



**SUPREME COURT OF TEXAS PERMANENT JUDICIAL
COMMISSION FOR CHILDREN, YOUTH AND FAMILIES**

**TRIAL SKILLS
TRAINING
Witness Summaries**

DEVELOPED BY THE
CHILDREN'S COMMISSION

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EXPERT WITNESS – TOXICOLOGY TEST RESULTS

Qualifications

- What is your education background?
 - Bachelor's in Biology
 - Master's in toxicology – specialization in biochemistry – UT Austin
 - PhD in forensic toxicology – U. Rochester
- What degrees, licenses, or certificates do you have?
 - Certified by the FTCB (Forensic Toxicologist Certification Board)
- What is your current occupation?
 - Lead lab technician for ExperTox Inc.
- How many years have you worked in the toxicology field?
 - About 10 years
- What is a hair strand analysis?
 - Because hair grows out of follicles in the skin, materials in the body are incorporated into the hair. Hair grows relatively slowly, so it takes several weeks for materials in the body to be reflected in the composition of the hair. The then affected hair grows above the scalp and remains unless they fall off. So it does not matter if you smoked, injected, snorted or orally used drugs, they will eventually reach the hair and remain in the hair. These tests can detect drugs that have been used at least 90 days before.
- What is a urinalysis?
 - Urinalysis is a way to test for drugs that have been used within the past 72 hours. Because the drugs are absorbed into the blood stream, they are then secreted through the waste system and are detectable through urine analysis, or urinalysis.
- Approximately how many of these kinds of drug tests have you administered and analyzed?
 - In my 10 years, I've administered and analyze hundreds of these tests. This is my job.

Basis for Opinion

- Have you administered any drug tests to Ms. Kathy Price? (Have any other employees of your laboratory administered drug tests to Ms. Price?)
 - Yes.
- Were you able to make a diagnosis or come to a conclusion about her drug use? (You do not need to describe the diagnosis at this time.)
 - Yes.
- What sources of information or evidence did you use to make the diagnosis?
 - She tested positive for marijuana use in the previous 90 days based on her hair follicles.
- Your Honor, I'd like to establish this witness as an expert for the record.

Business Records

- I am handing you three documents marked as Exhibit A. Do you recognize these documents?
 - Yes
- What are they? (Specifically, *whose* drug test records are they?)
 - These are Kathy Price's drug test results
- Is it regular and ordinary business practice to make and keep records of drug test results?
 - Yes, we create and keep these for every person that we test
- At your laboratory, who creates the records of the drug test results?
 - There are teams of two who create the records; the laboratory technician (we have five of them) and the laboratory assistant.
- Do they do so by entering the information into a computer system?
 - Yes
- For Ms. Price's three drug test records in particular, who entered the records into the computer system? (Does this person have knowledge of, and did he act in accordance with, the laboratory's regular practice for keeping records of drug test results?)
 - My laboratory assistant entered these into the records. I watched her do so because I reported the results of the test.
- When did this person create each of the three the records? (Was it immediately following analysis of Ms. Price's drug tests?)
 - Immediately following the analysis of Ms. Price's drug tests.
- Do each of these three print-outs match the original input into the computer records system?
 - Yes
- Your Honor, Plaintiff offers Exhibit A.

Description of Test Results

- When did Ms. Price complete her first hair strand analysis? (Was it on March 1, 2012?)
 - March 1, 2012
- How much time has passed between the beginning of the CPS case and this first hair strand analysis? (Had it been about two months?)
 - About two months
- According to the records in Exhibit A, what were the results of that drug test? (Did she test positive for marijuana? Can you describe the quantity?)
 - She tested positive for marijuana. Our systems test for metabolites, or byproducts of substances after they have run through a human system. Our system detects above 50 nanograms per ml of THC, which was present in her system.
- When did Ms. Price complete her second hair strand analysis? (Was it on May 2, 2012?)
 - May 2, 2012
- How much time had passed between the beginning of the CPS case and this second hair strand analysis? (Had it been about 4 months?)
 - About four months.

