argument, finding the testimony relevant since the plaintiff offered the opinion to show that the defendant leveraged his wrongful conviction from "a *Brady*-tainted trial" to extract his guilty plea. *Id*. Next, the court rejected the defendant's contention that the testimony would be unhelpful to the jury, finding that the testimony "will assist the jury in understanding why Plaintiff might have pleaded guilty despite his claimed innocence and how the OPDA's actions may have contributed to that decision." *Id*. As for the defendant's reliability argument, the court observed that most of the defendant's issues with the testimony "amount[ed] to a disagreement with her opinion and are best addressed on cross examination." *Id.* at 862.

As for the four state court cases cited by Defendants, the Court agrees that they are all over ten years old and do not represent the view in this District because the Seventh Circuit (and numerous district courts within this District) have allowed false confession testimony similar to Dr. Redlich's proposed testimony barred by the state courts, and similar to the false plea testimony she offers in this case. Pls.' Redlich Resp. at 5 (citing *Brown*, 2023 WL 2561728, at *10 (citing *Hall*, 93 F.3d at 1345 and collecting district court cases)).

2. Objective Method of Differentiation

Defendants next argue that Dr. Redlich's method does not offer an objective way to differentiate between true and false guilty pleas, as the hallmarks (or risk

factors) of false guilty pleas are sometimes *also* hallmarks of true guilty pleas. Defs.' Mot. Bar Redlich at 7–8. Defendants point out that Dr. Redlich in her deposition admitted that the factors or hallmarks of false guilty pleas are the same as the hallmarks of true guilty pleas. *Id.* at 7 (citing R. 334-2, Redlich Dep. at 56:10–17, 91:1–4, 92:9–14, 157:12–16, 202:15–24, 203:8–14). Dr. Redlich, according to Defendants, admits that there are no hallmarks present in Baker and Glenn's guilty pleas that are also not present in true guilty pleas. *Id.* Not only that, assert Defendants, but according to Dr. Redlich, the only way to establish if a plea was true or false is whether the defendant is in fact innocent or guilty. *Id.* This, reason Defendants, is akin to no standard at all.

The Court agrees with Plaintiffs, and with the court in *Jones*, that the factors that increase the likelihood for false guilty pleas also lead to true guilty pleas does not undermine the studies showing that these factors are more prevalent in false guilty plea cases. Pls.' Redlich Resp. at 6–7; *Jones*, 514 F. Supp. 3d at 862; *see also* Redlich Report at 11–13. Indeed, as Plaintiffs point out, courts in this District have rejected similar challenges related to false confession testimony. Pls.' Redlich Resp. at 7 (citing *Caine v. Burge*, 2013 WL 1966381, at * 3 (N.D. Ill. May 10, 2013) (false-confession case in which the court rejected *Daubert* challenge that the expert was unable to "tell the jury how often a *true* confession is obtained using the same practices and techniques that [the expert] alleges may result in false confessions") (emphasis in original)). As other courts have found, this is properly the subject of cross examination rather than a grounds for exclusion. *Jones*, 514 F. Supp. 3d at 862;

Caine, 2013 WL 1966381, at * 3; *Andersen*, 2020 WL 1848081, at *3 ("Defendants will be permitted to point out the limits of false-confessions research upon cross-examination and to argue that the same risk factors that may indicate a false confession could also apply to a true confession.").

3. Empirical Metrics

Defendants relatedly contend that Dr. Redlich's opinions are not supported by empirical metrics, including an error rate, and therefore are not reliable. Defs.' Mot. Bar Redlich at 8–9. More specifically, Defendants take issue with Dr. Redlich's: (1) lack of knowledge regarding the total number of guilty pleas in the United States or in Illinois in 2006, so she therefore cannot calculate the frequency of false guilty pleas, and (2) failure to quantify the rate at which each of the Three Risk Factors is present in cases in which a defendant pled guilty but was later exonerated or whether the rate is statistically significant. *Id.* Without empirical metrics, including an error rate, conclude Defendants, Dr. Redlich's testimony is not scientifically valid. Defs.' Mot. Bar Redlich at 9. Not so, retort Plaintiffs pointing out that, during her deposition, Dr. Redlich refuted the idea that no empirical research supports her opinions, and that her report also includes significant details about actual exonerations, including exonerations involving guilty pleas. Pls.' Redlich Resp. at 9 (citing Redlich Dep. at 200:12–201:18; Redlich Report at 2–4).

