

Docket No. 18-1002

United States Court of Appeals
For the Seventh Circuit

United States of America,

Plaintiff-Appellee,

v.

Jaboree Williams,

Defendant-Appellant.

Appeal from a judgment of conviction entered in the United States District
Court for the Eastern District of Wisconsin, the Hon. J.P. Stadtmueller,
presiding
District Court No. 16-CR-111

Brief and Short Appendix of the Appellant, Jaboree Williams

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Appellate Court No. **18-1002**

Short Caption: **United States v. Jaboree Williams**

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Attorney's Signature: /s/ **Jeffrey W. Jensen**

Date: **February 5, 2018**

Attorney's Printed Name: **Jeffrey W. Jensen**

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **X** Yes
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Jurisdictional Statement

A. The Court of Appeals has jurisdiction of this matter because it is an appeal from a criminal conviction in the United States District Court (ED-Wis). *See*, 28 USCS § 1291. The District Court has jurisdiction because an indictment was returned alleging a violation of 18 U.S.C. § 1591(a)(1), and others, and the defendant was convicted following a jury trial.

B. The judgment of conviction was entered on December 20, 2017. Williams filed a notice of appeal on January 2, 2018; and, therefore, the appeal is timely.

C. There have been no motions that have tolled the time limits

D. The appeal is from a final judgment of conviction in a criminal case and, therefore, the appeal is from a final judgment that disposes of all parties' claims.

E. This Court has jurisdiction under 28 U.S.C. § 1291.

Statement of the Issues Presented for Review

I. Whether the district court abused its discretion in permitting the government's expert witness to testify where: (1) the notice of expert testimony was defective because it did not give a summary of the expert's testimony; and, (2) the expert's testimony was not helpful to the jury because it touched only matters of common knowledge and it amounted to evidence of a group character trait.

Answered by the district court: No.

Statement of the Case

The defendant-appellant, Jaboree Williams (hereinafter "Williams"), was named in an indictment filed in the District Court (ED-Wis.) on July 12, 2016 (Doc. 21). Williams was charged with nine felony counts involving the alleged sex trafficking of three women, distributing controlled substances, and obstruction of justice. All counts were alleged to have been committed in the Eastern District of Wisconsin.

Williams entered not guilty pleas to all of the counts. (Doc. 22)

Thereafter, on December 13, 2016, the government filed a superseding indictment. (Doc. 62) The effect of the superseding indictment was to add additional sex trafficking counts regarding a fourth woman, and also a number of witness intimidation and contempt of court counts. There were now a total of nineteen counts.

Again, Williams entered not guilty pleas to all counts in the superseding indictment. (Doc. 66)

On April 4, 2017, the government filed a second superseding indictment. (Doc. 95) Counts one through nineteen were the same as in the superseding indictment; however, the second superseding indictment added count twenty, which alleged witness intimidation as to witness L.E.; and count twenty-one, which alleged extortion involving yet another woman, O.L. (Doc. 95)

As before, Williams entered not guilty pleas to all charges.

Several days later, on April 7, 2017, the government filed an Expert Witness Disclosure (Doc. 102). In the notice, the government proposed to present the expert testimony of Amy Mentzel, who, according to the notice, is an expert in human trafficking, and, “Special Agent Mentzel will testify at trial about how pimps work in the prostitution game; the types of interactions and relationships pimps can have among each other; the different levels of the prostitution business; the methods pimps and those they prostitute use to advertise their services . . . “ and so on. (Doc. 102-3)

Williams filed a motion seeking to exclude the government’s proffered expert testimony on the grounds that the notice did not conform to Rule 16(a)(1)(g), FRCrim.P. because it did not contain a summary of the witness’s testimony; and, also, because the proffered testimony is not proper under Rule 702, FRE. (Doc. 105)¹ The court declined to set a separate hearing; instead, the judge indicated that the motion would be resolved during the trial.

The matter proceeded to jury trial beginning on August 28, 2017.

Susan Heller met Williams in 2011 or 2012. (Doc. 169-230)

¹ The court withheld ruling on this objection, opting to wait until the expert was called at trial to make a ruling.