- Can you describe the results of the drug test for us? (Did she test positive for marijuana? Can you describe the quantity?)
 - That was also positive for marijuana.
- When did Ms. Price complete a urinalysis? (Was it on August 11, 2012?)
 - August 11, 2012.
- How much time had passed between the beginning of the CPS case and this urinalysis? (Had it been about 7 months?)
 - Seven months, approximately.
- Can you describe the results of this last drug test for us? (Did she test positive for marijuana?)
 - She again tested positive for marijuana.
- In your opinion, are the results of these three drug tests consistent with a parent who is participating in court-ordered drug rehab and NA/AA meetings?
 - Because the results came back as someone who had been using marijuana at least three times in a 9 month period during the time she is supposed to be drug free and in drug rehab treatment, I would say no.
- In your opinion, can a parent who consistently tests positive for marijuana provide a physically and emotionally safe home and environment for young children? Why not?
 - No. Marijuana is an addictive substance, and addictive substances have a way of taking a person's attention away from important matters. Having children takes a lot of work and a lot of attention, and creating a physically and emotionally safe home and environment for them takes a lot of work.

EXPERT WITNESS – GREAT CITY HOSPITAL ER DOCTOR

1) Ben Harris, DOB 10/31/98

- a. Severe asthma exacerbation:
 - i. no asthma medications since Spring of the prior year;
 - ii. no controller medication (for an asthmatic, this is potentially life threatening);
 - iii. had been to ER for asthma issues 3 times in the past few months;
 - iv. had been having symptoms for 3 days and not brought in earlier or given any medications;
 - v. despite being a known asthmatic, has been exposed to smoke in the home (also potentially life threatening).

- b. Neglect:
 - i. Extremely dirty—dirty teeth with foul-smelling breath; dirty face, hands, feet; uncut and dirty fingernails and toenails;
 - ii. Had not eaten for at least a day; was clinically dehydrated on exam.

2) Robert Price, DOB 5/10/03

- a. Neglect:
 - i. Extremely dirty—dirty teeth with foul-smelling breath; dirty face, hands, feet; uncut and dirty fingernails and toenails;
 - ii. Had not eaten since night before (“ketchup sandwiches” fixed by older brother); was clinically dehydrated on exam;
 - iii. Mother left he and older brother day prior to care for younger sister.

3) Rose Price, DOB 3/28/11

- a. Contusions (bruises):
 - i. Reddish purplish contusions to back and buttocks—protected areas and thus highly associated with abusive injury;
 - ii. Patterned bruises to buttocks consistent with slap mark—highly specific for abusive injury;
 - iii. Cannot date bruises specifically; generally, given the color appearance, most likely less than 7 days old;
 - iv. Skeletal survey (survey of the bones) performed and negative for fractures.

- b. Severe diaper dermatitis (rash):
 - i. Indicative of general neglect;
 - ii. “excoriations” mean that the rash was so severe that skin began to breakdown.

- c. Neglect:
 - i. Extremely dirty—vomit and old food on the child’s onesie and on the child’s face; dirty face, hands, feet; uncut and dirty fingernails and toenails;
 - ii. Had not eaten for at least a day; was clinically dehydrated on exam.

TERESA GREENBURG, CASEWORKER

DOB 07/01/1988

Education: BS social work December 2010

Employment: DFPS January 15, 2011 as a CVS worker

Hereinafter referred to as CW.

CW graduated from Great University with a bachelor's degree in social work During her college years she volunteered at "Big Sis and Li'l Bros." She worked part-time in a retail store. She did her internship at "The Kid's House."

