Fifth Circuit Court of Appeal
State of Louisiana

No. 26-KA-60

STATE OF LOUISIANA

versus

JOSEPH ROSS

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 22-2176, DIVISION "K"
HONORABLE ELLEN SHIRER KOVACH, JUDGE PRESIDING

November 04, 2026

SUSAN M. CHEHARDY

CHIEF JUDGE

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Jude G. Gravois

AFFIRMED; REMANDED FOR MINUTE ENTRY CORRECTION

SMC
FHW
JGG

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MORGAN NAQUIN
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STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Andrea F. Long
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CHEHARDY, C.J.

Defendant-appellant, Joseph Ross, appeals his convictions and sentences for crimes involving a juvenile under the age of thirteen. For the reasons that follow, we affirm defendant's convictions and sentences. However, due to an error patent, we remand to the district court to correct the sentencing minute entry to designate count one as a crime of violence.

STATEMENT OF THE CASE

On September 8, 2022, the Jefferson Parish District Attorney filed a bill of information charging defendant with sexual battery upon a known juvenile, where the child was under the age of thirteen, in violation of La. R.S. 14:43.1 (count one); oral sexual battery upon a known juvenile, where the child was under the age of thirteen, in violation of La. R.S. 14:43.3 (count two); and indecent behavior with a juvenile under thirteen, in violation of La. R.S. 14:81 (count three). At the September 26, 2022 arraignment, defendant pled not guilty.[1]

On June 30, 2025, the State filed a Notice of Intent to Call Expert Witness. On August 7, 2025, defense counsel filed a "Demand for *Daubert*/*Foret*[2] Hearing Upon Proffered State Expert 'Dr.' Anne Delores Troy," as well as a Motion in Limine Prohibiting State Witness(es) from Expressing Opinions Regarding the Veracity of Complaints or Validity of Accusation. On August 11, 2025, before trial commenced, the judge stated that a *Daubert* hearing had been satisfied and that she would allow Dr. Troy to testify, after which defense counsel noted his objection. The trial judge also granted defendant's motion in limine, and trial began. On August 13, 2025, the jury found defendant guilty as charged on all counts.

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[1] On August 11, 2025, before jury selection began, the State amended the bill of information to correct the victim's date of birth on all counts from May 20, 2008 to May 29, 2008. Defendant re-tendered his plea of not guilty to the amended bill of information.

[2] *See Daubert v. Merrell Dow Pharmaceuticals, Inc*., 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993). *See also State v. Foret*, 628 So.2d 1116 (La. 1993).

Defense counsel filed a Motion for Post Verdict Judgment of Acquittal or Motion for a New Trial, a Motion for Downward Departure Pursuant to *Dorthey*,[3] a Motion to Reconsider Sentence, and a Notice of Intent to Take Appeal and Request for Appointment of Counsel. On September 18, 2025, the trial court heard arguments regarding the Motion for Post Verdict Judgment of Acquittal or Motion for a New Trial and denied the motions. Defendant waived the 24-hour sentencing delay. The trial judge denied the motion for downward departure and sentenced defendant to 25 years imprisonment at hard labor on each of counts one through three, without the benefit of parole, probation, or suspension of sentence. The court ordered the sentences to be served concurrently with one another and concurrently with any other sentence defendant was currently serving. Thereafter, the trial judge denied the motion to reconsider sentence. On September 22, 2025, the trial court granted defendant's motion for appeal.

On appeal, defendant challenges the trial court's failure to hold a *Daubert* hearing and its ruling permitting Dr. Anne Troy to testify.

FACTS

At trial, the jury heard live testimony from the victim, Z.W.; her mother, J.R.; and a number of other parties involved with the case.[4] The jury also watched the video of the victim's initial disclosure of the sexual abuse to a case manager in Nevada.

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[3] *State v. Dorthey*, 623 So.2d 1276 (La. 1993).

[4] The victim in this matter will be referred to by her initials, Z.W. In the interest of protecting crime victims who are minors as well as victims of sexual offenses, as set forth in La. R.S. 46:1844(W)(3), only the victim's initials will be used. *See State v. R.W.B*., 12-453 (La. 12/4/12), 105 So.3d 54. *See also* Uniform Rules of Court—Courts of Appeal, Rule 5-2. *Compare State v. E.J.M., III*, 12-774, 12-732 (La. App. 5 Cir. 5/23/13), 119 So.3d 648, 652 n.1 (stating that this Court has adopted a policy that its published work "will use only initials to identify the victim and any defendant or witness whose name can lead to the victim's identity (i.e., parent, sibling, or relative with the same last name as the victim.)"). We refer to Z.W.'s mother by her initials, J.R., due to allegations that she also was a victim of sexual abuse in the past. *See* La. R.S. 46:1844(W)(3).