The Court agrees with Plaintiffs that Dr. Redlich's report includes data about exonerations, including the dataset from the National Registry of Exoneration, as well as several cases and studies supporting how the Three Risk Factors identified

increase the likelihood of a person falsely pleading guilty. Redlich Report at 2–4, 11–13; *see Jones*, 514 F. Supp. 3d at 863 (finding that Dr. Redlich's opinion relies on data from National Registry of Exoneration). Although Dr. Redlich does not provide a specific percentage regarding the frequency any of the Three Risk Factors are present in false guilty pleas—as she did for one of the factors identified in *Jones*, 514 F. Supp. 3d at 862[8]—like the court in *Caine*, the Court still finds that even though Dr. Redlich may not be able to tell a jury how often a true guilty plea results from the presence of any of the Three Risk Factors as a false plea, the Court finds her testimony "helpful in that it informs jurors that false [pleas] happen and offers theories as to why someone might [plead] to a crime he [or she] did not commit." *Caine*, 2013 WL 1966381, at *3.

True, as Defendants point out, the December 2023 committee comments to Rule 702 created some tension with the extent to which courts may rely on prior decisions finding "the critical questions of the sufficiency of an expert's basis, and the application of the expert's methodology [to be] questions of weight and not admissibility," because, according to the comments, "[t]hese rulings are an incorrect application of Rules 702 and 104(a)." Defs.' Mot. Bar Redlich (citing Fed. R. Evid. 702 Advisory Committee Notes to 2023 Amendments). However, more recently, the Seventh Circuit has indicated that, where an expert is qualified in his or her field

[8]Although *one* of the risk factors of a false plea in *Jones* was supported by specific empirical data, another risk factor ("experiencing a loss at trial themselves or watching co-defendants lose at trial and be sentenced harshly") was not, but rather was supported by the National Registry of Exoneration data and cases, like the Three Risk Factors identified by Dr. Redlich in this case. 514 F. Supp. 3d at 863.

and relies on relevant personal experience, "[n]one of the things his testimony allegedly lacked—error rates, levels of acceptance, peer-reviewed data, and the like—are pre-requisites to reliability." *Artis v. Santos*, 95 F.4th 518, 526 (7th Cir. 2024). True, here Dr. Redlich relies on social science rather than just her personal experience, but the Court still finds *Artis* instructive. Moreover, recently, another court in this District rejected the defendants' argument that the plaintiff's false confession expert's opinions must be excluded "as unreliable because his methods cannot be applied or tested, and they have no error rate." *Brown v. City of Chicago*, 2024 WL 3791634, at *17 (N.D. Ill. Aug. 13, 2024). The court reasoned that "[t]here is no requirement that expert testimony be falsifiable or have a specific error rate. . . . The reality is that research into actual false confessions cannot be done in a controlled, scientific environment, and precise error rates cannot be calculated, and it would be hard to square excluding [the expert's] testimony in its entirety with the Seventh Circuit's general acceptance of these sorts of methods." *Id.* (citing, *inter alia*, *Hall*, 93 F.3d at 1342). The court therefore allowed the false confession expert to opine on "situational and psychological factors that can induce a false confession" and which factors were present in the plaintiff's interrogation. *Id.* at *18.

The social science of false guilty pleas, like that of false confessions, is not subject to traditional scientific methods like quantifications and generalizing predictive outcomes. As discussed above, courts, however, have found the science of false confessions is sufficiently developed in its methods to constitute a reliable body of specialized knowledge under Rule 702. *See Caine*, 2013 WL 1966381, at *3;

Washington v. Boudreau, 2022 WL 4599708, at *12 (N.D. Ill. Sept. 30, 2022) (collecting cases). Accordingly, as in *Jones*, the Court finds that Defendants have "not identified any reason that Redlich's method of reliance on cases, exoneration data, studies, and her own research is unreliable." 514 F. Supp. 3d at 863. Of course, Defendants are free to point out the lack of empirical data specific to the Three Risk Factors during cross-examination. *See Andersen*, 2020 WL 1848081, at *3.

4. Credibility Determinations

Defendants also complain that Dr. Redlich makes improper credibility determinations in arriving at her conclusions because she testified that she gave more credit to Plaintiffs' statements that they did not have drugs in the car than to the police's statements that they did. Defs.' Mot. Bar Redlich at 9–10 (citing Redlich Dep. at 139:2–141:4). As Defendants correctly state, it is undisputed that an expert witness is prohibited from opining on the credibility of evidence, witnesses, or testimony, as those are issues reserved for the factfinder. *See Goodwin v. MTD Prod., Inc.*, 232 F.3d 600, 609 (7th Cir. 2000); *Davis v. Duran*, 277 F.R.D. 362, 370 (N.D. Ill. 2011) ("[E]xpert witnesses are not allowed to sort out possible conflicting testimony or to argue the implication of those inconsistencies. That is the role of the lawyer, and it [is] for the jury to draw its own conclusions from the testimony it hears."). However, the parties also agree that an expert may give an opinion based upon factual assumptions even where the fact is disputed, so long as there is evidence to support

such facts. *Richman v. Sheahan*, 415 F. Supp. 2d 929, 942 (N.D. Ill. 2006); *Andersen*, 2020 WL 1848081, at *4 (collecting cases).

