E-FILED; Montgomery County District Court - Rockville
Docket: 3/26/2025 6:04 PM; Submission: 3/26/2025 6:04 PM
Envelope: 20535367

In District Court of Maryland for Montgomery County

The State of Maryland **v.** **David R. Wright** Defendant	**Case No.:** ***3MG0W9G; 3MH0W9G et al.***

MOTION TO EXCLUDE EXPERT TESTIMONY OF Hayley A. Mulder, PhDPURSUANT TO MARYLAND RULE 5-702 AND ROCHKIND v. STEVENSON

INTRODUCTION

COMES NOW, the Defendant, David R Wright, by and through his/her attorney, hereby moves this Honorable Court to exclude the expert testimony of Hayley A. Mulder, PhD, proposed by the State of Maryland. The State intends to offer Hayley A. Mulder, PhD's testimony regarding the calculation of the David R Wright's blood alcohol concentration (BAC) and its interpretation. The David R Wright argues that Hayley A. Mulder, PhD does not qualify as an expert under Maryland Rule 5-702, as interpreted by *Rochkind v. Stevenson*, and that the proposed testimony is unreliable, irrelevant, and will not assist the trier of fact. **

GROUNDS FOR EXCLUSION

1. Lack of Qualifications: While Hayley A. Mulder, PhD may possess some background in Toxicology, the David R Wright contends that his/her qualifications are insufficient to render a reliable expert opinion in this specific matter. Specifically, Hayley A. Mulder, PhD's curriculum vitae, as provided by the State, lacks sufficient evidence of specialized training or experience in forensic toxicology, blood alcohol conversion from non-BAC

records, e.g., forensic toxicology, the specific calculations performed, or the handling of biological samples under the conditions present in this case. The expert's experience lacks sufficient peer reviewed publication, or experience in the specific methods used in this case. The expert lacks sufficient experience in calculating BAC with the provided known and unknown variables present in this case.

2. Lack of Reliable Principles and Methods: The calculations performed by Hayley A. Mulder, PhD, particularly the conversion of serum alcohol concentration to BAC using a range of 1.13 to 1.19 for the serum/plasma to blood ratio, are based on assumptions and generalizations that may not be applicable to the David R Wright.
3. The State has failed to establish the reliability of the methods used, specifically: The scientific literature supporting the chosen serum/plasma to blood ratio range and its applicability to individual variations. The specific protocols used for handling and storing the biological sample, and the potential impact of any deviations from those protocols. The lack of individual analysis of the serum/plasma to blood ratio of the defendent. The lack of accounting for retrograde extrapolation. The inherent variability in the measurement of serum alcohol concentration and the impact of that variability on the final BAC calculation have not been adequately addressed. The expert cannot explain the standard deviations associated with the result. 3. Insufficient Factual Basis: The expert's opinion relies on incomplete information, notably the lack of a known drinking history for the David R Wright. The expert has not provided a sufficient factual basis for their opinion regarding the level of impairment associated with the calculated BAC, failing to account for individual factors such as tolerance or metabolic differences. 4. Lack of Relevance and Helpfulness: The expert's testimony, based on a range of potential BAC

values, is not sufficiently precise to assist the trier of fact in determining the David R Wright's level of impairment at the time of the incident. The expert has not adequately accounted for the time between the incident, and the taking of the blood sample, and therefore the BAC at the time of the sample, does not directly relate to the BAC at the time of the incident. The wide range of possible BAC values, makes the experts testimony unhelpful, and potentially misleading.

4. Maryland Rule 5-702 and *Rochkind v. Stevenson*: As established in *Rochkind v. Stevenson*, Maryland has adopted the *Daubert* standard for admissibility of expert testimony. The proposed testimony of Hayley A. Mulder, PhD fails to meet the requirements of reliability and relevance under Maryland Rule 5-702, as interpreted by *Rochkind v. Stevenson*.

CONCLUSION

WHEREFORE, For the foregoing reasons, the David R Wright respectfully requests that this Honorable Court grant this Motion and exclude the expert testimony of Hayley A. Mulder, PhD. The admission of such testimony would violate Maryland Rule 5-702 and the principles established in *Rochkind v. Stevenson*, and would deprive the David R Wright of a fair trial.

Respectfully submitted,

/s/ Christopher Moschkin
Christopher.G¡.Moschkin?Esq¡
CPF#: 1812120031
Christopher.G¡.Moschkin?Esq¡.LLC
3100 Verona Court
Silver Spring, MD 20906
(240) 992-4733

Chris@rockville-law.com
Attorney for Defendant David R Wright

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of March 2025, a copy of the foregoing copy of the Motion.to.Exclude.Expert.Testiony was delivered via MDEC eFile and Serve to the Office of the State's Attorney for Montgomery County.

_____/s/ Christopher Moschkin_____

Christopher G. Moschkin

CPF #: 1812120031