Abby Easterday testified that she was a case manager for Washoe County Juvenile Services in Reno, Nevada. On November 5, 2021, she met with Z.W. and her mother, J.R. Earlier that week, J.R. called the juvenile services center to look for resources for Z.W. because she noticed a change in her behavior. During their discussion, Ms. Easterday asked Z.W. if she had ever been a victim of any sexual or physical abuse. Ms. Easterday explained that Z.W. nodded her head and stated that she had been sexually abused when she was approximately nine years old by her grandfather, defendant Joseph Ross, in Louisiana. Ms. Easterday asked J.R., Z.W.'s mother, if the abuse had ever been reported before, and she indicated that it had not. Ms. Easterday stated that J.R. indicated that she did not doubt the abuse occurred, because the "same thing" happened to her by defendant. Ms. Easterday testified that she was a mandatory reporter and informed J.R. that she needed to make the report regarding the sexual abuse allegations involving Z.W. in the jurisdiction where the abuse occurred. Ms. Easterday later confirmed that J.R. reported the allegations of sexual abuse in Jefferson Parish.

J.R. testified that defendant is her father, and that she and her siblings suffered sexual and mental abuse by defendant when they were young. J.R. stated that the sexual abuse started when she was approximately six or seven years old until she was approximately thirteen or fourteen.

J.R. testified regarding various incidents of sexual abuse by defendant, including defendant putting his mouth on her "private area" and forcing her to drive his car while sitting on his lap wearing only a big t-shirt. J.R. testified that on multiple occasions, defendant forced her and her sister to insert dildoes vaginally and anally and "wear them" throughout the night. She stated that defendant also forced her and her sister to perform oral sex on each other and on a friend.

J.R. detailed another occasion when her family lived in Baton Rouge, and she helped defendant at an abandoned house with air conditioning work when she

was approximately twelve or thirteen. She testified that defendant forced her to work in the attic with just a shirt on, and later to bathe and lie naked on a mattress. J.R. stated that she believed neighbors may have called the police because officers arrived at the abandoned house at that point. The authorities called her mother, and she went to the police station. J.R. stated that she could not recall any other details about the incident, but she recalled testifying in a courtroom in relation to the incident and being scared. She testified that she was instructed to suppress her experiences and was told that testifying was not good for the family dynamic.[5]

J.R. testified that when her family moved to Reno during Covid, Z.W. started acting out, ran away, and attempted to commit suicide. J.R. sought help at a juvenile center, and it was at this location that Z.W. disclosed that she was sexually abused. J.R. explained that Z.W. had not disclosed any details of the abuse to her previously, and that she never forced Z.W. to reveal those details because J.R. also was a victim of trauma, and she wanted her daughter to "speak her truth" when she was ready. J.R. testified that she allowed her parents to watch her children, even after being sexually abused by defendant, because she did not have any help. She testified that she trusted her mother, but she never allowed defendant to care for the children by himself.

The jury also heard from Z.W., who testified that her date of birth was May 29, 2008. She stated that when her family was living in Houma, Louisiana, she and her siblings would spend most weekends at their grandparents' house without their mother. She explained that she and her siblings would sleep in the extra room across from their grandparents' bedroom. Z.W. stated that her family moved to Reno when she was twelve years old, in 2020. She explained that she was not

[5] Officer Sherman Jackson testified that he investigated the sexual assault in 2004 involving J.R. and defendant. He stated that J.R. denied that defendant had done anything to her, and DNA results from the rape kit performed on her indicated that there was no evidence of a sexual assault.

happy to move, and she ran away twice, once to her boyfriend's house, and another time to her best friend's house where she remained for five days. She also cut her wrists with scissors. She explained that there was a lot going on, and she did not know how to handle her emotions. Z.W. testified that her mother took her to meet with Ms. Easterday, where she disclosed that defendant had sexually abused her. After the disclosure, she met with an interviewer at the Children's Advocacy Center (CAC) in Nevada.[6]

Z.W. testified that she was about seven or eight years old the first time defendant sexually abused her. She stated that she was lying down in her grandparents' bed with her siblings watching T.V. when defendant got in bed with them and told her to lie next to him. She complied, and defendant grabbed her hand, put it inside his pants, and made her touch his penis. Z.W. asked him what "that" was. She stated that defendant then pulled his penis from his boxers and showed it to her. He then continued to make her rub it. She stated that he put her on top of him, held her waist, and moved her on top of him. Z.W. stated that defendant then took her to the bathroom and said he needed to show her something. He locked the door, pulled his penis out of his boxers again, and told her to touch it. She complied. Z.W. testified that defendant told her to sit on the toilet and to pull down her underwear. He proceeded to perform oral sex on her by putting his mouth on her vagina. Z.W. stated that her grandmother came upstairs, knocked on the bathroom door, and asked defendant what he was doing. Defendant replied that he was just showing Z.W. something. Her grandmother left and went back downstairs. Z.W. testified that she could not recall how she left the bathroom.