According to Heller, Williams was a gentleman and very charming. (Doc. 169-231) Their relationship turned romantic, and, eventually, in October, 2014, Williams moved in with Heller in her home in Milwaukee. (Doc. 169-233) According to Heller, their relationship was like husband and wife.

Solei was a young woman who was down on her luck. She testified that she met Williams in late 2014 (Doc. 169-155), and he offered to help her. According to Solei, this meant prostitution. *Id.* Williams at first treated her well, but, in time, he began to scream at her. (Doc. 169-156) At one point, in January, 2015, Williams took Solei to Heller's house and beat her with a belt because, he said, she was not making enough money. (Doc. 169-166) Heller heard the beating. (Doc. 169-237, 238)

Alexandra testified that she reconnected with Williams in January, 2015². (Doc. 168-14) Alexandra explained that things were not good at home for her in Oshkosh, and she was about to go on the run. (Doc. 168-15) She explained that this meant that she was on probation, and she was planning to abscond. (Doc. 168-86) Contrary to her rules of supervision, Alexandra traveled to Milwaukee to party, and this is how she encountered Williams. (Doc. 168-88) According to Alexandra, Williams offered to "take care of her", and she agreed. (Doc. 168-16) She knew that this meant prostitution. (Doc. 168-90) Alexandra said that Williams made no threats in order to get her to agree to let him "take care of her" (i.e. engage in prostitution). (Doc. 168-91)

At the time Williams reconnected with Alexandra in January, 2015, Solei was with him. (Doc. 168-17) According to Alexandra, when Williams

² Alexandra knew Williams, but she had not seen him for a while

was briefly not present, Solei rolled up her pant leg and displayed severe bruises on the back of her thighs. (Doc. 168-18; 169-169) Solei told Alexandra that Williams had done this to her, and that he was a “very bad man.” (Doc. 168-19)

That night, though, Alexandra, Solei, and Williams traveled to Waukegan, Illinois, and spent approximately a week there engaging in prostitution. (Doc. 168-39, 91, 94) Alexandra said that Williams drove the car from Milwaukee to Waukegan. *Id.* She also said that, once in Waukegan, Williams did nothing to force her to engage in prostitution. (Doc. 168-95)

According to Alexandra, Williams at first treated her very well. (Doc. 168-22) He posted her on “Backpage”, a website frequently used for prostitution, and he gave her certain rules about how to behave with the customers. (Doc. 168-23) One rule was that Alexandra was supposed to get the cash from the customer before anything happened, and that she was supposed to then give it to him (Williams) *Id.* Alexandra claimed that if she did not give the cash to Williams, he would become violent. *Id.* For example, Alexandra claimed that on two occasions Williams choked her to the point that she nearly blacked out. (Doc. 168-30) Alexandra also told the jury that she was addicted to pain pills, and, unless she did what Williams told her to do, he would withhold pills from her, and she would get sick. (Doc. 168-34) Additionally, he allowed Alexandra to have a dog, but then was, at times, mean to the dog, and he kept it from her. *Id.*

On another occasion Williams also drove the group to Atlanta, Georgia. (Doc. 168-42)

There was also a trip to Indianapolis, Indiana. (Doc. 168-42) Alexandra told the jury that on this trip she hid some cash in her vagina, and another girl, Elida, told Williams about it. (Doc. 169-316) Williams took Alexandra into the bathroom and “stomped” her in the bathtub and made her bleed. *Id.* (Doc. 169-317)

Solei testified that on this same Indianapolis trip Williams also punched her in the face and, when she threatened to call the police, he left her there at the hotel. (Doc. 169-189). He drove away with Alexandra in the car. Solei did call the police, and when the officers arrived at the hotel, they documented the fact that Solei had injuries to her face. (Doc. 169-219)

Solei said she then went to Chicago to escape from Williams. (Doc. 169-192) She later received a message from Williams indicating that he had her purse and identification, and he would not return it to her until she paid him \$1000. (Doc. 169-193)

Significantly, though, Heller testified that she never saw Williams force Alexandra or Solei to do anything. (Doc. 170-299) Similarly, Elvia Lopez said that she is an acquaintance of Solei, and she had no reason to believe that Solei was afraid of Williams. (Doc. 171-741) Lopez never saw Williams put his hands on Solei. *Id.*

