

Current Sexual Health Reports

Forensic Applications of "sex addiction" in U.S. Legal Proceedings

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**SpringerLink Header: Variations in Orientation, Identity, Addiction, and
Compulsion (E. Coleman, Section Editor)**

Forensic Applications of “sex addiction” in U.S. Legal Proceedings

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Keywords: “Sex addiction;” Sexual compulsivity; Sexual impulsivity; Erotomania; Hyperphilia
and hypersexuality; Forensic testimony; Civil law; Family law; Criminal law

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4 **Abstract**
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8 The term “sex addiction” has been popularized in recent years to describe a range of different
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10 problematic sexual behaviors which are assumed to be similar to being addicted to substances
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12 and lend themselves to similar treatment approaches. Other terms such as sexual compulsivity,
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14 sexual impulsivity, erotomania, hyperphilia and hypersexuality have been proposed in the
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16 literature which assumes different mechanisms and treatment approaches. However, the term
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18 “sex addiction” remains the most widely used and recognized label, particularly in public
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20 parlance. The current paper presents several case examples to illustrate how the concept of “sex
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22 addiction” is having a significant impact in United States’ legal proceedings. The authors offer
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24 some commentary about the relevance of these cases as they pertain to matters of criminal, civil
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26 and administrative law.
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37 **Introduction**
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41 While “sex addiction” is a popular concept or label for out of control and problematic
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43 sexual behavior, it is not a recognized or accepted mental health diagnosis [1]. As there has been
44
45 a growing recognition of some kind of clinical syndrome regarding this non-paraphilic but
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47 problematic types of behaviors, there was a recent proposal to include “hypersexual disorder” in
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49 the recently published DSM-5. However, this diagnosis was not included due to controversy and
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51 a need for more research [2-4].
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4 In the development of DSM-5, “sex addiction” was challenged as a construct meeting the
5 strict criteria for a pathological condition [3]. A proposal for “sex addiction” was considered, but
6 rejected, by the DSM-5 Addictive Disorders Workgroup [2]. A proposal for “hypersexual
7 disorder” presented sexual behaviors and problems in a manner intended to present a clinical
8 syndrome without relying solely on one model, including addiction. Hypersexual disorder was
9 proposed by the DSM-5 Committee on Sexual and Gender Identity Disorders for DSM-5.
10
11 However, hypersexual disorder was excluded by the Board of Trustees of the American
12 Psychiatric Association for an array of reasons [4]. Moreover, the DSM-5 contains the explicit
13 statement: “groups of repetitive behaviors, which some term *behavioral addictions*, with such
14 subcategories as “sex addiction”, “exercise addiction,” or “shopping addiction,” are not included
15 because at this time there is insufficient peer-reviewed evidence to establish the diagnostic
16 criteria and course descriptions needed to identify these behaviors as mental disorders” [5].
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35 Despite mental health clinicians being unable to render a formal diagnosis of “sex
36 addiction”, testimony and evidence related to the concept, diagnosis or treatment of “sex
37 addiction” is receiving increased attention in American courts, “where litigants are putting them
38 to use in forming novel claims and defenses” [6]. The potential for forensic misapplication of
39 “sex addiction” (or the related concept of hypersexual disorder) was raised during DSM-5
40 discourse related to sexual disorders [3]. Despite the need for such a discourse, this article to our
41 knowledge represents the first published work in the social science literature describing how this
42 concept is being utilized in forensic proceedings.
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55 Case examples depicting the applications of the “sex addiction” construct in legal matters
56 are presented below. These cases were identified through Google Scholar, Lexis-Nexis, and
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4 media sources and should not be considered exhaustive, but rather, a sample of current uses “sex
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6 addiction” that might be establishing some legal precedence. All case examples are drawn from
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8 legal documents and summaries in the public record. Although these records include the names
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10 of individuals and professionals involved, the descriptions herein use initials to preserve some
11
12 anonymity for these individuals. All such cases are complex, and presentations herein are
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14 abbreviated to relevant details. Cases presented were chosen as reflecting key aspects of the role
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16 of “sex addiction” in these types of law. However, other cases may exist which reflect other,
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19 unaddressed aspects.
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25 While there are similar cases of “sex addiction” claims in judicial proceedings in other
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27 countries, the current paper is focused on United States’ law. This reflects the degree to which
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29 the concept of “sex addiction” may be influenced by unique cultural issues reflecting United
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31 States’ values about sexuality, and the fact that it has greatest prominence in the United States
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33 [7]. Review of these cases is presented as they reflect examples of administrative law, criminal
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35 law and civil law.
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41 **Frequency of Forensic use of “sex addiction”**