Z.W. recalled another incident of sexual abuse that occurred at her grandparents' house. She testified that many family members were at the house for

[6] Z.W.'s CAC interview, which was admitted into evidence at trial, was largely consistent with her trial testimony regarding the abuse.

a football game, and defendant asked her to go upstairs and do a favor for him. She complied and went to his bedroom. Defendant told her to sit in the "spinning chair" next to his bed and to take her underwear and shorts off. She again complied. Z.W. testified that defendant sat on the side of the bed facing her and had her put her legs up. She explained that defendant grabbed lotion from the nightstand, put it on his hands, and rubbed her vagina with it. Z.W. stated that at one point, one of her uncles came up the stairs, and defendant told her to quickly put her clothes back on. She complied and sat on the chair. Her uncle came into the room and asked what was going on. Defendant stated that they were just having a conversation.

On another occasion, Z.W. stated that she and her siblings were sleeping in the same bed, and she woke up to her grandparents arguing. Z.W. heard defendant coming upstairs, and she pretended to be asleep at the end of the bed. She testified that defendant opened the door, put his hand underneath her shirt, and touched her "all over her chest." She explained that defendant kissed her neck and licked her ear. Z.W. testified that her siblings were all asleep while this occurred.

Detective Biana Robinson testified that she was a detective in the special victim's unit of the Jefferson Parish Sheriff's Office (JPSO). She became involved in the investigation when someone in another state made a report of sexual abuse involving Z.W. After Z.W. disclosed that defendant sexually abused her, Detective Robinson authored an arrest warrant for him. Defendant was arrested, and Detective Robinson met with him and read him his *Miranda*[7] rights, which he waived.

During his statement to Detective Robinson, defendant said he had no problems with any of his children or grandchildren. He explained that on one occasion, his daughter J.R. got upset at him for kissing her children goodnight, but

[7] *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

she still brought them around him. He admitted to being accused of a sex crime against J.R. in Baton Rouge, but he explained that J.R. stated that nothing happened. He denied ever sexually abusing Z.W.

Dr. Anne Troy was accepted as an expert in the field of child abuse and child abuse pediatrics. She testified that she did not examine Z.W. and was not familiar with the facts surrounding the allegations in this case. Dr. Troy explained that when a child came to the childcare center, a statement would be taken from the child regarding the abuse, and the child would undergo a physical examination.

Dr. Troy discussed various factors to be considered when determining whether a victim's disclosure was consistent with child sexual abuse. When determining a diagnosis, she would eliminate other hypotheses. For example, she may inquire whether a parent had mental illness or a history of trauma, and she would ask sensory questions about the abuse and inquire about possible coaching. Dr. Troy stated that the time between the abuse and the victim's disclosure of the abuse could depend on the identity of the perpetrator. She stated that in many cases, the perpetrator is known to the child. She testified that some reasons for delayed disclosures are naivety of the child or feelings of shame and guilt.

ISSUES PRESENTED FOR REVIEW

Defendant assigns two errors on appeal: (1) The trial court committed reversible error by allowing the State's expert nurse practitioner, Anne Troy, to give an expert opinion on how she determines the credibility of child sex victims and the veracity of their accusations, which improperly bolstered the complaining witness's testimony and violated defendant's right to a fair trial; and (2) The trial court failed to perform its gatekeeping role when it refused a *Daubert* hearing on the State's expert nurse practitioner, Anne Troy, which violated the Appellant's right to a fair trial by allowing the State to present a litany of unreliable and conclusory expert opinion evidence, which not only far exceeded the scope of the

expert's proficiency, but also violated the *Daubert* standards, disregarding well-established scientific methods and principles that ensure that expert opinions are reliable and grounded in sufficient facts and data.

DISCUSSION

Both of defendant's assignments of error involve the qualification of Dr. Troy as an expert witness and the subject matter of her expert testimony. As such, we first discuss the parties' pre-trial motions related to Dr. Troy's testimony. We then address defendant's second assignment of error before the first assignment of error.

On June 30, 2025, the State filed a Notice of Intent to Call Expert Witness, indicating the intent to call Dr. Troy as an expert in child abuse pediatrics. The State attached Dr. Troy's curriculum vitae and explained in its brief:

> Dr. Troy will testify regarding whether injuries are expected in children who are victims of sexual abuse. Dr. Troy will testify about normal behaviors associated with children and expected clinical observations of such behaviors. Dr. Troy will also testify regarding childhood development and how childhood experiences impact the types of children experiencing child sexual abuse. Dr. Troy will also testify regarding disclosures in child sex abuse cases, specifically the reasons why disclosures in child sex abuse cases are often delayed. Dr. Troy will testify regarding trauma bonding and how child sex abuse victims respond to trauma. Dr. Troy will testify to the grooming that occurs to children and adolescents by offenders.

On August 7, 2025, defendant filed a Demand for *Daubert/Foret* Hearing and a Motion in Limine. In the Demand, defendant argued that a *Daubert* hearing should be held before jury selection to address Dr. Troy's qualifications as an expert. Counsel for defendant stated that his "late recognition" of the need for a hearing was due to the State's "purposeful" designation of Dr. Troy as a "doctor" in its Notice of Intent to Call Expert Witness. He averred that upon further inquiry, he discovered Dr. Troy was a nurse practitioner and not a doctor. In the motion in limine, defense counsel asked the trial court to instruct Dr. Troy not to offer her

personal opinion regarding the validity or veracity of the victim's allegations against defendant.

