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

William Carter, Plaintiff, v. City of Chicago, Ronald Watts, Phillip Cline, Debra Kirby, Darryl Edwards, Alvin Jones, Kallatt Mohammed, John Rodriguez, Calvin Ridgell, Jr., Elsworth J. Smith, Jr., Gerome Summers, Jr., and Kenneth Young, Jr., Defendants.	)	Case No. 17 C 7241 Honorable LaShonda A. Hunt

DEFENDANTS' MOTION TO BAR PLAINTIFF'S PROPOSED EXPERT ALLISON REDLICH

Defendants, City of Chicago, Ronald Watts, Kallatt Mohammed, Darryl Edwards, Alvin Jones, John Rodriguez, Calvin Ridgell, Jr., Elsworth J. Smith, Jr., Gerome Summers, Jr. and Kenneth Young, Jr., by and through their undersigned counsel, hereby move to bar Plaintiff's proposed expert witness Allison Redlich, and in support thereof state as follows:

BACKGROUND

On December 16, 2004, William Carter appeared before Judge Nicholas Ford of the Circuit Court of Cook County and pled guilty to delivery of a controlled substance in connection with a March 3, 2004 arrest and pled guilty to delivery of a controlled substance in connection with a June 18, 2004 arrest. During the plea hearing, Mr. Carter testified that he understood the rights he was giving up, understood the potential penalties for each charge, and that no one threatened or promised him anything in exchange for his guilty pleas. (Exhibit 1, Report of Proceedings 12/16/04, p. 3:11-4:21.) Judge Ford specifically found that Mr. Carter understood

the rights he was giving up, that his pleas were being made freely and voluntarily, and that there was a factual basis for each plea. (*Id*., p. 4:22-5:9.) In exchange for his guilty pleas, Mr. Carter was sentenced to two years of probation on each case, to be run concurrently. Mr. Carter never filed a motion to withdraw his guilty pleas, and did not file an appeal of his conviction or sentence.

In an effort to diminish the significance of his clearly bargained for guilty pleas,[1] Mr. Carter has hired Allison Redlich, Ph.D. ("Dr. Redlich") to opine about the topic of guilty pleas. Dr. Redlich opines that there were five hallmarks or risk factors that could have led Mr. Carter to give "false guilty pleas."[2] Specifically, the risk factors included:

1. No crime;
2. Drug crime;
3. Extreme plea discounts;
4. Young age; and
5. Limited formal education.

(Ex. 3, Deposition of Dr. Redlich, p. 19:12-20:21.)

Dr. Redlich defines the "no crime" risk factor as follows: "[W]rongful convictions are two types: no crime and wrong person. In wrong person cases, an actual crime occurred but the wrong person was convicted. In contrast, in no crime wrongful conviction cases, a crime did not actually take place." (Ex. 2, p. 3.)

Regarding the "drug crime" risk factor, Dr. Redlich states, "[I]n a recent paper, my colleagues and I examined the factors that distinguished between wrongful convictions that

[1] Regarding his March 3, 2004 arrest, Mr. Carter was originally charged with two class X drug felonies - each charge carried a potential prison term of 6-30 years, and one class one felony punishable by 4-15 years in prison. Regarding his June 18, 2004 arrest, Mr. Carter was originally charged with one class X felony, and one class one felony.

[2] Dr. Redlich defines a "false guilty plea" as a plea of guilty by an innocent defendant. (Ex. 2, Dr. Redlich Report 7/9/24, p. 2).

occurred at trial versus false guilty plea (FGP) (Redlich et al., 2023). FGP cases were more than five times more likely to occur for a drug crime." (Ex. 2, p. 3.)