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44 It is difficult to obtain an accurate assessment of the frequency of the use of “sex
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46 addiction” in legal cases. Many lower-level proceedings at state-court level are not recorded at a
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48 detailed level sufficient to identify specific diagnostic claims and moreover, proceedings
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50 involving family law matters (e.g., divorce) are often closed to parties not directly involved in
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52 the case. Even at the appellate levels, issues such as allegations of “sex addiction” may only be
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54 referenced in court decisions if they are deemed relevant to the questions under appeal. With
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56 these parameters, the cases identified in legal databases likely under-represents the prevalence of
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4 actual cases where “sex addiction” has been applied in some aspect of the legal proceedings in
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6 lower levels. While certainly not exhaustive, Google Scholar was used as a search mechanism
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8 given it is easily accessible using the term “sexual addiction” which yields 210 results, dating
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10 back to 1990. Interestingly, a similar numbers of cases for related terms in more formal legal
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12 databases such as Lexis-Nexis or WestLaw was also noted. These different databases each
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14 include various levels of details, annotations and headnotes. However, for purposes of simple
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16 identification of US caselaw involving “sex addiction”, this current search strategy appears a
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18 reasonable strategy to further this current review. However, this review cannot be considered
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20 exhaustive.
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27 Review of these cases suggests that while forensic claims of “sex addiction” span across
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29 various legal cases, they are predominantly occurring in criminal, civil law, including family law
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31 matters, and administrative law. We first introduce the cases under their respective legal domains
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33 and then we will offer commentary about our general observations.
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38 **Administrative Law**

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42 Administrative law includes rules and regulations governing the licensing and
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44 certification of professional practices such as medical providers and lawyers. In many
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46 jurisdictions, governing boards take issues of mental health and substance use disorders into
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48 consideration, with sanctions, restricted licenses and monitored treatment for professionals.
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51 Parker reported that 48% of the non-substance addictions reported by state bar associations to the
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53 American Bar Association involved “sex addiction” [8]. Some examples are noted below.
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4 **Example 1:** The medical license of J.T., a Washington state anesthesiologist, was suspended,
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6 following his own self-report to the Board that he had fondled the breasts of multiple female
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8 patients, while they were sedated. J.T. self-reported this information to the Board, while he
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10 “voluntarily underwent long-term inpatient treatment for sex- addiction.” The Board noted that:
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12 “While Respondent’s efforts to get treatment for his addiction issues is laudable, the behavior he
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14 admitted to is so egregious and harmful to patients that he cannot practice with reasonable skill
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16 and safety [9].”
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22 **Example 2:** In 2009, Illinois District Attorney K.K. prosecuted a man for severe domestic
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24 violence. During the trial, K.K. sent numerous sexually-charged text messages to the ex-
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26 girlfriend and victim of the defendant. K.K. resigned when the scandal became public, but was
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28 sued by the victim in 2012, where he testified that “untreated “sex addiction”” had contributed to
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30 his actions. In court, K.K. asserted that he had a “sexual addiction,” allegedly triggered by
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32 abused medications. During testimony, he argued that “sex addictions” were similar to eating
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34 disorders, and not seen as legitimate due only to social stigma. In 2014, his license to practice
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36 law was suspended by the Illinois Supreme Court [10].
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43 **Example 3:** In November 2014, the medical license of S.D., a New Mexico obstetrician was
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45 suspended.[11] Action toward his license was subsequent to allegations that he had sex with
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47 multiple patients, performed medical procedures under the influence of alcohol, and was
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49 deficient in his medical care of patients he had admitted to hospitals. He allegedly failed to
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51 attend the birth of one patient, as he was engaged in sexual intercourse with another patient at the
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53 time. Though problems with alcohol were noted in the Board’s documents, concerns with his
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55 sexual behaviors appear to be prominent in the Board’s actions. In January of 2015, Dr. D. was
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4 ordered by the New Mexico Medical Board to receive evaluation and treatment at a “sex
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6 addiction” treatment facility in Los Angeles. Decisions about ongoing licensure and professional
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8 activity were to be made subsequent to this evaluation [12].
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12 In the administrative law cases reviewed, “sex addiction” is often offered as a mitigating
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14 factor by individuals seeking to preserve their occupational licensing. Licensing boards appear to
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16 vary in their acceptance of these arguments. However, in some reviewed cases, individuals have
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18 been ordered into “sex addiction” treatment, as a component of their ongoing monitored
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20 treatment and board-sanctioned assistance. Licensing boards of various professions may
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22 recommend different types of treatment or interventions, and it appears that in cases of sexual
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24 behaviors, referral to mandated “sex addiction” treatment is often considered an administrative
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26 option. This review found little to no evidence that such administrative bodies consider the lack
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28 of evidence of efficacy in such treatment programs. It is possible that such bodies may view “sex
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30 addiction” treatment as the only intervention response in such cases.
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38 **Civil Law**