On August 11, 2025, before jury selection began, the trial court heard arguments regarding defendant's motion in limine.[8] Defense counsel indicated that the State had provided neither an expert report from Dr. Troy nor any materials on which she relied when forming an opinion; thus, she could not be allowed to testify as an expert. Defense counsel further argued that Dr. Troy had no publications in any of the areas for which the State proposed to offer her as an expert, and that this was "expert by ambush." He contended that Dr. Troy was being called solely for the purpose of bolstering the validity of the victim's accusations.

The State responded that its "719 motion" outlined the topics Dr. Troy's testimony would cover. The State explained that Dr. Troy did not examine the victim in this case and that she would testify only as to general concepts related to delayed disclosures, trauma bonding, coaching, and how child predators operate. The State argued that La. C.Cr.P. art. 719 requires only notice, and many occasions arise in which experts have not generated a report but have testified consistently with the "719 notice." The State further stated that Dr. Troy would not testify to the ultimate matter of fact or whether the victim was being truthful. Instead, Dr. Troy would testify regarding concepts that may be difficult for a lay person to understand.

The trial court determined that the State had satisfied its obligations under La. C.Cr.P. art. 719, and stated, "I believe we've had a *Daubert* hearing now and I'm going to allow Dr. Anne Troy to testify." The trial court indicated that if Dr.

[8] The trial court expressed surprise that defense counsel waited until the morning of trial to take issue with the State's expert. Defense counsel replied that he was deceived by the title of "doctor" accompanied by "Children's Hospital," and that the State purposefully designated her that way.

Troy testified to irrelevant subject matter or issues that did not apply to this case, defense counsel could object at that time.

Defense counsel also referenced *C.M.J. v. L.M.C*, 14-1119 (La. 10/15/14), 156 So.3d 16, 26, a Louisiana Supreme Court case in which the Court stated that Dr. Troy's testimony lacked so much credibility, it would not be considered. The trial court responded that Dr. Troy had testified in her division before and that she was aware of *C.M.J*. Defense counsel objected to the trial court's ruling regarding the *Daubert* hearing. Thereafter, the court granted defense counsel's motion in limine, explaining that Dr. Troy would not be permitted to offer her personal or professional opinion regarding the validity or credibility of the victim's allegations.[9]

Dr. Troy's Trial Testimony

At trial, after extensive direct examination of Dr. Troy and cross-examination by defense counsel regarding her qualifications, the trial court accepted Dr. Troy as an expert in the field of child abuse and child abuse pediatrics. Defense counsel objected. The State asked:

> Q: So Dr. Troy, to be clear, did you examine the victim in this case?
>
> A: No, I did not.
>
> Q: Okay. Are you familiar with the facts surrounding the allegations in this case?
>
> A: No, I can't speak to them at all.
>
> Q: All right. So let's talk about just in generalities[.]

Dr. Troy proceeded to discuss the process of what occurs when a child comes to the CAC and the value of taking a medical history of a child. She testified that she had seen thousands of children in her career and discussed what she would

[9] Defendant argued in the Motion for Post Verdict Judgment of Acquittal or Motion for New Trial that the trial court failed to conduct a *Daubert* hearing. The trial court denied both post-verdict motions. Defendant does not challenge these rulings on appeal.

expect to find in a physical examination. The record reflects that the State indicated it would not ask about the veracity of the victim in this case, because Dr. Troy never interviewed this victim. Defense counsel renewed his objection.

Dr. Troy discussed various factors she considers when determining the veracity of a victim's allegations. She also testified in general regarding coaching, the timing of a victim's disclosures, and the reasons for a victim's delayed disclosure. She discussed potential inconsistencies in a child's account of abuse, recollection of dates of abuse, blended memory, and responses to trauma. She also explained how sexual offenders operated with regard to children and discussed grooming.

Denial of Daubert Hearing (Second Assignment of Error)

Defendant argues on appeal that the trial court erred by "rubberstamping" Dr. Troy's expert testimony without regard for "even a cursory" *Daubert* inquiry. He contends the trial court failed to ask about several topics of expertise and whether they had been tested or subjected to peer review. Defendant also argues that the trial court failed to inquire into her experience and qualifications as to the topics set forth in the State's notice. Defendant again contends the trial court ignored *C.M.J. v. L.M.C.*, 14-1119 (La. 10/15/14), 156 So.3d 16, 26, a case in which the Louisiana Supreme Court gave Dr. Troy's interview methods no weight and stated that her opinion was flawed because it was not based on reliable evidence.

Defendant argues that the court's denial of a *Daubert* hearing prejudiced him by allowing Dr. Troy to present court-sanctioned expert testimony under an "aura of expertise." He argues that her opinions were riddled with conjecture and sweeping generalizations about how child predators operate and about grooming. Defendant contends that Dr. Troy's 48-page curriculum vitae does not mention child grooming, child predator behavior, or any other related topics. He asserts that

if the trial court had conducted a *Daubert* inquiry or performed its gatekeeping role, none of the testimony would have been permitted. He argues that, at the very least, the trial court could have issued a limiting instruction. Defendant argues that the failure to grant a *Daubert* hearing prejudiced him and violated his right to a fair trial.