Alexandra also told the jury that she and Williams worked together to sell heroin in Oshkosh, Wisconsin. (Doc. 168-68) The government also produced a recording of a jail phone call in which Williams admitted that he sold heroin in Oshkosh. (Doc. 170-447) In June, 2015, Alexandra sold a quantity of heroin to an acquaintance, Eric. Eric claimed that Williams was on a nearby porch supervising the drug transaction. (Doc. 170-403) Later

that day, Eric injected some of the heroin into his girlfriend, Hannah, who overdosed. (Doc. 170-385) Fortunately, the paramedics were able to revive her.³ (Doc. 170-387) Hannah told the doctor at the hospital that, in addition to the heroin, she had recently taken four Atavan pills. (Doc. 170-439)

Elida met Williams when she was a teenager. She was living in the upper unit of a duplex with her boyfriend, and Williams lived in the lower. (Doc. 169-303). Elida's boyfriend was abusive to her. *Id.* Eventually, when Elida was in her early 20s, she had a sexual relationship with Williams. (Doc. 169-305)

Later, in the spring of 2015, Williams contacted Elida through Facebook. *Id.* According to Elida, initially Williams was very nice to her. (Doc. 169-306) Williams asked Elida to travel with him, and she agreed. *Id.* Elida knew that the purpose of traveling with Williams was to make money through prostitution. (Doc. 169-307) Williams did not force Elida to travel with him. (Doc. 169-328) Elida said that Williams never hit her. (Doc. 169-320) She believes this is because she always followed the rules. *Id.*

According to Elida, whenever she saw Williams with girls, they would call him daddy. (Doc. 169-327) She took this to mean that he was their pimp, and he protected them, fed them, and managed their prostitution activities. *Id.*

Additionally, Williams and Alexandra took several trips to Columbus, Ohio, and they stayed at the home of Alice Cowan. Cowan testified that

³ The is the count on which Williams was acquitted

Williams treated Alexandra as though she were his girlfriend. Williams and Alexandra stayed at Cowan's home for approximately twenty days total. (Doc. 171-702) Alexandra had her dog with her, and Williams was never mean to the dog in order to get at Alexandra. (Doc. 171-707) Alexandra never asked Cowan for help of any kind, except to drive her to Western Union to pick up money that had been wired by Alexandra's mother. *Id.* These observations were corroborated by Cowan's mother, Cynthia McGee. (Doc. 171-749)

Williams was also in Columbus with Solei on one occasion. Cowan testified that she never saw Williams slap or otherwise be violent toward Solei. (Doc. 171-705)

In the government's case, it called FBI agent Amy Mentzel as an expert witness to testify about various behaviors that are common to human traffickers. (Doc. 170-334) Shortly thereafter, Williams renewed his objection to Mentzel's testimony under Rule 702, and requested the court to rule on the objection. (Doc. 170-339) After hearing brief argument from the parties, the court overruled Williams' objection, denied his motion to exclude the testimony, and permitted Mentzel to testify. (Doc. 170 p. 342-343)

According to Mentzel, "One of the biggest things is they [the prostitutes] begin this voluntarily. They meet with a trafficker through different circumstances, and initially they feel like they're in a boyfriend/girlfriend type of relationship . . ." (Doc. 169-338) Eventually, though, the trafficker proposes that the woman start doing dates to get money for the both of them. (Doc. 169-347) Then the pimp makes all sorts

of promises for cars, houses, and a life together. *Id.* According to Mentzel, “Many of them [the prostitutes] are down on their luck. . . . perhaps drug addicted, someone who doesn’t have a means to to anywhere, girls sitting on a bus stop, that type of thing . . .” (Doc. 169-348) The pimps also engage in fraud. They promise the girls a certain amount of money, but then do not deliver it. (Doc. 169-350) During the entire relationship, the pimp engages in subtle and, at times, overt coercion by yelling at the girls, or being violent with them. (Doc. 169-351) The pimp creates a “Climate of fear.” *Id.* Sometimes the pimp will use pets to coerce a girl. (Doc. 169-352) Not surprisingly, Mentzel claimed that withholding drugs is also a common means of coercion. (Doc. 169-359)

According to Mentzel, sometimes a customer will give a girl a tip, and she will have to put the money away to keep it from the pimp. (Doc. 169-354) If the pimps finds out that the girl is hiding money, “the consequences are severe.” (Doc. 169-355)

