
FORENSIC REPORT: STATE VERSUS JACOB ZUMA

1. INTRODUCTION

This report was compiled at the request of the defence and consists of the following:

- (a) The Curriculum Vitae of the undersigned psychologist giving attention to her qualifications and experience (annexed to the report).
- (b) A discussion on the how cultural diversity in South Africa is reflected in the practice and experience of the undersigned psychologist.
- (c) A discussion on the experience of the undersigned psychologist with regard to the issue of rape.
- (d) The mandate given to the undersigned psychologist by the defence.
- (e) The diversity of the role of the psychologist specialising in forensic work with specific reference to how the undersigned psychologist perceived her role.
- (f) The basis of the opinion given by the undersigned psychologist.
- (g) The opinion of the undersigned psychologist regarding the report, findings and evidence of Dr. Friedman.
- (h) Opinion regarding the evidence of the complainant
- (i) The manner in which the undersigned psychologist would have done the evaluation to determine if the complainant would be likely to freeze in the face of attempted rape.
- (j) Possible reasons from a psychological perspective why a claimant would make a false allegation of rape.
- (k) References

2. A DISCUSSION ON HOW THE CULTURAL DIVERSITY IN SOUTH AFRICA IS REFLECTED IN THE PRACTICE AND EXPERIENCE OF THE UNDERSIGNED PSYCHOLOGIST

2.1 *TYPES OF PATIENTS THAT ARE TREATED AND/OR EVALUATED BY THE UNDERSIGNED PSYCHOLOGIST IN HER PRACTICE*

The undersigned psychologist consults with patients from all the different cultures within South Africa. She also has patients at present from Botswana, Uganda and Tanzania. The patients from outside the borders of South Africa usually come for treatment intermittently for an extended period of time and then return. The practice of the undersigned psychologist is accredited at the Professional Board of Psychology of the Health Professions Council of South Africa as a training institute for Clinical and Counselling Psychologists.

In her forensic practice, the undersigned psychologist has evaluated extensively victims of rape as well as perpetrators (rapists). The undersigned psychologist has acted as expert witness or consultant for the state as well as for the defence in these matters and the division of percentage between the defence and the State is calculated at 40% (the State) and 60% (defence).

The undersigned psychologist has also acted as external examiner for several doctoral thesis and dissertations for M. A. (Clinical Psychology) students at various universities and have lectured extensively to postgraduate students at universities with regard to human sexuality, sex therapy, trauma intervention and forensic psychology.

The undersigned psychologist has also presented workshops to members of the Child Protection Unit with regard to working and investigating matters pertaining to children who have been sexually and/or physically abused.

**2.2 RESEARCH EXPERIENCE OF THE UNDERSIGNED
PSYCHOLOGIST REGARDING HUMAN SEXUALITY AND DEVIANT
BEHAVIOUR IN THIS DOMAIN**

The undersigned psychologist has extensive research experience with regard to matters pertaining to human sexuality and deviant behaviour that occurs regarding sexual functioning. This experience is reflected in the following:

- Her doctoral thesis consisted of developing a psychometric test regarding the evaluation of the sexual functioning and adaptation of adults in South Africa. This includes the sexual orientation of people as well as deviant sexual behaviour. The test is called the (SAFT) The Sexual Adaptation and Functioning Test. This test was then standardised and printed by the Human Sciences Research Council and is used by psychologists in South Africa. It is classified by the Psychometric Committee of the Professional Board of Psychology of the Health Professions Council as a test that can only be used by psychologists.
- (a) The undersigned psychologist acted as programme co-ordinator for an extensive research programme (by the Human Sciences Research Council) which included research projects such as "*The problems and needs of the people in Venda*", "*The problems and needs of the peoples of South Africa*" and "*The sexual problems of the people of South Africa*" and other projects. These projects were projects that made use of representative samples of people within South Africa.
- (b) The undersigned psychologist conducted a research project that was representative of a sample of South African women on the sexual habits of women and trauma experienced by women (including rape). This culminated in book written by the undersigned psychologist (*Sex and the South African woman*) which was widely published.
- (c) The undersigned psychologist was commissioned by the then

former Department of Education and Culture: House of Representatives, the former Department of Education and Culture: House of Delegates and the old Department of Education and Culture: House of Assembly to write the research report regarding the status of the youths in South African schools (this included their sexual functioning and sexual habits). The undersigned psychologist was a member of the research committee and this culminated in the publication "*His name is Today*".