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42 Civil law concerns legal relationships between persons and entities, and is distinct from
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44 criminal law or administrative regulations. For purposes of this discussion, relevant civil law
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46 addresses lawsuits for damages.
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50 **Example 1:** J.E. began outpatient treatment in the state of Washington with marriage and family
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52 therapist Dr. T., following an inpatient hospitalization for treatment of drug and alcohol
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54 addiction. Shortly after beginning treatment with J.E., Dr. T. initiated individual and occasional
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56 marital therapy with the couple and their two children as well. Dr. T. described J.E. to his wife,
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4 and to others, as a “sex addict,” though in court, the therapist “admitted the need to use great care
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6 in diagnosing “sex addiction,” using standardized screening instruments and diagnostic criteria.
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8 She testified that “[e]very patient that comes in with a sexual addiction statement of need” is
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10 given 10 screening questions and a 30-page document to fill out. Dr. T. admitted administering
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12 none of those tests to J.E. prior to her reaching her conclusion that he was a sex addict.” J.E. and
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14 his wife filed malpractice claims against Dr. T., after the therapist filed unsubstantiated reports of
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16 child sexual abuse against J.E.. The couple later divorced and an expert witness “testified that
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18 Dr. T. did not meet the standard of care and that her “misdiagnosis and the application of wrong
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20 therapeutic errors . . . is the proximate cause for the destruction of their marriage [13].”
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22 Licensing complaints filed against Dr. T. led to restrictions being placed on her clinical license,
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24 along with requirements that she complete additional training [14].
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32 **Example 2:** In July 2013, Tennessee attorney C.S. filed suit against computer company Apple,
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34 asserting that the company’s failure to install filtering software on its devices and warn of the
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36 dangers of pornography, had led to C.S.’ “lifelong pornography addiction.” Further, C.S. alleged
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38 that Apple’s negligence and his pornography addiction had led to severe emotional distress, a
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40 failed marriage, and hospitalization for treatment of his condition [15]. The following year, C.S.
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42 filed suit attempting to intervene in a Florida marriage equality case, seeking the right to legally
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44 marry his “porn-filled Apple computer [16].” C.S. argued that addiction had led him to prefer sex
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46 with his computer, rather than a real woman, and that he was attempting to protect the rights of
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48 those, like him, who had fallen prey to these addictive processes. C.S.’ legal license was
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50 suspended in 2011 due to “mental infirmity,” but this did not deter him from pursuing self-
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52 directed legal actions. Though both of these legal actions were ultimately dismissed, in 2014,
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54 C.S. reportedly began pursuing similar involvement in Utah’s marriage equality challenges.
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4 **Example 3:** In 1996, multiple incarcerated sexual offenders sued the State of New Mexico,
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6 alleging that the State’s failure to adequately treat their sexual addiction constituted violations of
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8 their civil rights. States have a duty to provide medical care to inmates, and the plaintiffs argued
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10 that they were “driven by sexually compulsive drives that are deviant,” which had not been
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12 adequately treated or recognized by the State’s correctional system. The suit asserted that “sex
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14 addiction” was a legitimate, accepted disorder according to numerous medical journals, and that:
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16 “addictive sexuality erodes his self-esteem to [the] point of apathy, reinforces fear and feelings
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18 of differentness, leading to apathy, and keeps him in the `addictive cycle.” Because the mental
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20 health conditions alleged by the inmates were not “serious” in nature, had not been diagnosed by
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22 licensed physicians, and there was no evidence these concerns had been ignored by the State, the
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24 lawsuit’s claims were ultimately dismissed [17].
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32 The construct of “sex addiction” in civil law proceedings is utilized in many different
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34 fashions, pursuant to the strategies of plaintiffs seeking legal recourse. In some cases, “sex
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36 addiction” is included in claims which are seen as relatively frivolous. In others, there are claims
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38 of malpractice against professionals who may engage in apparently unethical practices as they
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40 utilize “sex addiction” concepts and treatment strategies.
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45 **Family Law**