Mentzel even claimed that pimps will wear Milwaukee Brewers hats because the logo, “MB”, means “money over bitches.” (Doc. 169-355)⁴

In many prostitution groups there is a “bottom bitch” who is the most trusted member of the group. Her responsibility is to recruit new girls, and report any transgressions to the pimp. (Doc. 169-364)

Finally, pimps have a set of rules that the girls must follow. (Doc. 169-356) One such rule is that they never have unprotected sex because, if the girl gets pregnant, then she can no longer work. *Id.*

Mentzel admitted on cross-examination that she was not testifying as

⁴ Not surprisingly, the government introduced a photograph of Williams, who is from Milwaukee, wearing a Milwaukee Brewers hat.

an “objective college professor giving . . . information.” (Doc. 169-373) She admitted that she was rooting for the government in this case. *Id.*

After Williams had been arrested in this case, he called Heller and had her pick up some cellular telephones from the Oshkosh Police Department.⁵ He directed her to destroy cellular phones-- that Williams called “pimping phones”-- because they may have incriminating information on them. (R:169-263)⁶

Williams also asked Heller to monitor Alexandra during the time the case was pending. (R:169-266) Heller testified that, additionally, Williams asked her to monitor Solei, and to contact a number of other witnesses. (R:169-267) Heller actually contacted several of the government witnesses who had received grand jury subpoenas. (R:169-273) Heller claimed that she did all of these things because she loved Williams. (R:169-276)

Nicole Borden testified that in March of 2016 she received a grand jury subpoena for this case. (Doc. 170-448) Right about then, Williams started calling her from jail. *Id.* During a recorded phone call, Williams told Borden, “don’t let them [the government] make you lie on me,” and “you don’t know anything.” (Doc. 170-451) Borden said that she interpreted these remarks to mean that she was, in fact, supposed to lie to the grand jury in order to protect Williams. *Id.* Borden said that another woman associated with Williams, Crystal Schuppe, also reached out to her

⁵ Williams was arrested by Oshkosh police on July 5, 2015, and the police seized four cellular telephones from Williams (Doc. 170-422; 430) The police also found Solei’s identification in Williams’ car (Doc. 170-423)

⁶ The Oshkosh police had conducted a data extraction on the telephones before they were returned to Heller. At trial, the government presented evidence of the data that was on these phones. (Doc. 170-533 et seq.)

and made similar statements. (Doc. 170-452)⁷

Dominique East testified that, at about this same time, he was contacted by Williams by telephone, and Williams directed him to “hook up” with Crystal Schuppe-- that is, to have sex with her-- in order to get information from her about the case. (Doc. 170-467) East did go have sex with Schuppe, and she told him about some letters that Williams had written that had been subpoenaed by the government. (Doc. 170-472) East told her to tell the FBI that she had misplaced the letters. *Id.* Williams also contacted Crystal, and directed her to destroy the letters. (Doc. 171-633) Additionally, Williams wrote Crystal a letter urging her to “plead the 5th” when she testified before the grand jury. (Doc. 171-636) Crystal did meet with the government lawyers, and was not truthful. (Doc. 171-637)

Lavaris Evans, who was a government witness, testified that in January, 2017, someone posted on Facebook that “Lavaris Evans is a rat-ass bitch.” (Doc. 168-134) Evans said that he took this to be referring to the fact that he had made statements to law enforcement about Williams. The government conducted an investigation and determined that Williams, who was housed at the Dodge Detention Center at the time, was in a class when the message was posted, and video showed that he had access to a computer. (R:169-225) A forensic analysis of the computer revealed on the day in question it had been connected to Facebook on Williams’ account. (Doc. 170-537)

Finally, the government presented evidence that, while he was in jail

⁷ At trial the government played a number of recorded phone calls with Borden. They were all of the same tenor as the one described here. For the sake of brevity and clarity, though, they will not be individually described in this brief.

awaiting trial on this case, by telephone, Williams developed a relationship with Olga. (Doc. 170-496) Eventually, though, Olga had a sexual relationship with another man, Dwayne, and Williams found out about it. (Doc. 170-502) Again, on recorded telephone calls, Williams threatened to have Dwayne hurt unless Olga paid him \$500. *Id.* It turned out, though, that Williams and Dwayne knew each other, and they were working together to obtain this money from Olga. (Doc. 170-545)⁸

On September 1, 2017, the jury returned verdicts finding Williams guilty on all counts except count eight⁹, which alleged that Williams was involved in a conspiracy to deliver controlled substances that resulted in great bodily harm. The jury found Williams not guilty on that count.