Here, Defendants point to Dr. Redlich's testimony that she "credited" Plaintiffs' version of events over the police's version. Defs.' Mot. Bar Redlich at 9–10. Although perhaps Dr. Redlich's answer could have been more artful, at bottom, the Court agrees with Plaintiffs that Dr. Redlich did not specifically testify as to Plaintiffs' credibility but rather indicated that she was relying on their version of events based on evidence in the record; indeed, she later clarified that her opinions would have been the same even if she had credited the Defendant Officers' version of events over Plaintiffs' version. Pls.' Redlich Resp. at 11–12 (citing Redlich Dep. at 138:8–141:4, 209:4–9).

What's more, Dr. Redlich testified at the *Daubert* hearing that she did not need to accept one version of the facts over the other in order to reach her opinions as to the Three Risk Factors in this case. Put another way, as Plaintiffs argue, the presence of the Three Risk Factors is not disputed and therefore Dr. Redlich need not make credibility determinations in favor of Plaintiffs or against the Defendant Officers. In order to prevent any possible issues at trial, however, the Court cautions Plaintiffs that Dr. Redlich should not testify as to whether she is "crediting" or "leaning" towards either party's version of events, which the Court understands she will not

need to do, as her opinions do not rely on her accepting as true Plaintiffs' version of the facts.

5. Reliability of Methods

Finally, Defendants posit that Dr. Redlich's testimony should also be barred because her methods are not reasonably relied on by psychologists. Defs.' Mot. Bar Redlich at 10–11. Specifically, Defendants argue that "Dr. Redlich uses general findings and data from her research to specifically conclude whether Baker and Glenn knowingly, intelligently, and voluntarily pled guilty in this case." *Id.* at 10 (emphases in original). Nor did she interview Plaintiffs' criminal defense attorney about the circumstances surrounding the guilty pleas. *Id.* But, as Plaintiffs correctly note, Dr. Redlich is not opining that Plaintiffs were factually innocent. Pls.' Redlich Resp. at 7. Indeed, as Plaintiffs point out, such an opinion would be inadmissible. *Id.* at 6–7. Instead, Dr. Redlich's report identifies the Three Risk Factors common in false guilty pleas which are present in this case, which, for the reasons discussed above, the Court finds acceptable in this case. *Id.* As for Dr. Redlich's failure to interview the Plaintiffs' criminal defense attorney, that criticism is one for cross-examination, not a basis to bar the opinion. That said, as discussed in more depth below in relation to Dr. Obolsky's opinions, *see infra* Section II.B.2, Dr. Redlich may not opine specifically as to whether Plaintiffs' pleas were knowing, intelligent, or voluntary. *See Andersen v. City of Chicago*, 454 F. Supp. 3d 808, 819 (N.D. Ill. 2020) (expert's opinion that, based on the facts, the plaintiff's "alleged waiver of his Miranda rights was 'not a knowing and certainly isn't an intelligent waiver'" was an impermissible legal conclusion). Dr.

Redlich stated during her *Daubert* hearing that her opinions relate only to the voluntariness of Plaintiffs' pleas, not to the knowing or intelligent nature of them. More importantly, she confirmed that her opinion is that the presence of the Three Risk Factors makes it *more likely* that Plaintiffs' guilty pleas were not voluntary, but she is *not* opining as to whether their pleas were *actually* voluntary or not.

All in all, whether Plaintiffs' guilty pleas were false is one of the central issues of the case and Dr. Redlich's testimony regarding risk factors associated with false guilty pleas and why that phenomenon occurs will assist the jury in this case. The Court next turns to Defendants' alternative arguments to limit Dr. Redlich's testimony.

B. Limiting Dr. Redlich's Testimony in the Alternative

In the alternative, Defendants posit that, if the Court allows Dr. Redlich to testify, it nonetheless should bar her from discussing irrelevant topics unconnected to her opinions and opinions lacking foundation. Defs.' Mot. Bar Redlich at 11–15. Defendants take issue with three topics included in Dr. Redlich's report, which the Court addresses in turn.

1. Watts' Scandal and Overturned Convictions

Defendants argue that, if Dr. Redlich is allowed to testify, several of her opinions should be barred under Federal Rule of Evidence 403 as unfairly prejudicial and lacking foundation. Defs.' Mot. Bar Redlich at 11.