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49 “Sex addiction” is an increasingly common complaint in family law, related primarily to
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51 matters of child custody and divorce proceedings. An article published in the Wisconsin Law
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53 Journal describes the role of “sex addiction” in family law, citing indirect risks posed to children,
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55 through neglect or exposure to sexual material, and recommending “sex addiction” treatment.
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58 The article did not acknowledge the paucity of data regarding “sex addiction” treatment [18], and
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4 lack of legal precedent regarding “sex addiction” was described as being due to legal reluctance
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6 to deal with sexual issues and people’s desires to keep their sexual issues private [19].
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10 **Example 1:** In 1999, P.K. and M.K. were married in Delaware. In 2010, P.K. confronted M.K.
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12 about his extramarital sexual activities and he confessed to patronizing prostitutes over the past
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14 several years. The couple divorced in 2011. During this period, M.K. began attending “sex
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16 addiction” group treatment. P.K. filed for sole custody of their son, alleging that her ex-
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18 husband’s “sex addiction” put their son at risk. She argued in court that M.K. had exposed their
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20 son to harm, by virtue of his participation in “sex addiction” treatment with registered sex
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22 offenders, and by taking their son on an outing with other group members who may have
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24 included sexual offenders. A psychological evaluation of M.K. was conducted, which
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26 recommended that the court may wish to supervise and monitor M.K.’s treatment for sex and
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28 drug addiction, to ensure the child’s safety, but did not indicate that M.K. posed a risk to the
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30 child. Ultimately, the court asserted that M.K.’s “sex addiction” was not conclusively proven,
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32 and that there was no evidence that M.K. posed a risk to his son. P.K.’s request for sole custody
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34 was denied [20].
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43 **Example 2:** R.P. and A.P. married in 1995 in Kentucky. They had two children, but separated
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45 and divorced in 2003. In custody proceedings, A.P. alleged that R.P. was a sexual addict, who
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47 had purchased a “sex addict self-help workbook” at one point, had admitted that he had a
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49 problem with pornography and credit card debt related to this problem, and that he had once
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51 taken a nonconsensual nude picture of A.P. in the shower. R.P. was once cited for “loitering for
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53 the purposes of prostitution,” with a known prostitute in his car. These charges were ultimately
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55 dropped. As R.P. was a high school music teacher, this matter was considered, but not acted
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4 upon, by state and local educational and school boards. Courts ultimately awarded sole custody
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6 to A.P., on the basis of their concern for the children’s best interests. [21].
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10 **Example 3:** In 2007, R.J. petitioned for divorce from her husband S.J., on grounds of habitual,
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12 cruel and inhuman treatment. Her husband’s sexual behaviors and attitudes, allegations of
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14 infidelity, and claims of pornography and sexual addictions were central to the petition. S.J.’s
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16 desire for oral and anal sex from his wife was a contentious issue for the couple. They reportedly
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18 had sex about three times a week, though S.J. wanted sex more frequently. A court opinion
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20 noted: “There was no evidence that he raped or sexually battered [R.J.]. There were no
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22 allegations of domestic violence. Despite [S.J.]’s whining, complaining, coercive and boorish
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24 behavior, [R.J.] consented to each and every sexual act in their marriage.” Regarding [SJ]’s use
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26 of pornography, court opinions stated “[R.J.] claimed that [S.J.] was addicted to pornography,
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28 but she testified that she had not seen any pornographic videos in the home in over five years.
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30 More importantly, [R.J.] also testified that earlier in the marriage she participated in watching
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32 pornography with [S.J.]” The couple separated in 2004 due to financial problems related to
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34 S.J.’s gambling. S.J. attended residential treatment for gambling problems at a Mississippi
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36 addiction treatment program. While there, S.J. completed a “sex addiction” Screening Test, and
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38 was told he should stay an additional ten days to deal with his sexual addiction issues. S,J,
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40 declined to stay the additional period and was never formally diagnosed or treated for “sex
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42 addiction.” Ultimately, courts granted R.J.’s petition for divorce, and supported her allegations of
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44 “cruel inhuman” treatment as justification for the divorce.[22]
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55 The construct of “sex addiction” has a mixed reception by courts in family law
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57 proceedings. It appears to be most often included as a component of efforts to present a negative
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4 and unsafe image of one parent or another. In divorce and custody cases, distinct from other legal
5 proceedings, “sex addiction” appears to be rarely invoked in an exculpatory fashion.
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10 **Criminal Law**