The State responds that Louisiana courts have long accepted expert testimony in the field of forensic pediatrics and child abuse, and the jurisprudence reflects that courts have found no abuse of discretion where a trial court has declined to conduct a *Daubert* hearing before admitting expert testimony concerning child sexual abuse. The State avers that the *Daubert* factors are not necessarily applicable to every case or to all experts. The State points out that Dr. Troy's testimony outlined general behavioral characteristics of child sexual abuse victims, and her opinions were grounded in specialized knowledge, experience, training, and education. The State contends that it provided more than a sufficient foundation for admitting Dr. Troy's testimony without a *Daubert* hearing. Further, even if the trial court erred by not conducting a *Daubert* hearing, any error was harmless.

In *State v. Foret*, 628 So.2d 1116, 1123 (La. 1993), the Louisiana Supreme Court adopted the test set forth in *Daubert* regarding proper standards for the admissibility of expert testimony, which require the trial court to act in a gatekeeping function to ensure that any and all scientific testimony or evidence admitted is not only relevant, but reliable. *State v. Boudoin*, 11-967 (La. App. 5 Cir. 12/27/12), 106 So.3d 1213, 1225, *writ denied*, 13-255 (La. 8/30/13), 120 So.3d 260. The *Daubert* inquiry consists of four considerations: (1) whether the theory or technique can be and has been tested; (2) whether the theory or technique has been subjected to peer review and publication; (3) the known or potential rate of error;

and (4) whether the methodology is generally accepted by the relevant scientific community. *Id*.

The trial court may consider one or more of the four *Daubert* factors, but the list of factors neither necessarily nor exclusively applies to all experts or in every case. *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 141-42, 119 S.Ct. 1167, 1171, 143 L.Ed.2d 238 (1999). Rather, the law grants a district court "the same broad latitude when it decides how to determine reliability as it enjoys in respect to its ultimate reliability determination." *Id.* Competence of an expert witness is a question of fact to be determined within the sound discretion of the trial judge whose rulings on the qualifications of expert witnesses will not be disturbed absent an abuse of discretion. *State v. Augustus*, 25-296 (La. App. 5 Cir. 2/25/26), 432 So.3d 292, 317.

In *State v. Francois*, 13-616 (La. App. 5 Cir. 1/31/14), 134 So.3d 42, 59-60, *writ denied*, 14-431 (La. 9/26/14), 149 So.3d 261, this Court discussed the Louisiana Supreme Court's recognition of the limitation of the *Daubert* inquiry in *Cheairs v. State ex rel. Dep't of Transp. & Dev.*, 03-0680 (La. 12/3/03), 861 So.2d 536, 541-42:

> The *Cheairs* Court observed that *Daubert* only addresses the reliability of the methodology used by the expert, not the adequacy of the expert's qualifications. *Id*. at 542. Therefore, the court adopted a broader three-prong inquiry developed by the U.S. Eleventh Circuit "to more fully assist [trial] courts in determining all the relevant issues related to the admissibility of expert testimony[.]" *Id*. This three-prong inquiry was first set forth in *City of Tuscaloosa v. Harcros Chemicals, Inc.*, 158 F.3d 548 (11th Cir. 1998), in which the Court stated that the admission of expert testimony is proper only if all three of the following are true:
>
> (1) [T]he expert is qualified to testify competently regarding the matters he intends to address; (2) the methodology by which the expert reaches his conclusions is sufficiently reliable as determined by the sort of inquiry mandated in *Daubert*; and (3) the testimony assists the trier of fact, through the application of scientific, technical, or specialized expertise, to understand the evidence or to determine a fact in issue.

In *State v. Johnson*, 52,128 (La. App. 2 Cir. 8/15/18), 253 So.3d 887, 899, the Second Circuit noted "a crucial difference between questioning the methodology employed by an expert witness and questioning the application of that methodology or the ultimate conclusions derived from that application. Only a question of the validity of the methodology employed brings *Daubert* into play." The party demanding a pretrial *Daubert* hearing requesting the determination of the reliability of evidence must set forth sufficient allegations showing the necessity for such a determination. *Id.* The trial court, in its discretion, can determine on a case-by-case basis if a *Daubert* hearing is necessary to test the reliability of expert testimony. *State v. McQuarter*, 19-594 (La. App. 5 Cir. 11/25/20), 305 So.3d 1055, 1076.