The Court starts with Dr. Redlich's statements regarding the "Watts scandal," including that "Watts allied with drug dealers," "framed innocent people for narcotics

crimes," and that "approximately 230 [convictions] have been overturned and the persons issued certificates of innocence by the Cook County, IL courts." Defs.' Mot. Bar Redlich at 11–12 (citing Redlich Report at 8). Defendants note that Dr. Redlich did not recall what she relied on in support of this statement, nor did she know the circumstances surrounding how individuals were granted certificates of innocence. Defs.' Mot. Bar Redlich at 12 (citing Redlich Dep. at 138:2–9, 146:22–147:1). In fact, submit Defendants, this information is not connected to Dr. Redlich's opinions—pursuant to her own words, her job is to "educate the jury about the risk factors of guilty pleas," *id.* (citing Redlich Dep. at 183:16–184:1), and according to Defendants, any opinions on the general Watts investigation are "wholly outside the scope of her expertise," *id.* Moreover, posit Defendants, even if the statement about the number of overturned convictions resulting from Watts' misconduct was related to Dr. Redlich's opinions, it should still be barred because its prejudicial effect substantially outweighs its probative value under Federal Rule of Evidence 403. *Id.* Defendants would be unable to receive a fair trial, they argue, if the jury hears that 230 convictions were vacated and that those convicted received certificates of innocence, because "[t]he only conclusion the jury would reach is that the officers engaged in misconduct in all those cases, so they must have engaged in misconduct in Plaintiffs' case." *Id.* (citing Fed. R. Evid. 404(b)).

Plaintiffs concede that Dr. Redlich may not testify that: Watts and approximately "15 other police officers," along with Watts, framed innocent people; that "Watts allied with drug dealers" to allow them to continue their criminal activity

without fear of arrest; or that "Watts and his officers also framed innocent people for narcotics crimes." Pls.' Redlich Resp. at 15. Therefore, Dr. Redlich is barred from offering those opinions.

Plaintiffs contend, however, that Dr. Redlich should be allowed to testify as to how many convictions have been overturned as a result of Watts' team's misconduct. Pls.' Redlich Resp. at 15. While Dr. Redlich will not testify that the individuals whose convictions were overturned are factually innocent or that the convictions were overturned as a result of police misconduct, according to Plaintiffs, the fact that so many have been overturned provides empirical support for Dr. Redlich's opinions. *Id.* As to potential prejudice, Plaintiffs argue that it is likely that the jury will hear evidence regarding the number of overturned convictions as part of Plaintiffs' *Monell* evidence anyways, so any prejudice from hearing brief testimony on the point from Dr. Redlich would be minimal. *Id.* If anything, posit Plaintiffs, the Court should defer its final ruling the admissibility of Dr. Redlich's proffered testimony regarding the number of individuals whose convictions have been overturned and who have received Certificates of Innocence. *Id.*

The Court agrees with Defendants that there is no need to defer the Court's ruling on this point. First, and importantly, Dr. Redlich confirmed during her *Daubert* hearing that this information was not relevant to her opinions. Second, Dr. Redlich has no information regarding whether any of the Three Risk Factors (or any other risk factors of a false guilty plea) are present in the other overturned convictions involving guilty pleas. *See* Redlich Dep. at 138:2–9, 146:22–147:1. Therefore, the

Court agrees with Defendants that the total number of convictions overturned as part of the "Watts scandal" is irrelevant to Dr. Redlich's opinions. R. 351, Defs.' Redlich Reply at 8. Any minimal relevance is also outweighed by the prejudice of having an expert testify about those overturned convictions, even if the evidence is admitted through other witnesses in relation to Plaintiffs' *Monell* claim (which Defendants contend it should not be).

2. Sufficiency of Time to Consider Plea Deal

Second, Defendants contend that Dr. Redlich should be barred from offering the following opinion about the sufficiency of the time Plaintiffs had to consider the plea offers: "[I]t would appear that Mr. Baker and Ms. Glenn may have had insufficient time to consider the State's plea offers. The Plea Hearing Transcript makes clear that the plea offers came in that morning. To my understanding the pleas were entered the same day, and that there may have only been a 30-minute break to consider the pleas." Defs.' Mot. Bar Redlich at 13 (quoting Redlich Report at 11). Such an opinion, argue Defendants, is impermissibly speculative. *Id.* at 13–14 (citing *DePaepe v. General Motors Corp.*, 141 F.3d 715, 720 (7th Cir. 1998) ("[T]he whole point of *Daubert* is that experts can't 'speculate.' They need analytically sound bases for their opinions.")). Not only is this opinion speculative, assert Defendants, but it is also contrary to the evidence, because the Plea Hearing Transcript shows that Baker's attorney discussed the plea deal with Baker earlier in the morning before the hearing and neither Plaintiff said anything at the end of the plea colloquy indicating that they had insufficient time to consider the plea deal, even when asked by the

judge if there was anything else they wanted to say. Defs.' Mot. Bar Redlich at 13–14 (citing R. 302-1, 9/18/2006 Hearing Tr. at 9:4–9, 19:10, 28:9–29:13). And last, Defendants take issue with the fact that Dr. Redlich interviewed neither Plaintiffs nor their defense attorney regarding the amount of time they had to consider the plea deal or any impact that may have had on their decision-making. *Id.* at 14.