On December 20, 2017, the court sentenced Williams to a total of 360 months in prison. (Doc. 161)

Williams timely filed a notice of appeal. (Doc. 164)

⁸ The government also played for the jury a number of recorded jail calls between Williams and Dwayne

⁹ At the start of trial, the government dismiss two counts related to one off the victims. Therefore, the district court renumbered the counts for purposes of trial.

Summary of the Arguments

The district court abused its discretion in overruling Williams' objection to the testimony of Agent Mentzel.

Firstly, the government's notice of expert testimony was legally insufficient. The notice gave only the *topics* that the witness would address, but it did not give a summary of the expert's testimony, as required by rule.

Thus, Williams was unable to determine whether he needed to find an expert to rebut the government's expert; and, more significantly, not knowing what the expert's testimony would be, the district court could not possibly have properly exercised its discretion in deciding whether to permit the expert to testify.

Moreover, once the testimony of the expert became known, it is clear that it should not have been admitted. The testimony was in no way helpful to the jury. Educational expert testimony is properly admitted when it is necessary to explain a complicated criminal scheme, or to explain behavior that may appear to be innocent on the surface. Here, if the testimony of the women is to be believed, there is nothing apparently innocent about Williams' behavior. Thus, there is nothing that the expert said that was helpful to the jury. Every observation of the expert falls squarely within the ambit of obvious common knowledge.

The testimony of Mentzel, then, was nothing more than group character trait evidence. The expert focused on each facet of Williams' alleged behavior in this case, and then offered the "opinion" that this is classic sex trafficking behavior.

Argument

I. The district court erred in denying Williams’ motion to exclude the government’s expert witness where: (1) the notice of expert testimony was defective; and (2) the testimony was, in effect, testimony of a “group character trait” that should have been excluded under Rule 404(a) FRE .

A. Standard of appellate review

On appeal of whether the district court erred in overruling Williams’ objection to the government’s expert witness, the court of appeals looks to see whether the lower court properly exercised its discretion. “The appellant, [A]rgues that [the expert’s] testimony should have been excluded because the government’s pretrial disclosure of [the expert’s] testimony was inadequate. We review the district court’s denial of the defendant’s motion to exclude for abuse of discretion.” *United States v. Duvall*, 272 F.3d 825, 828 (7th Cir. 2001)

B. The notice requirements of Rule 16

Rule 16, FRCrP, provides, “(G) Expert witnesses.--At the defendant’s request, the government must give to the defendant a written summary of any testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial.”

“The Rule requires a summary of the expected testimony, not a list of

topics. The government's notice provided a list of the general subject matters to be covered, but did not identify what opinion the expert would offer on those subjects.” *Duvall*, 272 F.3d at 828

Here, after setting forth nearly three pages of the expert’s “qualifications” the government’s notice provides:

Special Agent Mentzel will testify at trial about how pimps work in the prostitution “game;” the types of interactions and relationships pimps can have among each other; the different levels of the prostitution business; the methods pimps and those they prostitute use to advertise their services and acquire customers; the unique aspects and the dynamics of many of the pimp-prostitute relationships; how money is shared between pimps and those they prostitute; local prostitution “circuits;” the recruiting processes used by pimps; how pimps maintain the loyalty of those they prostitute; and other aspects of human sex trade involving adults and juveniles, the language used by pimps, prostitutes, and “johns,” and the methods of force, coercion, and control used by pimps and the dynamic between the pimp–prostitute relationship.

Special Agent Mentzel will also testify about the role of those who are prostituted compared to the pimp and provide definitions of terms used by those involved in sex trafficking.

(Doc. 102).

Plainly, the government’s notice is the very picture of what was found to be improper in *Duvall*. It is merely a list of topics that the expert will address without ever summarizing Mentzel’s testimony on each topic.