In *State v. Perilloux*, 21-448 (La. App. 5 Cir. 12/20/23), 378 So.3d 280, 305, *writ denied*, 24-104 (La. 9/4/24), 391 So.3d 1055, the defendant argued that the trial court erred when it allowed expert testimony on the concept of grooming without first conducting a *Daubert* hearing to test its reliability. Before trial, the State filed a motion in limine asking the trial court to allow expert testimony to explain the general concept of grooming and delayed reporting/disclosure of abuse in child sexual abuse cases. *Id.* at 306. In response, the defendant filed a motion for a *Daubert* hearing seeking to limit the testimony of the State's expert, Kim Madden, claiming that testimony on this issue was unreliable. At the hearing, the State explained that it intended to introduce the expert testimony only as to the general concept of grooming and would not elicit any specific testimony analyzing the defendant's behavior in that case. The defendant contended the expert testimony was unnecessary because it involved common-sense issues that would not assist the jury. But the trial court determined that the expert testimony would assist the jury and found that a *Daubert* hearing was not necessary to test the reliability of the testimony, because Louisiana courts recognized the general

concept of grooming in child sex abuse matters. *Id.* at 307. The trial court granted the State's motion in limine to allow general expert testimony on grooming and denied the defendant's request for a *Daubert* hearing. *Id.*

On appeal in *Perilloux*, this Court explained that at trial, the defendant did not contest Ms. Madden's qualifications as an expert, question the reliability of her testimony with specificity, or explain why a *Daubert* hearing was necessary, especially when both experts had agreed to the relevancy of grooming in child sex abuse cases. The Court indicated that the concept of grooming was not a matter of common sense, and the expert's testimony was important to assist the jury. At trial, the defendant had an unlimited opportunity to question Ms. Madden regarding her methodologies and qualifications, but he did not elicit any information that would lead the trial court to question the reliability of her testimony on grooming. As such, this Court determined the trial court did not abuse its discretion in denying the defendant's request for a *Daubert* hearing and found Ms. Madden's testimony was relevant, reliable, and helpful to the jury in analyzing the evidence. *Id.*

Here, although the trial court indicated that a *Daubert* hearing occurred, defendant claims no such hearing occurred. Indeed, the record does not reflect that a *Daubert* hearing was held. Nevertheless, as in *Perilloux*, we find the trial court did not abuse its discretion by allowing Dr. Troy to testify without first conducting a *Daubert* hearing.[10]

[10] After stating that the *Daubert* hearing had been satisfied, the trial court explained that Dr. Troy previously had testified as an expert in her division. The court also indicated that it was aware of the Louisiana Supreme Court's ruling in *C.M.J.*, affirming a trial court's ruling that no weight should be given to Dr. Troy's testimony where Dr. Troy conducted a forensic interview of three children at the mother's request. *Id.* at 23. At trial in *C.M.J.*, Dr. Troy testified that she did not conduct a "forensic interview" of the children and only conducted "medical incident histories." *Id.* at 25. The court found that Dr. Troy's testimony was to be given no weight because evidence and testimony elicited at trial "established that the history given to [Dr. Troy] by the mother was inaccurate and the children's interviews were flawed and occurred long after the children were contaminated" in the case. *Id*. at 26. We find the context and circumstances in *C.M.J.* are readily distinguished from the present case.

Before the trial court accepted Dr. Troy as an expert in the field of child abuse and child abuse pediatrics, Dr. Troy testified as to her extensive education, knowledge, and research in the field of child abuse. She stated that she had been a nurse for fifty years and taught forensic nursing for seventeen years. She explained that she previously was a sexual assault nurse examiner and received training for 500 hours in the area of child maltreatment. Dr. Troy also testified that she had been qualified as an expert in the field of child maltreatment (including child physical abuse, sexual abuse, delayed disclosure, and neglect) over 180 times throughout Louisiana, Texas, Mississippi, and Virginia. Further, the record reflects that defense counsel had ample opportunity to cross-examine Dr. Troy before the trial court accepted her as an expert. However, during cross-examination, defense counsel did not question Dr. Troy as to her methodology or the reliability of her opinions, instead asking only if she was paid a fee to appear in court and if she had participated in this case.

Dr. Troy's testimony was also general in nature. She testified generally regarding various characteristics of a child sexual-abuse victim, but she did not present any case-specific opinions regarding Z.W.'s allegations involving defendant. Dr. Troy's general testimony regarding grooming, delayed disclosure, and coaching constituted scientific, technical, or other specialized knowledge that helped the trier of fact understand the evidence or determine a fact at issue. *See* La. C.E. art. 702; *Perilloux*, 378 So.3d 280. We cannot say the trial court erred in permitting Dr. Troy to testify at trial in this matter without first conducting a *Daubert* hearing.

Alternatively, even if the trial court erred in failing to conduct a *Daubert* hearing, we find the error was harmless. Z.W.'s accounts of sexual abuse by defendant were largely consistent. In the absence of internal contradiction or irreconcilable conflict with physical evidence, one witness's testimony, if believed

by the trier of fact, is sufficient for a conviction. *See State v. Banks*, 17-358 (La. App. 5 Cir. 3/14/18), 241 So.3d 1240, 1250, *writ denied*, 18-586 (La. 3/25/19), 267 So.3d 599, *cert. denied sub nom. Banks v. Louisiana*, 589 U.S. 978, 140 S.Ct. 268, 205 L.Ed.2d 140 (2019). At the conclusion of trial, the trial court instructed the jurors that they were the sole judges of the law and facts on the question of guilt and innocence, and they alone were to determine the weight and credibility of the evidence and testimony of any witness and expert witness. Despite defendant's arguments at trial regarding factual inconsistencies in K.W. and J.R.'s testimony, the jury evidently found Z.W.'s testimony credible.

