

# New Jersey Supreme Court Weighs In On The Admissibility Of Expert Testimony Of Child Sexual Abuse Accommodation Syndrome

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On July 31, 2018, in *State v. J.L.G.* (A-50-16) (078718) the New Jersey Supreme Court reversed over 25-years of precedent in holding that expert testimony of Child Sexual Abuse Accommodation Syndrome (CSAAS), in general, may no longer be admitted at criminal trials.

Child Sexual Abuse Accommodation Syndrome was developed by Roland Summit, M.D. in 1983 as a theory and model which could be used to help in understanding and accepting the ways in which many children react to sexual abuse. The syndrome classifies the most typical reactions of child sexual abuse victims, dividing them into five categories: 1) Secrecy; 2) Helplessness; 3) Entrapment and accommodation; 4) Delayed Disclosure; and 5) Retraction. The New Jersey Supreme Court adopted the use of the CSAAS theory through admissible expert testimony in *State v. J.Q.*, 130 N.J. 554 (1993).

In the instant case, Defendant, J.L.G. went to trial on multiple charges stemming from allegations of sexual abuse of his step-daughter which was carried out over a span of eighteen (18) months. During J.L.G.'s trial, the prosecutor introduced an expert who testified about CSAAS. The defendant filed a motion to bar the expert testimony, in which the trial court denied. The expert witness testified as to how CSAAS could help understand the victim's delay and failure to immediately report the abuse to an adult. The defendant was convicted on all counts. He subsequently appealed his conviction, challenging the admissibility of the CSAAS testimony. The Appellate Division affirmed the conviction as to the CSAAS testimony issue, and held "[t]he admissibility of CSAAS expert testimony is well settled" and noted that the trial court provided proper limiting instructions to the jury. The New Jersey Supreme Court granted Defendant's petition as to the expert testimony issue only. The matter was remanded to the trial court for a full hearing to test the principles underlying CSAAS and more specifically, whether the evidence still meets the reliability standard of N.J.R.E. 702. The Supreme Court retained jurisdiction.

On remand, the trial judge found that “the State failed to show general acceptance of CSAAS in the relevant scientific community and concluded that there was consensus only as to delayed disclosure.” Further, the trial court held that there was “great controversy within the scientific community” about “the tenets of CSAAS” and that CSAAS did not meet the standard for admissibility under N.J.R.E. 702.

In affirming the trial court’s remand decision, the Supreme Court discussed at length the evolving scientific discourse of the CSAAS theory as a whole since 1983. The Court ultimately held that, based on the evolution of studies and more critical and thorough scientific analysis of CSAAS, it is no longer possible to conclude that CSAAS has a sufficiently reliable basis in science to be the subject of expert testimony. The Court further explained that four of the five components of CSAAS were no longer viable or reliable. Accordingly, expert testimony about CSAAS in general, and its component behaviors, other than delayed disclosure, may no longer be admitted at criminal trials. Evidence about delayed disclosure can be presented only if it satisfies all parts of the applicable evidence rules. The Court also ordered the creation of new model jury charges for delayed disclosure.

This decision will certainly serve as a useful prospective guide to courts in determining issues of admissibility of expert testimony pursuant to N.J.R.E. 702.