In this case, the failure of the government to give a summary of the expert’s opinions not only made it impossible for Williams to evaluate whether he needed an expert to rebut the government testimony; but it

made it impossible for the district judge to properly exercise his discretion in deciding whether to permit the witness to testify.

The judge reasoned that, “These situations are far from the mainstream of what we would ordinarily witness among humans in a free society. And to that extent and to the extent that Agent Mentzel . . . [has] been permitted to testify on human trafficking and the dynamic involved is abundantly clear. . . And for those reasons the court is constrained to allow Agent Mentzel to provide the jury with sufficient detail as to the dynamics of what is in play.” (Doc. 170-342, 343)

Whether Agent Mentzel’s testimony was, in fact, helpful to the jury will be discussed in the following section. Regarding the sufficiency of the government’s notice, though, which only identified the topics of her testimony, *how could the judge possible know whether or not Mentzel’s testimony would be helpful?* At that point in the proceedings, no one except Mentzel-- and, perhaps, the prosecutors-- knew what Mentzel’s testimony was going to be. To this extent, the government’s deficient notice of expert testimony hampered Williams in articulating the exact nature of his objection; and it completely prevented the district court from properly exercising its discretion under Rule 702, FRE.

For this reason alone, the district court should have excluded Mentzel’s testimony at trial.

This, of course, is not the end of the analysis, though. The defective notice in *Duvall* was found to be harmless error. As will be set forth in more detail below, though, in this case the defective notice is far from harmless.

C. The expert's testimony should have been excluded because it was not informative, it did not assist the jury, and it merely amounted to inadmissible evidence of a group character trait.

Rule 702, FRE, provides:

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:

- (a) 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;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

However, "In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone." Rule 704(b), FRE. Additionally, and probably more importantly, "Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait." Rule 404(a), FRE.

These statutes create a "gatekeeper" function for the trial judge concerning expert testimony. *Daubert v. Merrell Dow Pharmaceuticals*,

Inc., 509 U.S. 579 [125 L. Ed. 2d 469] (1993), and to the many cases applying *Daubert*, including *Kumho Tire Co. v. Carmichael*, [143 L. Ed. 2d 238] 119 S.Ct. 1167 (1999).

“Law enforcement experts may testify in order to assist the jury in understanding particular transactions. However, like all expert testimony, this testimony must be evaluated under the qualification and helpfulness requirements of Rule 702. In short, each witness must be qualified as an expert and the district court must determine that the testimony ‘will assist the trier of fact to understand the evidence or to determine a fact in issue.’ [internal citations omitted] (“interpretation of *clear* statements is not permissible, and is barred by the helpfulness requirement of ... Fed.R.Evid. 702”); *United States v. Devine*, 787 F.2d 1086, 1088 (7th Cir.) (affirmed district court's refusal to admit proffered testimony dealing with subject understandable by jury without help of expert), *cert. denied*, 479 U.S. 848, 107 S.Ct. 170, 93 L.Ed.2d 107 (1986).” *United States v. de Soto*, 885 F.2d 354, 359 (7th Cir. 1989) Concerning the need for educational expert testimony, “This court has recognized the value of expert testimony in explaining a complicated criminal methodology that may look innocent on the surface but is not as innocent as it appears.” *United States v. Romero*, 189 F.3d 576, 584 (7th Cir. 1999)

“If the expert testimony would be helpful and relevant with respect to an issue in the case, the trial court is not compelled to exclude the expert just because the testimony may, to a greater or lesser degree, cover matters that are within the average juror's comprehension.” *United States v. Hall*, 93 F.3d 1337, 1342 (7th Cir. 1996)

Under this definition, then, absolutely nothing of what Mentzel had to say was even remotely helpful to the jury. Williams' behavior, if the testimony of the women is to be believed, does not in any way appear to be innocent on the surface, nor is it complicated. Thus, everything that Mentzel said falls squarely within the ambit of obvious common knowledge. For example, Mentzel offered the astute observation that poor and vulnerable women are amenable to sex trafficking. This, of course, disabused the jury of any misconception that women who are doctors, lawyers, and business executives might be inclined to work part-time as prostitutes. Mentzel also "clarified" that promising women houses and cars to get them to work as prostitutes, and then not delivering on the promise, is fraudulent. This prevented the jury from incorrectly thinking that the women who worked with Williams did not care whether or not they ever received the expensive items they were promised in order to sell themselves for sex. Mentzel also elucidated the fact that the pimp being violent with a woman is coercive. This, lest the jury might think that being beaten bloody had no effect on the woman's decision to stay in the group.