Hired with department a year ago – 8 months in the field

6 weeks BSD training (approx. 240 hours in class, 80 hours in field training, 4 weeks in training with someone)

Maintains an independent workload of 15 cases a month

Never disciplined

Always supervisory review

Investigated approx. 100 cases of alleged neglect, 120 phab, 56 sxab

Attended all training offered after BSD, including participation with county wide multi-disciplinary team

She received the Harris-Price case from investigations February 7, 2012.

File Review:

CW attempted to familiarize herself with the file. She was able to locate the investigation notes from 2000. At that time MO said she would separate from FA. The notes indicated that the 2000 investigator was never able to contact Jason Harris but spoke to MO on three occasions. MO stated she intended to follow through with prosecution. Case was closed as MO appeared protective. After reviewing criminal history records Greenberg learned that the case against Jason Harris was never prosecuted.

CW found investigation report from 2002. The report listed RTB for neglectful supervision. Child Ben was present during a violent domestic violence assault on mom. CW was able to find

the PC affidavit related to the criminal case against Jason Harris. The affidavit by law enforcement indicated that Jason Harris had threatened to take child Ben away from his mother. A fight between the parents resulted in MO having a broken arm. CW reviewed the FBSS report. MO agreed to go to the local women's shelter where she received FV counseling. FBSS was closed after twelve months.

CW reviewed 2006 report where MO arrested for DWI (see removal affidavit for only available information).

CW reviewed 2010 report where MO was arrested for assault, finding of RTB for neglectful supervision. Case opened for FBSS when MO agreed to enter in-patient treatment. Reports from treatment facility indicate that while oldest child Ben might be developmentally delayed the child thrived while in the rehab facility with his mother. MO completed treatment and was discharged. FBSS closed November 2010.

CW attempted to speak with Bob Johnson investigative caseworker but learned that he has since left the department to join the foreign legion.

CW attended mediation.

CW has also spoken with: CASA, parents' attorneys, children's attorney, department's attorney and her supervisor.

She has never testified before in any setting.

KATHY PRICE, MOTHER

Aka: Kathy Ythak, Kathy Harris

DOB: 02/14/1981

Current Address: 123 Broadway, Great City, Texas 75000

Mother: Cathy Ythak

Father: Unknown

For purposes of the following Kathy Price will be referred to as MO

MO is the second oldest of seven children born to Cathy Ythak in Small City, Texas. MO's father is unknown but she had a step-father, Jim Jones who fathered four of her other siblings. Raised by mother, Mother moved her around, CPS investigated her mom. MO struggled in school.

Her mom used drugs and alcohol and eventually went to state jail for a possession charge when Kathy was 16, she raised herself after that. MO's step-dad disapproved of her. She was never really accepted by her extended family. Got in trouble as a juvenile, but never charged.

When MO left home, she moved in with her then boyfriend Elvis Preston. She moved back and forth from her mother's home and the Goode residence for three years. At one point she moved in with her older sister, Carol Hill. While living with Ms. Hill, MO completed her GED and found employment at Belle Taco. At age 17 MO left the Hill home stating that Ms. Hill had "too many rules."

MO moved in with Jason Harris in September of 1998. On October 31, 1998 MO gave birth to Ben, son of Jason Harris.

MO's relationship with Mr. Harris was very turbulent. He often physically and emotionally abused MO. She called the police several times to intervene. In June 2000 MO called the police but when they arrived she refused to cooperate with the investigation. In January 2002 a neighbor called the police after having heard Mr. Harris beating MO. When police arrived they placed Harris in custody but MO failed to provide a statement and no charges were filed. In August 2005 Jason Harris beat MO, breaking her arm and orbital bone. MO was in the hospital for five days. Jason Harris was convicted of Assault Family Violence and received probation as MO refused to appear in court.

During the time she lived with Jason Harris, MO worked part time for five months at Belle Taco. She provided child care for a neighbor's two year old daughter for three months until the family moved.

MO reports that Jason Harris never beat her unless he had been drinking. His drinking escalated and he began to use marijuana and cocaine on a regular basis. MO drank socially with Harris and experimented with smoking marijuana. MO and Harris divorced.