- (c) The undersigned psychologist was first author of a research project in which the profiles of violent offenders (including rapists and gang rapists) were researched within the South African prisons and culminated in a chapter in the book "*Violence in South Africa: A variety of perspectives*" published by the Human Sciences Research Council.

2. A DISCUSSION OF THE EXPERIENCE OF THE UNDERSIGNED PSYCHOLOGIST WITH REGARD TO THE ISSUE OF RAPE

3.1 EXPERIENCE WITH WORKING WITH SEXUAL OFFENDERS

The undersigned psychologist has extensive experience in evaluating, treating and profiling sexual offenders inside and outside the prison. This includes rapists, Paedophiles, Exhibitionists, and people suffering from the Paraphilias (such as Zoophilia).

3.2 EXPERIENCE WITH WORKING WITH RAPE VICTIMS

The undersigned psychologist has both clinical and forensic experience in working with rape victims. The clinical experience consist of consulting and treating rape victims directly following the rape from 1975 to the present as well as consulting and treating rape victims that never reported the rape and only years later develop mental problems such as Major Depression, Dissociative Identity Disorder and personality disorders from 1975 to the present. Rape victims often

experience sexual dysfunction later in life, such as vaginismus, inhibition of sexual desire and anorgasmia. The undersigned psychologist is a trained sex therapist and as such in the process of treating female patients for sexual dysfunction discover that the said patient was raped earlier in her life when taking the clinical history of the patient.

The forensic experience consists of evaluating rape victims directly following the rape for purposes of criminal- as well as civil legal action. The undersigned psychologist has had experience since 1975 in doing forensic work regarding rape victims.

The undersigned psychologist has at a professional level had the opportunity to consider the issue of rape from the perspective of the rapist as well as the rape victim.

3. THE MANDATE GIVEN TO THE UNDERSIGNED PSYCHOLOGIST BY THE DEFENCE

The following mandate was given to the undersigned psychologist by the defence:

- (a) A request was made to do a psychological assessment of the complainant. Due to this request being refused it was not possible to do so.
- (b) To observe the complainant and listen to and consider her evidence and give comments on psychological aspects thereof.
- (c) To listen and comment on aspects of Dr. Friedman's evidence.
- (d) To comment on aspects of Dr. Friedman's evaluation and finding.
- (e) The defence wanted the opinion of the undersigned psychologist on psychological aspects relating to the following aspects:
 - The value of any psychological evaluation on the complainant.

- The “freezing” claims of the complainant. The undersigned psychologist was also requested to give an opinion on how she would have evaluated if a complainant would freeze if confronted with a rape attempt.
- The complainant’s conduct compared against the usual responses of rape victims.
- To explain from a psychological perspective why a complainant would make a false rape accusation.

4. THE DIVERSITY OF THE ROLE OF THE PSYCHOLOGIST SPECIALISING IN FORENSIC WORK (IN CASES OF RAPE) WITH SPECIFIC REFERENCE TO HOW THE UNDERSIGNED PSYCHOLOGIST PERCEIVED HER ROLE

The psychologist specialising in forensic work can be requested by the legal professionals involved in such a case (be it for the State or the defence) to do the following:

- (a) To do a full mental status evaluation on the alleged rapist and complainant. When it is possible for the psychologist to do this, a profile of the alleged rapist and the complainant can be obtained. The undersigned psychologist requested the defence that this should be done. Following the denial of the evaluation of the complainant, it is very difficult to do a valid profile of the accused and the psychodynamics without the evaluation of the complainant as well. The reason for this is that there are different types of rapists and additional information (not in the statement of the claimant) must be obtained from the claimant. The mental status of the claimant but also be evaluated as the undersigned psychologist has had the experience that rape accusations have been made by claimants who are suffering from mental disorders and that this was due to either an encapsulated delusion, hallucinations, organic pathology causing hallucinations or serious

emotional and personality pathology.