Admission of Dr. Troy's Testimony (First Assignment of Error)

Defendant additionally argues that the trial court erred when it allowed Dr. Troy to testify regarding the veracity and credibility of a child sexual abuse victim. He avers that Dr. Troy's testimony bolstered Z.W.'s credibility and violated his right to a fair trial. Defendant argues that *Foret* applies while also acknowledging that Dr. Troy did not testify whether Z.W. was sexually abused. Defendant argues that the expert in *Foret* used the exact same language that the State used here when questioning Dr. Troy. Defendant contends that because Dr. Troy's testimony improperly bolstered Z.W.'s claims and violated his right to a fair trial, his convictions and sentences should be reversed.

The State responds that Dr. Troy's testimony fell well within the permissible scope of expert testimony in child sexual abuse cases, and claims that defendant ignores the context of Dr. Troy's testimony. The State also distinguishes the cases that defendant cites, again noting that Dr. Troy provided only general testimony regarding certain characteristics associated with child sexual abuse victims; she did not provide an assessment as to Z.W.'s credibility or determine whether she had been sexually abused.

Admission of expert testimony is controlled by La. C.E. art. 702(A), which states:

> A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not that:
>
> (1) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
> (2) The testimony is based on sufficient facts or data;
> (3) The testimony is the product of reliable principles and methods; and
> (4) The expert's opinion reflects a reliable application of the principles and methods to the facts of the case.

Furthermore, La. C.E. art. 704 states, in pertinent part, that "in a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused." The trial court is vested with broad discretion in determining the scope of expert testimony. *State v. Lasalle*, 22-577 (La. App. 5 Cir. 8/18/23), 370 So.3d 521, 529. The trial court's decision to admit or exclude expert testimony is subject to the "abuse of discretion" standard. *State v. Au*, 23-90 (La. App. 5 Cir. 12/20/23), 378 So.3d 265, 275.

Expert testimony relating to delayed disclosure in cases involving child abuse is generally considered valid and admissible. *See Au*, 378 So.3d at 276. In *State v. Tipton*, 21-1478 (La. 10/16/21), 326 So.3d 243, 243, the Louisiana Supreme Court stated:

> In a prosecution for sexual offense(s) committed against a child, expert testimony of general characteristics that would explain delays in reporting, inconsistent reports, omissions of details, reluctance to testify, demeanor, and recantations is generally admissible provided that it meets the requirements of the Code of Evidence and does not invade the jury's province of determining credibility or otherwise violate the prohibitions contained in *State v. Foret*, 628 So.2d 1116 (La. 1993); *State v. Chauvin*, 2002-1188 (La. 5/20/03), 846 So.2d 697.

Additionally, Louisiana courts have long accepted expert opinion in the field of forensic pediatrics and child abuse. *State v. Greene*, 06-667 (La. App. 5 Cir.

1/30/07), 951 So.2d 1226, 1238, *writ denied*, 07-546 (La. 10/26/07), 966 So.2d 571. The First Circuit has found that "consistent with" testimony is permissible at trials regarding sexual abuse claims. *See State v. Pagano*, 20-1073 (La. App. 1 Cir. 10/4/21), 330 So.3d 1093, 1106, *writ denied*, 21-1609 (La. 1/19/22), 331 So.3d 326.

Defendant cites *Foret*, *supra*, *Chauvin*, *supra*, and *State v. Cloudie*, 25-471 (La. 3/6/26), 429 So.3d 169, in support of his argument that the trial court erred in permitting Dr. Troy to testify. We discuss each of these cases in turn.

In *Foret*, the defendant was charged with molestation of a juvenile. 628 So.2d at 1117. At trial, the State presented testimony from Dr. William Janzen, Ph.D., who was qualified as an expert in the field of psychology with expertise in child sexual abuse. Dr. Janzen testified that he interviewed the victim on three separate occasions and concluded, in his expert opinion, that she was telling the truth about being the victim of sexual abuse. *Id.* at 1119. As the basis for this opinion, Dr. Janzen relied upon factors present in Child Sexual Abuse Accommodation Syndrome ("CSAAS"). Dr. Janzen described specific details of the allegations made by the victim and, with the court's permission, named the defendant as the person whom the victim identified as her abuser. Dr. Janzen stated: "The details that [the victim] gave me are consistent with the dynamics of sexual abuse and so my conclusion would, therefore, be that she has been sexually abused and should be in counseling to help her cope with that." *Id.* at 1120. But the Louisiana Supreme Court found Dr. Janzen's CSAAS-based testimony to be of "highly questionable scientific validity" and failed to unequivocally pass the *Daubert* threshold test of scientific reliability. *Id.* at 1127. The Court further determined that the use of CSAAS-based testimony for the purpose of bolstering a witness's credibility created a risk of prejudice that outweighed the evidence's

questionable probative value, and thus, such opinion testimony as a determinant of the victim's credibility was not admissible. *Id.* at 1128-29.