Dr. Redlich defines "extreme plea discounts" as the differentials in sentences received if an individual takes a plea versus being convicted at trial. (Ex. 2, p. 9.) With regard to "young age," Dr. Redlich states, "it is clear that younger persons are more susceptible to falsely pleading guilty than older ones (see Redlich et al., 2019)." (Ex. 2, p. 5.) With regard to "limited formal education," Dr. Redlich states that this factor may increase the risk of making a false guilty plea because "some defendants do not know the meaning of key terms and phrases used by the judge during the plea colloquy." (Ex. 2, p. 10-11.)

Finding that all five risk factors were present in William Carter's case, Dr. Redlich ultimately opines that "the circumstances known to me in this case were sufficient to induce an innocent person to enter guilty pleas for crimes he did not commit." (Ex. 2, p. 11.)

Dr. Redlich's opinions should be barred pursuant Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc*., 509 U.S. 579 (1993). Dr. Redlich's purported methodology is not scientifically reliable and her testimony will not assist the trier of fact to understand the evidence or to determine a fact in issue. Moreover, her opinions if followed, contradict what courts have determined to be valid pleas. If Dr. Redlich is allowed to testify, she should be barred from discussing irrelevant topics unconnected to her opinions, and opinions given without foundation.

LEGAL STANDARD

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

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 understand the evidence or to determine a fact in issue." *EEOC v. AutoZone, Inc.*, 2022 WL 4596755, *13 (N.D. Ill. Sept. 30, 2022). 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).

ARGUMENT

I. Dr. Redlich's purported methodology is not scientifically reliable and will not assist the trier of fact.

A. Dr. Redlich's population-based research is not reliable.

Dr. Redlich's research in this matter is population based. Population-based research, by its nature, looks for trends and commonalities across large groups of people. Dr. Redlich testified,

"[I] wasn't looking at individual cases, but rather aggregated cases," (Ex. 3, Deposition of Dr. Redlich, p. 18:22-19:4) and "what my research study has found in the aggregate when we look at all of these cases, that's why I can talk about the factors that are common to false guilty plea cases…" (*Id*. at 25:1-10.) While there is nothing inherently wrong with population-based research, such research does not produce data fit to use in deciding whether a particular individual's guilty plea was true or false. Population studies are inherently limited in their ability to say something useful about any specific individual due to their focus on large group generalizations and lack of attention to individual defendants' differences and contexts; which adversely affects the reliability of findings in any specific individual's case.

While Dr. Redlich's population studies highlight factors present in false guilty pleas, her studies fail to equally consider cases where individuals with the same risk factors pleaded guilty truthfully. When asked "[W]hat are the factors common to true guilty pleas?" Dr. Relich responded "*many* of the same factors that are common to false guilty pleas."[3] (Ex. 3, p. 54:11-14.) Therefore, Dr. Redlich's research does not inform us as to whether Mr. Carter made true or false guilty pleas in this case.

Dr. Redlich uses general findings and data from her research to specifically conclude that Mr. Carter may have given false guilty pleas. Yet plea decisions are deeply personal and can be influenced by a myriad of unique factors not captured in broad data sets obtained by population research. Population based research pays no attention to an individual's particular set of circumstances or motivations, including Mr. Carter's.

In addition, Dr. Redlich chose as her research group only individuals who are listed in the National Registry of Exonerations. (Ex. 3, p. 22:18-23:7.) Dr. Redlich admits that said group is

[3] Dr. Redlich testified to the same in *Baker/Glenn v. City of Chicago et al.*, 16-cv-8440, ECF No. 302, p. 7, and in *Leonard Gipson v. City of Chicago et al.,* 18-cv-5120, ECF No. 165, p. 5.

not the entire universe of all wrongful convictions. *Id*. Dr. Redlich chose her research subjects from a carefully selected, and therefore biased, population of individuals who have had their convictions vacated. Defendants make this point to underscore that there are numerous reasons why courts vacate convictions, such as newly discovered DNA evidence, but courts do not vacate convictions based upon the presence or absence of Dr. Redlich's identified risk factors in this case.