Bartol (1999) indicates that the Massachusetts Treatment Centre has identified **four** major categories of rapists: 1) displaced aggression 2) compensatory 3) sexual aggressive and 4) impulsive rapists. **Displaced aggression rapists** (also called in other classification systems displaced anger or anger-retaliation rapists) are according to Bartol "*primarily violent and aggressive in their attack, displaying minimum or total absence of sexual feeling*" (page 284). These men use the act of rape to harm, humiliate and degrade the woman. **Compensatory rapists** rape according to Bartol (1999) in response to an intense sexual arousal initiated by stimuli in the environment. This type of rapist is referred sometimes in the clinical and research literature as the "*power-reassurance*", "*sexual aim*", "*ego-dystonic*" or "*true*" sex offender. The basic motivation is a desire to prove sexual prowess and adequacy. These kinds of rapists live according to Bartol (1999) in "*a world of fantasy that centers on images of eagerly yielding victims who will submit to pleasurable intercourse and find the rapist's performance so outstanding that they will plead for return engagement*" (page 285). Bartol also indicates that the compensatory rapist is often described as a person who is introverted, lonely and submissive and has a low level of need for achievement. **The sexual aggressive or sadist rapist** according to Bartol (1999) is the one in whom sexual and aggressive features seem to coexist at equal or near equal levels. In order for this type of rapist to be sexually aroused it must be associated with violence and pain, which excites him. These types of rapists according to Bartol (1999) are often married but have a history of multiple marriages, separation and divorce and they are also frequently involved in domestic violence. **The impulsive or exploitative rapist** according to Bartol (1999) demonstrates

neither strong sexual nor aggressive features but engages in spontaneous rape when the opportunity presents itself. The rape is usually carried out in the context of another crime such as robbery or burglary. The victims simply happen to be available and they are sexually assaulted with minimum extra-rape violence or sexual feelings. According to Bartol, these rapists have a long history of criminal offences other than rape. He states that in order to be assigned to this group, the offender must show 1) callous indifference to the welfare and comfort of the victim 2) the presence of no more force than is necessary to gain the compliance of the victim.

- (b) To give an expert opinion with regard to evidence given in court (by the complainant, expert witnesses, or other witnesses) as mandated by the State or defence. The undersigned psychologist described her mandate given by the defence in point 4.

5. THE BASIS OF THE OPINION OF THE UNDERSIGNED PSYCHOLOGIST

The opinion of the undersigned psychologist (as given in point 7 and 8) of the larger part of the complainant's evidence and also the evidence of Dr. Friedman was based on the following:

- Her training, experience and qualifications in the regard of human sexuality and the phenomenon of rape in particular.
- The undersigned psychologist was given a transcript of the evidence of the complainant and of Dr. Friedman.
- The undersigned psychologist was given a brief summary of the evidence of the accused and various other witnesses pertaining to the other rape allegations.
- The undersigned psychologist has also read Exhibit "E", in particular the document emanating from the complainant.
- The undersigned psychologist has also considered Dr.

Friedman's report, consultation notes and statistics.

6. OPINION REGARDING THE REPORT, FINDINGS AND EVIDENCE OF DR. FRIEDMAN

7.1 OPINION REGARDING THE REPORT OF DR. FRIEDMAN

- 7.1.1 Comments with regard to the evaluation method: In her report, Dr. Friedman stated that she consulted twice with the complainant but did not give the time span. In her testimony she testifies that the first interview was 1,25 hours and the second one was an hour which means that in all she consulted with the complainant for a period of 2,25 hours. She also testified that she did not go through the whole past sexual history of the complainant. She also testified that she did not consider the impact of the previous rapes on the complainant because her "*symptomatology was directly reflected of the experiences that she had in this event and so for me it was really significant that it was this event that was causing the Posttraumatic Stress Disorder rather than any other and it was the content of the symptomatology*" **Comment:** Any mental status evaluation should include the following: A full clinical history which includes the familial history of the person, her general developmental history, her schooling and any possible delinquent behaviour or problems during childhood, her sexual history, her medical history (including mental problems); her romantic involvements, her work record, her interests and leisure activities, traumatic experiences experienced in her life and the role of significant others in her life; appropriate psychometric evaluation, corroborating evidence of what the person is saying (if possible), an interview with significant others in the life of the person being evaluated, a comparison between the functioning of the person before the incident and after the incident.