Although the preceding paragraph is admittedly sarcastic, there is no better way to illustrate how profoundly *unhelpful* Mentzel's testimony was to the jury. There is nothing about the women's description of Williams' behavior that appears to be innocent. The question for the trial was whether the women should be believed.

As unhelpful as it was to the jury, though, permitting Mentzel to dwell on each facet of Williams' alleged behavior in this case, and to then tell the jury that this was classic sex trafficking behavior, was monumentally unfair

to Williams. It was tantamount to permitting the FBI agent to tell the jury, “Jaboree Williams looks to me like the classic example of a sex trafficker. For this reason, you should find him guilty of sex trafficking.”

Thus, the expert testimony was offered to demonstrate that Williams’ behavior-- that is, his *character*-- matched that of a human trafficker, and, therefore, Williams must be a human trafficker. In other words, the expert testimony touched upon a group character trait. Rule 404, FRE, prohibits the use of character evidence to show that the defendant acted in accordance with his character on any given occasions. The Seventh Circuit has written, “[W]e are generally ‘sympathetic to the core concern underlying the ‘group character evidence’ argument”—that the jury will conclude that the defendant is guilty based only on his membership in some nefarious group. *Romero*, 189 F.3d at 587¹⁰

For these reasons, the district court abused its discretion in overruling Williams’ objection to Agent Mentzel’s testimony.

¹⁰ In *Romero*, though, the court found that the expert testimony was not of a group character trait

Conclusion

It is respectfully requested that the court reverse the judgment of conviction in this matter, and remand the matter to the district court for a new trial with instructions that the testimony of Agent Mentzel is not admissible.

Dated at Milwaukee, Wisconsin, this 14th day of February, 2018:

LAW OFFICES OF JEFFREY W. JENSEN
Attorneys for Appellant
/s/ Jeffrey W. Jensen

Certification as to Form and Length

The undersigned hereby certifies that this brief meets the length and format requirements of Fed. R. App. P. 32(a)(7). A fourteen point "Georgia" font was used with justification and automatic hyphenation. The length of the brief is 6,224 words not counting the table of authority and table of contents. The word count was determined using the word count function of the word processing software *Google Docs*.

Dated at Milwaukee, Wisconsin, this 10th day of February, 2018:

LAW OFFICES OF JEFFREY W. JENSEN
Attorneys for Appellant
/s/ Jeffrey W. Jensen

Circuit Rule 31(e) Statement

An electronic copy of this brief consisting of digital media has been uploaded to the Seventh Circuit Court of Appeals Legal Brief System. I certify that the file does not contain a computer virus. I additionally certify that, pursuant to Circuit Rule 31(e)(4), a digital copy of the brief has been served upon each party individually represented by counsel.

Dated at Milwaukee, Wisconsin, this 14th day of February, 2018:

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Circuit Rule 30(d) Statement

All materials required by Circuit Rule 30(a) and (b) are included in the attached appendix.

Dated at Milwaukee, Wisconsin, this 10th day of February, 2018:

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Certificate of Service

I hereby certify that on February 14th, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

(For paper copy of the brief only) Fifteen copies of this brief will be served and filed at the Clerk of Court Office, United States Court of Appeals for the Seventh Circuit, 219 S. Dearborn Street, Chicago, Illinois on or before February 19, 2018 by placing the same in the United States Mail. Two copies of this brief will be served on Karine Moreno-Taxman, Asst. United States Attorney, by placing the same in the United States Mail.

Dated at Milwaukee, Wisconsin, this 10th day of February, 2018:

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Docket No. 18-1002

United States Court of Appeals
For the Seventh Circuit

United States of America,

Plaintiff-Appellee,

v.

Jaboree Williams,

Defendant-Appellant.

Brief and Short Appendix of the Appellant, Jaboree Williams

- A. Government's notice of expert testimony
- B. Excerpt of district court's oral ruling on expert testimony
- D. Judgment of Conviction