Dr. Redlich's population-based research does not provide the scientific support for her opinion that certain risk factors explain a particular individual's (i.e., Mr. Carter's) rationale for entering a false guilty plea. To make false guilty plea research useful in individual criminal cases, the research would study individual defendants who have pled guilty to a particular crime and identify defendants' actual motivations for pleading guilty, which in turn would identify potential risk factors. Then armed with that knowledge, one would test if the presence of certain risk factors allows identification of either the truthfulness or falseness of guilty pleas. Dr. Redlich's population-based research in this case is not reliable, and she must be barred from testifying pursuant to Rule 702 and *Daubert*.

B. Dr. Redlich's methodology lacks the ability to distinguish true from false guilty pleas.

Dr. Redlich's research into risk factors for false guilty pleas does not provide a methodology that reliably distinguishes between true and false pleas. Dr. Redlich has identified risk factors that are present in virtually all plea situations. This does not aid the jury in forming an understanding of why innocent people may plead guilty.

Dr. Redlich's so-called risk factors are, in reality, universal incentives and elements of the plea-bargaining process. They are incentives or pressures inherent to the plea bargain process itself, not diagnostic tools for falsehood. Dr. Redlich's research does not offer a scientific basis for identifying false guilty pleas.

Dr. Redlich's conclusions are based on flawed logic. For example, all criminal defendants, whether they plead guilty truthfully or falsely, face the reality of criminal charges. Therefore, according to Dr. Relich's logic, being charged with a crime could somehow be considered a risk factor for a false guilty plea. Moreover, factors like extreme plea discounts and limited formal education, are common to both true and false pleas, making them neither predictive nor explanatory of a particular individual's plea. This universal applicability renders the term "risk factor" scientifically meaningless in explaining any individual plea and its veracity.

Dr. Redlich offers no evidence that her identified risk factors, increase an individual's susceptibility to plea falsely. Her research might show said factors are present in cases of false pleas, but there is no evidence said factors are significantly more prevalent in false pleas than in true pleas. Dr. Redlich's methodology does not provide a reliable causal link between her identifiable risk factors, and the falsity of a plea.

Dr. Redlich testified that the only way to establish if a plea was true or false is whether the defendant is in fact innocent or guilty. (Ex. 3, p. 56:2-13) ("[W]ell, as I said last time, one of the key factors is that the person is innocent.")[4] But this standard is tantamount to no standard at all, as the only way to establish guilt or innocence in our legal system is through plea bargaining or trial. Dr. Redlich's proposed testimony that certain risk factors offer an explanation as to why Mr. Carter pled guilty, would mislead the jury into believing that there is a scientific basis for identifying false pleas.

Dr. Redlich's research does not show that individuals who truthfully plead guilty do not have the same risk factors; in fact, they do. Every risk factor Dr. Redlich identifies can exist in each and every case in which a plea deal is offered to a criminal defendant. Dr. Redlich agrees

[4] Dr. Redlich testified to the same in *Baker/Glenn v. City of Chicago et al.*, 16-cv-8440, ECF No. 302, p. 8, and in *Leonard Gipson v. City of Chicago et al.,* 18-cv-5120, ECF No. 165, p. 7.

with this proposition when she wrote in her report, "[F]or the most part, pleas are attractive because they do often reduce the charges, the time in jail or prison, and potentially other consequences...." (Ex. 2, p. 4.)

To be clear, Defendants agree that false guilty pleas do exist and that there are potential risk factors specific to false guilty pleas, like mental illness. However, what Dr. Redlich deems as risk factors, are merely a reality of being a defendant in a criminal courtroom. Dr. Redlich's methodology does not offer a valid or reliable explanation as to Mr. Carter's rationale to enter guilty pleas in this case. Dr. Redlich must not be allowed to "merely jump to the conclusion without explanation." *Andersen v. City of Chicago*, 454 F. Supp. 3d 808, 817 (N.D. Ill. 2020) (excluding proffered expert's testimony for lack of reliability). Dr. Redlich must be barred from testifying pursuant to Rule 702 and *Daubert* because her purported methodology is not scientifically reliable and will not assist the trier of fact.