Predictably, Plaintiffs disagree, arguing that Dr. Redlich's opinion is not speculative, as there is evidence that Plaintiffs were rushed when considering the plea offer. Pls.' Redlich Resp. at 16. The Court agrees for the most part. Dr. Redlich relied on the Plea Hearing Transcript to opine that, since the plea offers were made on the same morning that Plaintiffs' guilty pleas were entered, Plaintiffs may have had insufficient time to consider the plea offers. Redlich Report at 11. She pointed out during her *Daubert* hearing that a jury trial was set for later the same day that Plaintiffs received the plea offer. *See also* 9/18/2006 Hearing Tr. at 3:19–24, 19:6–21. Indeed, the Plea Hearing Transcript reflects that the state judge refused Plaintiffs' defense attorney's request for a week continuance to discuss the plea offer "and the possible ramifications of going to trial," stating that trial would go forward if Plaintiffs did not agree to plead guilty that same day. *Id.* at 19:6–21. However, the Court finds Dr. Redlich's statement that "there may have only been a 30-minute break to consider the pleas" to be speculative, based on the information in the Plea Hearing Transcript that Plaintiffs had received the plea offer in the morning. *See Empress Casino Joliet Corp. v. Johnston*, 2014 WL 6735529, at *11 (N.D. Ill. Nov. 28,

2014) (barring expert's opinion where he did not take into account significant relevant evidence).

Elsewhere in her report, Dr. Redlich opines that "[i]nstituting time constraints on plea decisions (e.g., exploding offers) can lead to involuntary plea decisions" and "having insufficient time to consider the plea decision and time to discuss options with trusted ones can lead to invalid plea decisions." Redlich Report at 7. Admittedly, Dr. Redlich does not specify in her Report what constitutes "insufficient time"; however, her report and testimony at the *Daubert* hearing make it clear that she relied on the fact that Plaintiffs received plea offers the morning of the same day their case was set for trial and, instead of going to trial, they pled guilty. Therefore, the Court finds that this opinion is not speculative based on the evidence before the Court on which Dr. Redlich relied. *See, e.g. Stollings v. Ryobi Techs., Inc.*, 725 F.3d 753, 768 (7th Cir. 2013) ("The fact that an expert's testimony contains some vulnerable assumptions does not make the testimony irrelevant or inadmissible."). Defendants are free to vigorously cross-examine Dr. Redlich about her decision not to interview Plaintiffs or their defense attorney, as well as about the basis for her opinion as to whether Plaintiffs had "insufficient time" to consider the plea deal. *See, e.g.*, *Lapsley*, 689 F.3d at 805.

3. Frequency of False Guilty Pleas in Drug Cases/No Crime Cases

Finally, Defendants assert that Dr. Redlich's opinion that "[f]alse guilty pleas are also more significantly common among drug cases and the 'no crime' type of wrongful conviction" lacks foundation, and is therefore inadmissible. Defs.' Mot. Bar

Redlich at 14 (citing Redlich Report at 13). Defendants cite to Dr. Redlich's testimony that she did not know how may guilty pleas for drug crimes were made in 2006 in the United States, or in Cook County. *Id.* at 14–15 (citing Redlich Dep. at 106:22–107:15). Plaintiffs counter that Defendants provide no basis for the idea that Dr. Redlich's opinion must be excluded because Dr. Redlich lacks information about the total number of guilty pleas from one particular year, especially in light of the foundation for her opinion provided in her report; namely, that her opinion was based on a recent paper she wrote which relied on data from the National Registry of Exonerations and concluded that false guilty pleas "were more than five times more likely to occur for a drug crime" and "more than twice as likely" in cases where no crime occurred. Pls.' Redlich Resp. at 16 (citing Redlich Report at 3).

The Court agrees with Plaintiffs and finds, like the court in *Jones*, 514 F. Supp. 3d at 862, that, even without knowing the number of guilty pleas for drug crimes in 2006—which is certainly an area for cross-examination—Dr. Redlich's opinion that false guilty pleas are more common for a drug crime has sufficient foundation based on her own research, grounded in data from the National Registry of Exoneration.

For the reasons discussed above, Defendants' motion to bar Dr. Redlich's testimony is denied in large part, but is granted as to her testimony relating to Watts' alleged framing of innocent people, including the number of overturned convictions, as discussed *supra* Section I.B.1.