In May of 2003, MO moved in with Ernie Price and his extended family. MO and Price were married June 1, 2003. At the time of their marriage Mr. Price was employed by Overland Trucking. Robert Price was born 05/10/2003.

MO had numerous conflicts with her mother-in-law Anita Dashee. Ms. Dashee complained that MO failed to take proper care of her children, did not help with the cleaning and drank during the day. MO believed that Dashee was over-controlling and didn't want to be bothered by having another woman in her home.

MO was arrested for driving while intoxicated after being at a club with several of her friends. At the scene of the arrest MO became hysterical stating that she had forgotten Ben and Robert at the club. The children were found to be with father Ernie Price. After her conviction, MO was ordered into alcohol counseling. She never completed her counseling but stated that she was unable to attend due to transportation issues.

After her arrest, her relationship with Mr. Price deteriorated. She believed he was seeing other women. On March 1, 2010 she followed Ernie Price to Club Jealousy in Great City. She observed Mr. Price meeting with a woman. MO confronted the woman outside the club. The confrontation led to physical violence, the other woman received a black eye and a loosened tooth. MO was arrested and charged with misdemeanor assault. The victim failed to show up to the trial, MO received one year probation with the condition that she receive treatment and counseling. She entered into in-patient treatment with her sons. She successfully completed treatment and received special recognition as being "a star client."

MO and Ernie Price divorced in May of 2010. Rose moved back in with various family members. She moved in with her friend Patsy Smith (sister of Ryan Smith) in summer of 2010 but moved out after six weeks.

Rose was born 03/28/2011. After the birth of Rose, MO got a part-time job as at Burger Queen. The children stayed with a neighbor during that time. MO lived in apartment at 123 Broadway St. with her three children.

MO has said at various times: *I love my children. No one has ever been there for me, I've always been on my own. Reading and writing are too hard. I only drink socially. Some of the people I hang around smoke marijuana and I think I get it from their smoke. My kids mean*

everything to me. CPS has always had it out for me because of the way I was raised. I have had at least ten different caseworkers and they can't seem to get it together. I can take care of one child. You want Rose to go to those rich people, they aren't even her blood. A daughter belongs with her mother. The boys are tougher but my little Rose needs to be with her mother. I completed probation and did what they told me to do.

CONSUELA COUNSELOR, ABC FAMILY COUNSELING

Qualifications, Education:

- Board Certified in Adult Psychiatry
- 48 years old
- Graduated with a B.A. in Psychiatry in 1983, a M.D. in 1987, and completed her residency in adult psychiatry in 1991 at Upstate Medical University/ College of Health Professions
- Private practice for 15 years
- No malpractice history, no sanctions, no board actions
- Most of her clients are referred by the Department
- Most of her clients are mothers with substance abuse issues
- Sees approximately 50 clients over course of year,
- Wrote an article published on “emedicine.com” entitled “Staying Sober, Staying with your Kids: Going Through a CPS Removal and Achieving Reunification”
- Professional goal is to assist CPS Moms in staying clean and sober and to support their reunification with their children.

Opinions on Kathy Price’s Progress:

- Client appeared with a long-term substance abuse problem (alcohol and marijuana), which seemed fairly entrenched at the outset of therapy.
- Client also began therapy firmly in denial about her role in the children’s removal, assigning blame to the Department and their “dislike of her.”
- Client attended approximately 75% of her sessions. She missed the other sessions due to “transportation issues,” which occurred at the last minute. Client did not call ahead, so would simply “no show” and then arrive at the next session with this explanation.
- Client made good progress in her therapy sessions on substance abuse issues and gained insight into her motivations, parenting strengths and vulnerabilities.
- Therapist recommends reunification of the baby with client on a return and monitor basis, with intense in-home support, as long as Mom can find and maintain stable housing.