II. Dr. Redlich's opinions contradict what courts have determined to be valid pleas.

Courts have put in place standards and protections of what are considered knowing, intelligent, and voluntary pleas. Dr. Redlich improperly ignores these standards and protections. The Illinois Supreme Court has set the standard of what makes a plea voluntary. Illinois Supreme Court Rule 402 states in relevant part:

> (b) **Determining Whether the Plea is Voluntary**. The court shall not accept a plea of guilty without first determining that the plea is voluntary. If the tendered plea is the result of a plea agreement, the agreement shall be stated in open court. The court, by questioning the defendant personally in open court, shall confirm the terms of the plea agreement, or that there is no agreement, and shall determine whether any force or threats or any promises, apart from a plea agreement, were used to obtain the plea.

There is extensive case law interpreting what a voluntary plea means. Due process requires that a guilty plea be both knowing and voluntary, and a plea is "involuntary" if it is the product of

threats, improper promises, or other forms of wrongful coercion. *Brady v. United States*, 397 U.S. 742, 753 (1970). A fear that an illegally coerced confession would be admitted in a murder case does not invalidate a plea. *People v. Edwards*, 276 N.E.2d 308, 309–10 (Ill. 1971) ("[D]efendant's fear that his confession, which was allegedly obtained by illegal methods, would be admitted at trial 'is insufficient to invalidate his otherwise knowing and intelligent plea' which was entered after conferring with competent counsel."); *see also People v. Martinez*, 289 N.E.2d 76, 78 (1st Dist. 1972) ("[D]efendant's contention that he was coerced into entering a guilty plea because of his fear of the death penalty is not sufficient to invalidate his guilty plea."); *People v. Scott*, 274 N.E.2d 39, 40 (Ill. 1971) (same).

There is no evidence in the record that Mr. Carter was coerced, under duress, or suffering from mental illness at the time he pled guilty to the drug crimes for which he was convicted. Dr. Redlich does not offer a new, different, or better definition of what makes a plea voluntary. Instead, she states that certain risk factors may make a plea involuntary or false. However, what Dr. Redlich is really trying to tell the jury is: disregard what the law says that makes a plea voluntary; you should find that Mr. Carter's plea was involuntary or false, because certain risk factors were present.

Dr. Redlich's entire opinion in this matter is an improper attempt to argue for jury nullification. Jury nullification refers to a jury's knowing and deliberate rejection of the evidence or refusal to apply the law either because the jury wants to send a message about some social issue that is larger than the case itself, or because the result dictated by law is contrary to the jury's sense of justice, morality, or fairness.

Arguments that the law should be changed address themselves to the political process, not to a jury's consideration of a case under existing law. *Warshawsky, Opposing Jury Nullification:*

Law, Policy, and Prosecutorial Strategy, 85 Georgetown. L.J. 191 (1996). The United States Supreme Court has explicitly recognized that juries have no right to nullify. *See Standefer v. United States*, 447 U.S. 10, 22, 100 S.Ct. 1999 (1980). As such, evidence that is otherwise inadmissible does not become admissible in order to facilitate jury nullification. *U.S. v. Rosenthal*, 266 F.Supp.2d 1068, 1075 (N.D.Cal. 2003).

Dr. Redlich even admits that she is advocating for jury nullification, wherein she stated in her report:

> Guilty pleas are required to be made knowingly, intelligently, and voluntarily, and with a factual basis of guilt. As I have argued (Redlich, 2016), the methods currently used to assess these legal requirements—judicial colloquies in plea hearings, and written tender-of-plea forms—fall short and are often not valid or reliable indicators of whether the plea was in fact knowing, intelligent, and voluntary.

Exhibit 2, p. 2.