II. Plaintiffs' Motion to Bar Dr. Obolsky

Defendants have retained Dr. Alexander Obolsky, a forensic psychiatrist, to rebut the testimony of Dr. Redlich. Dr. Obolsky offers two primary opinions: (1) Dr. Redlich's research into risk factors contributing to false guilty pleas cannot reliably identify a false guilty plea, and (2) Plaintiffs entered into their guilty pleas knowingly, intelligently, and voluntarily. *See* R. 295-3, Obolsky Report. The Court notes, however, that Dr. Obolsky testified both during his deposition and during his *Daubert* hearing that he was retained to "evaluate the available data, to see whether or not Mr. Baker and Ms. Glenn entered the plea[s] in September of 2006 knowingly, intelligently, and voluntarily." (R. 328-2, Obolsky Dep. at 75:1–4). That is, he did not testify that he was retained to opine on false guilty pleas.

Plaintiffs advance four bases to exclude Dr. Obolsky's opinions: (1) as an opposing expert, he cannot opine on whether Dr. Redlich's opinions are based on scientific foundation; (2) he is not qualified to rebut Dr. Redlich's research; (3) his opinion that Plaintiffs were legally competent to plead guilty is not reliable because it is based on speculation; and (4) whether Plaintiffs were competent to plead guilty is a legal conclusion. Pls.' Mot. Bar Obolsky. The Court starts with Plaintiff's second basis for exclusion.

A. Qualifications to Rebut Dr. Redlich's Research

As an initial matter, Plaintiffs do not question Dr. Obolsky's qualifications as a forensic psychiatrist. Instead, Plaintiffs attack Dr. Obolsky's qualifications to rebut Dr. Redlich's research. Plaintiffs point out that Dr. Obolsky has never conducted any

research on false guilty pleas, and admitted during his deposition that he is not an expert on guilty pleas. Pls.' Mot. Bar Obolsky at 9–10 (citing Obolsky Dep. at 136:19–137:19[9]). Indeed, at his deposition, Dr. Obolsky testified that he was qualified to rebut Dr. Redlich's research based on his medical training and because "[he] can think." *Id.* at 10 (citing Obolsky Dep. at 95:10–97:8). Notably, Defendants fail to respond to Plaintiffs' argument about Dr. Obolsky's lack of qualifications. R. 328, Defs.' Obolsky Resp. As Plaintiffs correctly point out, Defendants, as the proponents of Dr. Obolsky's testimony, bear the burden to show that he is qualified to testify as an expert. *Varlen Corp. v. Liberty Mut. Ins. Co.*, 924 F.3d 456, 459 (7th Cir. 2019); *see also Bradley v. Sheriff of Rock Island Cnty.*, 2016 WL 3198030, at *3 (C.D. Ill. Mar. 2, 2016). By failing to explain why Dr. Obolsky is qualified to testify regarding Dr. Redlich's research on false guilty pleas, they have failed to meet that burden. What's more, Defendants' failure to respond results in waiver of the argument. *See, e.g.*, *Alioto v. Town of Lisbon*, 651 F.3d 715, 721 (7th Cir. 2011) (failure to address an argument resulted in "waiver").

Waiver aside, the Court agrees with Plaintiffs that *Daubert* demands more specialized expertise; that is, the question is not whether an expert "is qualified in general" but whether he or she is qualified "to answer a specific question." *Gayton v. McCoy*, 593 F.3d 610, 617 (7th Cir. 2010) ("[S]imply because a doctor has a medical degree does not make him qualified to opine on all medical subjects."); *see also* Fed.

[9]The Court cites to Defendants' version of Dr. Obolsky's deposition transcript attached to Defendants' response (R. 328-1, 328-2), as it is a full version of the transcript, whereas the version attached to Plaintiffs' motion to bar Dr. Obolsky is an excerpt, R. 295-1.

R. Civ. P. 702; *United States v. Truitt*, 938 F.3d 885, 889–90 (7th Cir. 2019) (affirming decision barring forensic psychologist from testifying about "charismatic groups" because he "had no experience" with those groups, and experience with similar groups did not qualify him to talk about other groups). Like the general psychologist in *Truitt*, the Court finds that here, Dr. Obolsky's experience as a forensic psychiatrist does not qualify him to opine on the risk factors of false guilty pleas identified by Dr. Redlich, or the implications of those risk factors. *Id.*; *see also Ezell v. City of Chicago*, 2023 WL 5287919, at *7–9 (N.D. Ill. Aug. 16, 2023) (proffered expert was not qualified to testify about false confessions where his experience training and conducting interviews of criminal suspects did not relate to the topic of false confessions, and he had not researched false confessions or "analyzed documented factors that correlate with false confessions") (cleaned up).

During his *Daubert* hearing, Dr. Obolsky confirmed that he has never: independently done research into false guilty pleas, written articles about false guilty pleas, been retained in a lawsuit to render an opinion on false guilty pleas (apart from this case and two related cases against the Defendant Officers and the City of Chicago), or been asked to consult on a case involving false guilty pleas.

In sum, the Court finds that Defendants have not established that Dr. Obolsky is qualified to testify about Dr. Redlich's opinions or testimony regarding false guilty pleas. Therefore, the Court need not address Plaintiffs' alternative argument regarding whether Dr. Obolsky can opine on whether Dr. Redlich's opinions are based on a solid scientific foundation.