It is the opinion of the undersigned psychologist that Dr. Friedman:

- (a) Did not take a full clinical history as would be appropriate in a

forensic mental status evaluation in order to make certain findings. For example if a person has a history of mental illness, it would be appropriate to explore that and also to get information regarding her functioning just prior to the event to establish the probability of the reality of her perceptions.

- (b) That she accepted the symptoms stated by the complainant without verifying the validity of the symptoms that could not be perceived by Dr. Friedman herself during the interviews. This modus operandi would be appropriate if the complainant was a patient of Dr. Friedman and being treated by her but it is not appropriate in a forensic evaluation. An example of symptoms described by the complainant which could not be verified by Dr. Friedman was the tendency to dissociate (Dr. Friedman only accepted that this is a typical symptoms that can be exhibited by rape victims). Dr. Friedman did not explore dissociative tendencies within the claimant by asking specific questions about dissociative behaviour in general (thus by conducting the SCID – Structured Clinical Interview for Dissociation). In fact in her testimony she stated that the SCID does not have norms for the complainant. It is important to note that the SCID is not a psychometric test but a structured interview that gives the clinician the ability to evaluate the dissociative tendencies of the person interviewed. It does not have norms. She accepted that the complainant had attention and concentration problems without measuring it by administering the Wechsler Adult Intelligence Scale III to the complainant (it has norms for her population) and perceiving if the complainant in fact displays attention and concentration problems on this standardised cognitive functioning test. This test is included in any mental status evaluation and Dr. Friedman's testimony that she did not include it because it does not measure trauma is not valid because it in fact does measure cognitive functioning and cognitive functioning is directly

influenced by emotional trauma. The scatter on the subtests of the Wechsler Adult Intelligence Scale III can also indicate neuropsychological problems such as attention and concentration problems (Lezak, 1995).

During the lengthy testimony of the complainant the undersigned psychologist noted that she exhibited very good attention and concentration. She very seldom asked the advocates who put the questions to her to repeat the questions because she was not able to concentrate on the question, regardless of the fact that the situation is a stressful situation for any lay person.

Dr. Friedman in her report also states that the complainant was in a *"trance like state for many hours after the rape"*. The complainant testified that she packed herself some food from the kitchen of the accused and that this was done according to the testimony of the complainant with specific fruit etc. in mind and with purpose.

- (c) That she from the onset of her evaluation accepted that the probability that the complainant had indeed been raped was high. This is clear from the fact that in her report she tried to match symptoms described by the complainant to *"trauma exposure in general and rape in particular"*. It is clear that she did not consider any other alternative, discussed them and then rejected them for her findings (which she would have done if she also considered other alternatives for the symptoms reported).

7.1.2 Comments with regard to finding of Posttraumatic Stress Disorder made by Dr. Friedman: In discussing the criteria for the diagnosis of Posttraumatic Stress Disorder, Dr. Friedman not once in her report discusses the effect of the previous sexual traumas described by the complainant in her own testimony on the symptoms she quotes. Dr. Friedman did not determine whether the complainant did not simply use

her memory of previous events or from her work to describe the present symptoms. Dr. Friedman for example did not take into consideration that the complainant have had nightmares of rapes and attempted rapes before (according to her testimony page 248,20).

Dr. Friedman states that the complainant is "*psychologically reactive to cues relating to the incident*" (like being asked if she is sleeping). The question is did Dr. Friedman ever ask this question to the claimant and then perceive her reaction or is this simply what the claimant told her? In her testimony the claimant did not make any comment or flinch or indicated stress when the advocate of the defence asked her the question during cross-examination "*And you were feeling sleepy or not?*" She simply answered "*Yes, I was feeling very sleepy at some point after reading the book yes*". Again when asked by the advocate of the defence "*And what did he ask you?*" the complainant replied "*He asked me if I was sleeping*" She did not at this moment display any visible signs of additional psychological stress or commented on how she felt about these words.