Furthermore, in accepting Mr. Carter's guilty pleas, Judge Ford specifically found that Mr. Carter understood the nature of the charges against him, understood the possible sentences he faced, understood the rights he was waiving, and found that his pleas were being made freely and voluntarily. There is no evidence that Judge Ford's findings were the subject of any direct appeal or challenged as part of his post-conviction proceedings either. As a result, even if Mr. Carter now attempts to argue, through Dr. Redlich, that his guilty pleas were not knowing and voluntary, the findings that he made a knowing and voluntary guilty plea by the criminal court remain binding upon him and cannot now be challenged. *See Wallace v. City of Chicago*, 472 F.Supp.2d 942, 948 (N.D.Ill.,2004) *aff'd on other grounds*, 440 F.3d 421 (7th Cir. 2006) (criminal defendant turned plaintiff is collaterally estopped from contesting pretrial rulings in criminal case even after conviction vacated if appeal did not challenge this pretrial ruling and it was not the basis for

vacating of conviction); *Thompson v. Mueller*, 976 F.Supp. 762 (N.D.Ill.1997)(same except acquittal).

It is dubious whether Mr. Carter should be allowed to testify to why he pled guilty. It is even more dubious to allow Dr. Redlich, a person cloaked with an air of authority, to comment on why she believes Mr. Carter pled guilty. Dr. Redlich must be barred from testifying because her opinions contradict what courts have determined to be valid pleas, and they are an improper attempt to argue for jury nullification.

III. If the Court finds that Dr. Redlich satisfies Fed. R. Evid. 702 and *Daubert*, the Court must limit her testimony.

If Dr. Redlich is allowed to testify, she should be barred from discussing irrelevant topics unconnected to her opinions, and opinions given without foundation. Federal Rule of Evidence 402 holds that irrelevant evidence is inadmissible, and Rule 403 provides that the court may exclude relevant evidence if its probative value is substantially outweighed by a danger of: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, and/or needlessly presenting cumulative evidence. Furthermore, expert opinions without foundation are inadmissible. *Downing v. Abbott Laboratories*, 48 F.4th 793, 809 (7th Cir. 2022).

In her report, Dr. Redlich discusses Mr. Carter being "one of 192 individuals identified by the National Registry of Exonerations as having been wrongly convicted as part of the Watts scandal. Thus far, approximately 230 convictions connected to Watts and his team of officers have been overturned and the persons issued Certificates of Innocence by the courts of Cook County, IL." (Ex. 2, p. 9.)

When asked what she was relying on for this information, Dr. Redlich replied that "she does not recall." (*Baker and Glenn v. City of Chicago et al,* 16-cv-8940, Dkt. 302-3, p. 146:22-

147:1.)[5] She also did not know what the circumstances were as to how individuals were granted certificates of innocence. (*Id.* at 138:2-9.) She sees her role in this case as "educating the jury about the risk factors that can lead to false guilty pleas and how they may or may not be present in [this case.]" (*Id.* at 183:16-184:1.)

All Plaintiffs in these coordinated proceedings, including Mr. Carter, are trying to admit through Dr. Redlich their spin on facts that would, by themselves, be inadmissible. None of this background information on the "Watts scandal" has anything to do with Dr. Redlich's opinions. She does not connect any of this supposed background information to any of her opinions. She admitted that her job is to "educate the jury about the risk factors of false guilty pleas." To the extent Dr. Redlich has any admissible expert opinions to give, opinions on the general Watts investigation are wholly outside the scope of her expertise.

Even if this background was part of the basis for any of Dr. Redlich's opinions, she should still not be allowed to testify to it because its prejudicial effect substantially outweighs its probative value. Fed. R. Evid. 403. Defendants would be unable to receive a fair trial if the jury hears that approximately 230 convictions were vacated and those convicted received certificates of innocence. The 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 Mr. Carter's case. *See* Federal Rule of Evidence 404(b) (barring evidence of other wrongs to prove propensity). Likewise, Dr. Redlich's improper conclusion that Watts and his officers framed innocent people is unduly prejudicial, because it is propensity evidence that goes to the ultimate factual issue in the case.