The Court next turns to Dr. Obolsky's opinion that Plaintiffs entered into their guilty pleas knowingly, intelligently, and voluntarily.

B. Opinion that Plaintiffs' Pleas Were Knowing, Intelligent, and Voluntary

Plaintiffs also seek to bar Dr. Obolsky's testimony that Plaintiffs' guilty pleas were entered knowingly, intelligently, and voluntarily, arguing that this opinion is not reliable and is a legal conclusion. Pls.' Mot. Bar Obolsky at 11–14. The Court addresses each argument in turn.

1. Reliability

First, Plaintiffs contend that Dr. Obolsky's opinion that Plaintiffs' pleas were knowing, intelligent, and voluntary is unreliable because it is based on "made up facts and speculation." Pls.' Mot. Bar Obolsky at 11. Specifically, Plaintiffs take issue with Dr. Obolsky's "assumption" that Plaintiffs were under oath when they pled guilty. *Id.* at 11–13. They point out that Dr. Obolsky's report twice states that Plaintiffs' pleas were voluntary because they were made under oath, and that he confirmed during his deposition that this was a consideration for his opinion. *Id.* (citing Obolsky Report at 13, 15; Obolsky Dep. at 93:9–95:9, 162:17–167:8). Plaintiffs, relying on the Plea Hearing Transcript, maintain that the evidence is undisputed that they were not under oath when they pled guilty. *Id.* at 5, 11; 9/18/2006 Hearing Tr. at 20:10–19. During his *Daubert* hearing, however, Dr. Obolsky twice confirmed that whether Plaintiffs were under oath or not did not matter for his opinion that Plaintiffs' pleas were knowing, intelligent, or voluntary. Accordingly, because this fact does not

impact Dr. Obolsky's opinion, the Court need not engage with whether it is speculative and accordingly whether Dr. Obolsky's opinion is reliable.

2. Legal Conclusion

Second, Plaintiffs seek to bar Dr. Obolsky's opinion that Plaintiffs were legally competent to plead guilty, as it constitutes a legal conclusion. Pls.' Mot. Bar Obolsky at 13. Defendants counter that Plaintiffs have misrepresented Dr. Obolsky's opinion and that Dr. Obolsky, contrary to Plaintiffs' contention, opined that Plaintiffs "entered a guilty plea knowingly, intelligently and voluntarily." Defs.' Obolsky Resp. at 2.

"It is the role of the judge, not an expert witness, to instruct the jury on the applicable principles of law, and it is the role of the jury to apply those principles of law to the facts in evidence." *Jimenez v. City of Chicago*, 732 F.3d 710, 721 (7th Cir. 2013). However, "[w]hen an expert offers an opinion relevant to applying a legal standard," testimony describing "sound professional standards and identifying departures from them" may be admitted. *Id*. Here, the Court agrees, that to the extent Dr. Obolsky opines that the Plaintiffs were "legally competent" to enter guilty pleas, such an opinion constitutes a legal conclusion and is therefore inadmissible. *See Good Shephard Manor Found., Inc., v. City Momence,* 323 F.3d 557, 564 (7th Cir. 2003) ("[E]xpert testimony as to legal conclusions that will determine the outcome of the case is inadmissible."); *see also* Obolsky Dep. at 72:20–24 ("[C]ompetency is established by the judge. It's a legal decision. So my opinion would not go to that ultimate issue."). What's more, Dr. Obolsky himself admitted that, in order to find

someone legally competent to plead guilty, a medical examination must be conducted. Pls.' Mot. Bar Obolsky at 5 (citing Obolsky Dep. at 73:25–74:23). No examination was conducted here, so it goes without saying that Dr. Obolsky cannot then testify as to Plaintiffs' competence to plead guilty.

As to the opinion that Plaintiffs entered a guilty plea knowingly, intelligently, and voluntarily, Plaintiffs posit that, during his deposition, Dr. Obolsky equated this to an opinion that they were legally competent to plead guilty, and therefore it must be barred as a legal conclusion. Pls.' Mot. Bar Obolsky at 4 (citing Obolsky Dep. at 72:8–14); *see also* R. 358, Pls.' Obolsky Reply at 4. Plaintiffs ignore, however, that Dr. Obolsky clarified his response immediately after testifying that the two are the same thing, acknowledging that "competency is . . . a legal decision . . . established by the judge," and that his opinion is whether an individual "was able to mentally, emotionally, [and] cognitively able to enter the plea agreement because, from the mental health perspective, his decision was done knowingly, . . . intelligently, and . . . voluntarily." *See* Obolsky Dep. at 72:20–73:5.