Two of the symptoms Dr. Friedman describe under criteria D is that of concentration problems and startled response. A comment has already been made with regard to the concentration and attention problems. During her testimony, Dr. Friedman was asked how she tested for the "*exaggerated startle response*". She conceded that she did warn the complainant before startling her (page 424, 10). This is not the appropriate way of measuring the startled response. If the person is forewarned it is not unexpected and the noise/sound or touch must be unexpected. During evaluation of the person it is thus important to arrange for a loud sound that would be unexpected or to arrange for a disruption of the interview which would be abrupt and unexpected. It was noted by the undersigned psychologist that when Advocate Kemp knocked over the microphone by accident and without warning during

the testimony of the complainant, she did not have any startled response and neither did she have such a response when The Honourable Mr. Justice van der Merwe later also knocked over the microphone by accident. This regardless of the fact that Dr. Friedman in her testimony stated: "*The exaggerated startle response is probably the prime response that does not change for very long period of time*" (page 423,5).

It is the opinion of the undersigned psychologist that Dr. Friedman in making her diagnosis also did not take into account the previous sexual history of the claimant and the ramifications of this on the claimant nor did she take into account any other medical history. Both of these would impact on the diagnosis of Posttraumatic Stress Disorder and the recommendation that this is due to the complainant being raped by the accused. Simon (1995) in his book Posttraumatic Stress Disorder in litigation: Guidelines for Forensic Assessment states the following: "*The research findings compel clinicians to examine patients for a range of traumatic events beyond the target event in litigation. Efforts to attribute psychological functioning to a single event will be significantly diminished if examinations by others indicate that presence of exposure to additional high-magnitude life events that could themselves yield PTSD*" (page 101). The claimant had many other "*high-magnitude*" life events (according to her own testimony) whose effect on the claimant was not taken into consideration by Dr. Friedman.

7. OPINION REGARDING THE EVIDENCE OF THE COMPLAINANT

8.1 Testimony with regard to being tucked in and messaged by the accused: In her testimony in chief the complainant states that the accused said that "*my daughter as I am finished with these people just come up to my room so that I can tuck you in. And then I just jokingly said, I then said jokingly: uncle*

what kind of tucking in is that, that needs me to come to your room in order for you to tuck me in?" (page 26,15).

In her evidence in chief the complainant testified that the accused wanted to message her even while she was sleeping. In cross-examination she acknowledges the fact that men make physical contact with women by messaging them (page 161,20). She testifies that at that stage she did not put the "tucking in" and message together and did not realise that it was a message given to her. From a psychological point, the undersigned psychologist finds this highly unlikely as the complainant has had several experiences (according to her own testimony) of having been raped or attempted raped. It is the experience of the undersigned psychologist that rape victims become sensitised by such experiences for clues from men regarding sexual advances except if they suffer from Dissociative Amnesia or a measure of it and have no recall of the previous rape. This was not the case with the complainant.

8.2 Testimony with regard to being in a daze: The complainant states that in her testimony in chief that "*I was still in a daze*" (page 35,4) the following morning and that by 11h00 the "*daze at that point just started to lift off and the reality of what happened just suddenly hit me as I walked back to my office*" (page 35,20) and she felt this "*horrible discomfort in between my legs of having been penetrated and a horrible sting of the crack...*" (page 35,25). During cross-examination the complainant states that she felt a sting and discomfort in her vagina when she woke up the morning at 02h00 following the alleged rape (page 141, 5). This clearly indicates a discrepancy and from a psychological point of view indicates that the complainant most certainly could not have been in a daze until 11h00 if she already felt a sting and discomfort in her vagina when she woke up 9 hours earlier and can testify about it.

8.3 Testimony with regard to freezing: According to the testimony of the complainant, the accused held both her hands with both hand above her head. The complainant then demonstrated. The undersigned psychologist

noted that according to the demonstration of the complainant her wrists of her hands were far apart and the fingers crossed over each other. It is the opinion of the undersigned psychologist that it would be difficult for an alleged rapist to restrain a victim with only one hand in that position except if the person did not resist at all. The question of "freezing" is thus very important as the complainant in her testimony stated "*No, I did not at that point move, no*" (page 176,10) when asked if she moved her hands and stated that "*I just froze at some point when I saw he was naked*" (page 167, 15). The undersigned psychologist finds it highly irregular that a person will be able to at the age of 13 years, after having woken up, after part of her clothes had been removed, and she had been raped to resist her rapist and tell him to stop (page 230,10), while the same person at the age of 30 years and with sexual experience and more emotional maturity would "freeze". It must be noted that she also regarded the alleged rapist when she was 13 years old as "*Malume*" (uncle).