[5] By agreement of the parties, the depositions of Dr. Redlich taken after the *Baker/Glenn* case, 16-cv-8940, are to be focused on Dr. Redlich's new opinions given with regarding to each new Plaintiff (like William Carter). That being said, Dr. Redlich's reports for each new Plaintiff contain very similar language found in *Baker/Glenn* about the "Watts scandal." Dr. Redlich's reference to the "Watts scandal" was barred by Judge Valderama in *Baker/Glenn* (See Dkt. 382), and should be barred by this court for the same reasons.

Since these comments have no probative value and will cause extreme prejudice to the Defendants if the jury hears these "facts," Dr. Redlich should be barred from testifying about any alleged background information of the "Watts scandal."[6]

Just as Judge Valderrama found in *Baker and Glenn v. City of Chicago et al.*, 16-cv-8940, Dkt. 382, this Court must bar Dr. Redlich from testifying to Watts' allegedly framing innocent people, including the number of overturned convictions as part of the "Watts scandal." *Id.* at p. 23.

CONCLUSION

For the reasons stated above, Dr. Redlich should be barred from testifying in this matter. If the Court allows her to testify, it should bar her from testifying to topics unconnected to her opinions and opinions for which she lacks foundation.

Respectfully submitted,

By: /s/ *Jason Marx* .
Special Assistant Corporation Counsel
Attorney for all Defendant Officers except for Ridgell, Mohammed, and Watts

Andrew M. Hale
Amy A. Hijawi
William E. Bazarek
Anthony E. Zecchin
Kelly M. Olivier
Hannah Beswick-Hale
Jason M. Marx
Hale & Monico, LLC
53 W. Jackson Blvd., Suite 334
Chicago, IL 60604
(312) 341-9646

/s/ *Eric S. Palles* .
Special Assistant Corporation Counsel
Attorney for Defendant Kallatt Mohammed

Eric S. Palles
Sean M. Sullivan
Yelyzaveta (Lisa) Altukhova
Mohan Groble Scolaro, PC
55 W. Monroe, Suite 1600
Chicago, IL 60603
(312) 422-9999

/s/ *Brian P. Gainer* .
Special Assistant Corporation Counsel
Attorney for Defendant Ronald Watts

Brian P. Gainer

[6] Defendants will be filing a separate, more robust, motion *in limine* to bar any argument or testimony regarding the "Watts scandal." The purpose of this argument in this particular motion is establish that Dr. Redlich cannot testify to the "Watts scandal," as it is not relevant to her opinions and she has foundation to do so.

Monica Burkoth
Lisa M. McElroy
Johnson & Bell, Ltd.
33 W. Monroe Street, Suite 2700
Chicago, IL 60603
(312) 372-0770

/s/ *Daniel Noland* .
Special Assistant Corporation Counsel
Attorney for Defendant City of Chicago

Terrence M. Burns
Daniel Noland
Paul A. Michalik
Elizabeth A. Ekl
Katherine C. Morrison
Dhaviella N. Harris
Burns Noland LLP
311 S. Wacker Drive, Suite 5200
Chicago, IL 60606
(312) 982-0090

/s/ *Timothy P. Scahill* .
Special Assistant Corporation Counsel
Attorney for Defendant Calvin Ridgell

Timothy P. Scahill
Steven Borkan
Borkan & Scahill, Ltd.
Two First National Plaza
20 South Clark Street, Suite 1700
Chicago, Illinois 60603
(312) 580-1030

CERTIFICATE OF SERVICE

I, Jason Marx, an attorney, hereby certify that on December 13, 2024, I caused to be filed with the Clerk of the Court's CM/ECF system a copy of the forgoing Defendants' Motion to Bar Plaintiff's Proposed Expert Allison Redlich which simultaneously served copies on all counsel of record via electronic notification.

/s/ *Jason Marx*