In *State v. Chauvin*, 02-1188 (La. 5/20/03), 846 So.2d 697, the Louisiana Supreme Court addressed the admissibility of expert testimony concerning post-traumatic stress disorder (PTSD) of a sexual-abuse victim given by a licensed clinical social worker. The Court determined that the State introduced the expert testimony regarding the PTSD diagnosis for the purpose of substantively proving that sexual abuse occurred, and the State did not attempt to limit this testimony to explain delayed reporting, which could be construed as inconsistent with having been sexually abused. *Id.* at 708-09. The Court held that the evidence of the victim's PTSD diagnosis was admissible only for the limited purpose of explaining, in general terms, certain reactions of a child to abuse that would be used to attack the victim/witness's credibility, but PTSD evidence is not admissible as substantive proof of sexual abuse. In the present case, the jury was made aware that Dr. Troy had not examined Z.W., and Dr. Troy never testified regarding the specific facts of this matter.

In *State v. Cloudie*, 25-471 (La. 3/6/26), 429 So.3d 169, the Louisiana Supreme Court found that the expert witness's testimony in diagnosing the victim with "child sexual abuse" was not properly admitted because it would not help the trier of fact understand the evidence or determine the fact at issue, and it was not based on sufficient facts and data. Again, Dr. Troy did not testify that Z.W. was diagnosed with "child sexual abuse." Rather, she testified as to certain general characteristics that may be found among victims of juvenile sexual abuse.

We find this case more akin to *State v. Hampton*, 13-580 (La. App. 4 Cir. 2/19/14), 136 So.3d 240, 245. In *Hampton*, the defendant contended that the trial judge erred in overruling defendant's objection to the opinion testimony of Dr. Jamie Jackson. The Fourth Circuit applied the directives issued in *Foret* to

conclude that the trial judge did not abuse her discretion when permitting Dr. Jackson to testify as an expert regarding delayed disclosure in child abuse cases. The Court found that Dr. Jackson's responses to questions from the prosecutor did not deviate from the limits established by *Foret*, as she presented her opinion only relative to general characteristics related to delayed reporting of sexual abuse; she never expressed an opinion about the victim's credibility. Given Dr. Jackson's training and experience in treating children who were victims of child abuse, the Court found it would not have been beyond her expertise to explain the basis of delayed disclosure. *Id*. at 247-48. *See also State v. Dagoberto*, 25-277 (La. App. 4 Cir. 5/26/26), 2026 WL 1469214, at **5-7 (finding that trial court's admission of expert's testimony, which reflected a medical assessment based on the history obtained during the evaluation, together with the clinical context in which such assessments are made, fell within the category of expert evidence recognized as permissible in *Foret*, and even if the evidence were impermissible, its admission was harmless error in light of the substantial evidence presented at trial).

In short, Dr. Troy did not testify directly regarding Z.W.'s credibility. Dr. Troy confirmed that she did not examine Z.W. and that she was not familiar with the facts surrounding the allegations in the case. Instead, Dr. Troy testified generally regarding factors she would consider when attempting to determine the veracity of a victim's allegations—coaching, timing of disclosures, reasons for delayed disclosures, blended memory, responses to trauma, and grooming—permissible testimony according to the applicable jurisprudence. *See*, *e.g.*, *Hampton*, *supra*; *Dagoberto*, *supra.* Given the clearly established limitations imposed on Dr. Troy's testimony, the trial court did not abuse its discretion when it allowed Dr. Troy to testimony at trial. Defendant's assignments of error lack merit.

ERRORS PATENT REVIEW

We reviewed the record for errors patent according to La. C.Cr.P. art. 920; *State v. Oliveaux*, 312 So.2d 337 (La. 1975); and *State v. Weiland*, 556 So.2d 175 (La. App. 5 Cir. 1990). The sentencing minute entry failed to designate defendant's conviction on count one (sexual battery upon a juvenile under thirteen) as a crime of violence. Article 890.3(C) of the Louisiana Code of Criminal Procedure provides that certain crimes "shall always be designated by the court in the minute entry as crimes of violence," including "(8) sexual battery." Accordingly, this conviction must be designated as a crime of violence in the sentencing minute entry. We remand the matter to correct the sentencing minute entry to designate count one as a crime of violence. *See State v. Le*, 22-468 (La. App. 5 Cir. 8/9/23), 370 So.3d 162, 177, *writ denied*, 23-1230 (La. 2/6/24), 378 So.3d 752.

CONCLUSION

Defendant's convictions and sentences are affirmed. The matter is remanded to the district court to correct the sentencing minute entry to designate count one as a crime of violence.

AFFIRMED; REMANDED FOR MINUTE ENTRY CORRECTION

SUSAN M. CHEHARDY
CHIEF JUDGE

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **NOVEMBER 4, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

26-KA-60

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE ELLEN SHIRER KOVACH (DISTRICT JUDGE)
SUSAN C. CIARAVELLA (APPELLANT)
REMY V. STARNS (APPELLANT)
ANDREA F. LONG (APPELLEE)
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MAILED
NO ATTORNEYS WERE MAILED