No matter, because as stated above in relation to Dr. Redlich's opinions, *see supra* Section I.A.5, the Court still finds that an opinion that Plaintiffs' guilty plea was knowing, intelligent, and voluntary is a legal opinion. *See Andersen*, 454 F. Supp. 3d at 819 (expert's opinion that, based on the facts, the plaintiff's "alleged waiver of his Miranda rights was 'not a knowing and certainly isn't an intelligent waiver'" was an impermissible legal conclusion). In his report, Dr. Obolsky opined that, "[t]o decide whether the plea was knowing, intelligent, and voluntary requires an analysis as to

whether a particular defendant suffered from a condition of mental or physical ill-being that interfered with one's abilities to make knowing, intelligent, and voluntary decisions. In this case there is no evidence that Mr. Baker or Ms. Glenn experienced any condition of mental or physical ill-being that interfered with their cognitive and emotional decisional functioning." Obolsky Report at 9. While, as discussed above, Dr. Redlich opined that the presence of the three Risk Factors made it more likely that Plaintiffs' plea was involuntary; Dr. Obolsky's opinion goes a step further, however, as he opines that Plaintiffs "entered a guilty plea knowingly, intelligently, and voluntarily." Obolsky Report at 1. This opinion "amounts to an instruction on the law and application of the law to the facts," which "invades the province of both the jury and this Court and [Dr. Obolsky] will not be permitted to testify to this piece of his opinion." *Andersen*, 454 F. Supp. 3d at 819 (citing *Jimenez*, 732 F.3d at 721; *Good Shepherd Manor Found.*, 323 F.3d at 564).

Moreover, Plaintiffs point out that Dr. Redlich does not offer an opinion as to whether Plaintiffs were legally competent to plead guilty. Pls.' Obolsky Reply at 5. So, posit Plaintiffs, Dr. Obolsky's opinion does not rebut anything that Plaintiffs are trying to prove. *Id.* Indeed, Dr. Obolsky acknowledged during his *Daubert* hearing that Dr. Redlich did not opine on the knowing or voluntary nature of the pleas, so those prongs are not an issue before the Court. The Court therefore agrees with Plaintiffs that Dr. Obolsky's opinion that the pleas were knowing and intelligent is irrelevant. *See Stuhlmacher v. Home Depot U.S.A., Inc.*, 774 F.3d 405, 409 (7th Cir. 2014) ("An expert's testimony qualifies as relevant under Rule 702 so long as it assists

the jury in determining any fact at issue in the case."). Dr. Obolsky agreed during the *Daubert* hearing that the real question at issue was whether Plaintiffs' pleas were voluntary. As Dr. Obolsky testified during his *Daubert* hearing in response to the Court's questions, the sole basis for his opinion that Plaintiffs' pleas were voluntary is that Plaintiffs told the state court judge that they were not coerced, pressured, or under duress when they pled guilty. While the Court expresses some doubt that Plaintiffs' statements on their own (made under oath or not) is a reliable basis to form an opinion that a plea was voluntary, the Court need not engage with this issue because, for the reasons discussed above, the Court finds that it is a legal conclusion.

Finally, Plaintiffs argue that Dr. Obolsky should be barred from testifying that the only way to determine whether someone is innocent or guilty is through the legal processes including trial and plea bargaining. Pls.' Mot. Bar Obolsky at 13–14 (citing Obolsky Report at 8). Plaintiffs again contend that this is a legal conclusion that is also unhelpful to the jury. *Id.* And again, Defendants did not respond to this argument, resulting in waiver. *See, e.g.*, *Alioto*, 651 F.3d at 721. The Court agrees with Plaintiffs that this is a legal conclusion. Not only that, but this is not the kind of testimony for which an expert is needed. That is, jurors are perfectly capable of understanding the goal of the criminal justice system. *See, e.g.*, *Andersen*, 454 F. Supp. 3d at 815 (barring opinion that "the purpose of an investigation is to uncover the truth and that officers should protect the innocent and respect the constitution" because "[t]his is not the kind of testimony that an expert is needed for—jurors are perfectly capable of understanding what the goal of a criminal investigation is")

(citing *Stollings*, 725 F.3d at 765 ("Expert testimony is permitted to assist the trier of fact with technical issues that laypeople would have difficulty resolving on their own.")). Put another way, "when the testimony is about a matter of everyday experience, expert testimony is less likely to be admissible." *Florek v. Vill. of Mundelein, Ill.*, 649 F.3d 594, 602–03 (7th Cir. 2011). Therefore, this is an opinion that Dr. Obolsky may not offer.

Accordingly, for the foregoing reasons, the Court bars all proffered opinions from Dr. Obolsky.

Conclusion

For the foregoing reasons, the Court grants in part and denies in part Defendants' Motion to Bar Dr. Redlich [302] and grants Plaintiffs' Motion to Bar Dr. Obolsky [295].

Dated: August 20, 2024

United States District Judge
Franklin U. Valderrama