8.4 Testimony with regard to the level of discomfort at the time of the alleged rape: When asked about her level of discomfort while she was being raped, the complainant stated "*I am not sure that I describe it as pain more than just discomfort because I, ja I do not think pain is the right word for it, no.*" (page 168, 10). The undersigned psychologist as a trained and experienced sex therapist finds it highly unlikely that a woman who has been woken from sleep a few minutes earlier (according to the complainants testimony), would experience no pain with swift penetration without developing any lubrication (lubrication is caused when the internal sexual organs of the body respond to sexual arousal), especially if she had not had sex a year prior to the alleged rape (according to her testimony in the middle of 2004). It is also noted that the complainant later changes her testimony and then says "*..and there was the pain with the discomfort in my vagina..*" (page 171, 5). It is also noted that the complainant testified that she did not complain of pain to the doctor.

8.5 Testimony with regard to what the complainant can recall the accused has said to her: When asked about the words that the accused had said to her,

the complainant stated "*I am not sure that he whispered but yes he was saying things yes*" (page 188, 15). She also said (after the advocate for the defence stated that the accused had said that she was a real lady and that she was delicious) that "*I do not recall him saying I am delicious, no I do not*" (page 188,15). This testimony implies that the complainant did remember the words said to her. From a psychological point of view, the undersigned psychologist finds it not compatible with rape victims that the victim would dissociate and "*freeze*" but still remember detailed words said to her during the trauma. The complainant does relate detail words "*Like I said the other day, he said to me I told you I will take care of you. He said sweetheart,*" (page 188,20).

8.6 Testimony with regard to talking to the accused after the alleged rape: The complainant testified that she talked to the accused twice (page 43) days after the alleged rape on the telephone. She also testified that she talked to the accused again when he came to her room again after the alleged rape when he asked her if she had money. The normal reaction of a rape victim would be the following:

- To get up immediately after the rape and lock the door to the room if she cannot leave the house or to leave the house immediately and get away as far as possible from the rape victim. The complainant testified that she did not check whether the door of her room was closed after the alleged rape and after the accused had left the room (page 180,20). The complainant also testified that she did not want to go back to her place and be all by herself (page 185,25). The undersigned psychologist finds it irregular that a rape victim would rather stay in the home of the rapist because she was afraid of going to her place and being all by herself. This is not the normal behaviour of rape victims. The complainant also testified that she had enough money to go home with a taxi (page 186,15).
- To avoid talking to the alleged rapist after the event and to avoid him.

8.7 Testimony with regard to sexual history: The complainant acknowledges in her testimony that she had an experience with a penis at the age of 5 (page

225, 20) and she did not refute the fact that she and another girl took the boy into the bathroom to have sex. Although it is normal for toddlers to be inquisitive about each other's sexual organs it is not normal for toddlers to have sexual interaction with each other – this would be age inappropriate behaviour. The complainant states "*Yes. I was raped when I was 5 years old*" (page 226, 10). If this incident occurred before the incident with the boy in the bathroom it would be compatible with the complainant acting in an age inappropriate way with the boy (the complainant in her testimony stated that she could not remember if the incident occurred before the incident with the boy)(Page 228,15).

The complainant testified that Mashaya attempted to rape her and that Charles did in fact rape her (page 233,20) and so did Godfrey. It is noted that the complainant was able to in detail remember what happened with Godfrey but was unable to remember anything about the sex with Charles "*I do not remember the details of the sex itself, but I do remember what I was wearing that day and I remember as I was walking home and Ma was already gone, I remember precisely the very uncomfortable horrible feeling of having it being penetrated that I felt*" (page 238 and 239, 25). The undersigned psychologist finds it incompatible that the complainant can remember the incident with Godfrey so well but is unable to remember the incident with Charles as both seemed to have occurred at the same age.

8.8 Testimony with regard to "fainting fits" or "attacks": In her testimony the complainant testified that she had fainting fits or attacks and that during such an episode somebody must have had sex with her (Page 261,10). Although Dr. Friedland stated in her testimony that this was not epilepsy because of a normal electroencephalogram (E. E. G). this statement of hers was not valid as a person can have epilepsy while the electroencephalogram can be normal. It is only when a holter E. E. G. has been done that more valid data can be found. This is important information in a forensic evaluation and Dr. Friedland in her evaluation should have investigated this further because epilepsy can also account for the loss of time from 15 minutes to three hours

as testified by the complainant (page 261,20) and would also have an impact on the symptoms described by the complainant especially as the complainant in her testimony stated that she could not remember if she had an attack during 2005 (page 282,25). A person having an epileptic episode can for example during an epileptic fugue state have delusional thought which would have nothing to do with reality.

8. THE MANNER IN WHICH THE UNDERSIGNED PSYCHOLOGIST WOULD HAVE DONE THE EVALUATION TO DETERMINE IF THE COMPLAINANT WOULD BE LIKELY TO FREEZE IN THE FACE OF ATTEMPTED RAPE

In order to determine if the complainant would be likely to freeze in the face of attempted rape, the undersigned psychologist would have done the following:

- A full mental status evaluation which would include a cognitive, emotional and personality profile of the person. People with some emotional and personality problems are more likely freeze than others. Psychological resilience, anxiety level and ego-strength would be the important factors to determine. No literature, to the knowledge of the undersigned psychologist profiles people that would be likely to freeze except stating that it would be people with a high anxiety level (Nevid et al.). In their book *Victimization: Nature and trends*, Schurink et al. (1992) discusses the profile of rape circumstances in South Africa. They give a profile of rape victims but just according to age, marital status and behaviour of the victim. They state that the behaviour of victims can be classified in three categories: No resistance or unable to resist, physical resistance and unknown behaviour.
- The behaviour of the alleged rapist and the alleged victim should be studied: Schurink et al. (1992) found that there is a significant

correlation between the behaviour of the rapist and the reaction of the victim. They found that the more power the rapist used, the less resistance he encountered from the victim. Where the offender behaved brutally there was 58% chance that the victim would not resist the attack, while if the offender displayed determined and aggressive behaviour the chances were only 20% that the victim would not resist the attacker.

- Interviews would be conducted with significant others in the life of the complainant during which questions would be ask with the purpose of ascertaining the way in which the complainant usually handles traumatic events. Does she freeze or first react and then experience the aftermath of the stress associated with the traumatic event?
- Forensic hypnosis would be done with the claimant regressing her back to the alleged incident and then observing her reactions, what she says and her physical reactions during the hypnotic trance. In this case the hypnotherapeutic process must meet certain rigorous controls (known as the Orne safeguards) as determined by the New Jersey Supreme court (Brown et al., 1998).

The undersigned psychologist has extensive research experience and general statistics (as provided by Dr. Friedman) which are not further broken down in at least generalisations to classify these features have very little value. It is also noted that these statistics are mostly from other countries than South Africa while research has been done in South Africa.

9. POSSIBLE REASONS FROM A PSYCHOLOGICAL PERSPECTIVE WHY A CLAIMANT WOULD MAKE A FALSE ALLEGATION OF RAPE

It is the experience of the undersigned psychologist that a claimant would make a false allegation of rape because of the following psychological dynamics:

- That the claimant genuinely believes that she has been raped but that the belief is not reality based. This occurs in cases where the claimant has an encaptulated delusion (in this case the claimant is in contact with reality in other aspects of her life), hallucinates, or has organic pathology which can be accompanied by hallucinatory images.
- That the claimant has serious personality or emotional pathology. Typical personality pathology would be the Borderline Personality Disorder, the Schizotypal Personality Disorder and the Antisocial Personality Disorder. In the latter case the person would accuse someone of rape for personal gain or vindictiveness.
- That the claimant has experienced previous trauma and that due to this, the claimant then perceives any sexual behaviour as threatening. In this case the claimant can have consensual sex but after the fact project this as rape because of subconscious guilt feelings, resentment, anger and emotional turmoil. In this case the claimant can believe that the reality she has created for herself is in fact reality.
- That the claimant can simply make an allegation of rape because of negative transference (such as "*punishing*" the accused for a perceived wrong). In this case the claimant is convinced that she is telling the truth.
- That the claimant can simply make an allegation of rape because of a hidden agenda (such as getting revenge because of a

perceived other wrong done to the claimant). The undersigned psychologist has been involved in cases where a claimants make an allegation of rape just because the accused jilted the claimant for another lover. In this case the claimant knows that she is lying but does so purposefully.