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14 Criminal law considers violations of law subject to penalty by governing jurisdictions. In
15 cases related to sexual offenses, criminal law and civil law often intersect, as convicted sexual
16 offenders may be civilly committed as dangerous, due to mental illness. Further, sexual offenders
17 are subject to public registration requirements. United States Sentencing Guidelines recommend
18 that an individual’s ability to control their behavior should be taken into consideration by the
19 courts as they sentence, with evidence of impaired control supporting decreased sentences. Some
20 defendants have presented behavioral addictions-related testimony to support their claim that
21 they had diminished behavioral control [6]. Criminal defense attorneys sometimes explicitly
22 identify “sex addiction” as a potential defense for sexual charges, particularly in cases of child
23 pornography. One attorney’s website lists out several possible defenses against charges of child
24 pornography, and includes “sex addiction” amongst them: “Addiction — Although not a true
25 defense, if you can offer psychological testimony that you are addicted to the material and show
26 the appropriate remorse, you could persuade the judge to give you a lenient sentence and
27 undergo counseling as a condition [23].”
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49 **Example 1:** In 2011, W.V., a 25 year-old graduate student, set up a hidden camera in the
50 bathroom of a California coffee shop He recorded several days’ worth of video of women,
51 including underage females, as they used the restroom. That same month, W.V. broke into the
52 apartment of several college-age females, taking underwear, tampon applicators, and personal
53 information. W.V. was arrested after an employee of the coffee shop noticed the hidden camera
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4 and notified police. W.V. was identified in store security camera recordings. Upon arrest, W.V.,
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6 described to police that he had a “fetish” for women using the restroom and admitting
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8 masturbating with the videos and materials he had stolen. After arrest, W.V., saw a clinical
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10 psychologist who referred him to a “sex addiction” treatment facility in Los Angeles. He
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12 received treatment from a psychologist and certified “sex addiction” therapist for several months,
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14 including an “intensive” ten day program. The psychologist described that W.V. had a history of
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16 depression and isolation prior to the sexual crimes, and reducing this social isolation was a major
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18 component of treatment. W.V., was later assessed and treated by a psychiatrist, who diagnosed
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20 him as suffering “compulsive sexual behavior, major depressive disorder, and social anxiety
21
22 disorder.” The treating psychiatrist testified that after treatment, W.V. had a high level of
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24 motivation to “stay in recovery,” and that “His behaviors, in my opinion, were a direct result of
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26 untreated symptoms of compulsive sexual behavior.” A second forensic psychiatrist also
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28 evaluated W.V. and later testified that W.V.’s, sex addiction, was in remission.”
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37 California state law stipulates that in order to require lifetime registration as sexual
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39 offenders, “[T]he trial court ... must find whether the offense was committed as a result of sexual
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41 compulsion or for purposes of sexual gratification, and state the reasons for these findings [24].”
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43 W.V. was required by the courts to register as a sex offender, and appealed the decision, arguing
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45 that the Court did not take into consideration his “zero risk” for reoffending, by virtue of his
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47 successful treatment. An appeals court upheld the decision, noting that it was significant that the
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49 prosecution offered no evidence that contradicted the opinions of the clinical professionals who
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51 treated and evaluated W.V. . Despite evidence of numerous paraphilic behaviors (voyeurism,
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53 specific/object fetishism) there is no record in court documents that W.V. was diagnosed with a
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55 paraphilia, or treated for same. Risk of reoffending and treatment, as described in court records
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4 of testimony, were based on the case formulation as a “sex addict” with depression and anxiety,
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6 as opposed to an individual with a diagnosable sexual paraphilia [25].
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10 **Example 2:** W.I. was a Florida businessman in the construction industry, arrested in 2006
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12 connected to charges of child pornography. Since 2001, W.I. had been traveling throughout Asia
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14 associated with business trips, and spent weekends on trips to brothels which specialized in
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16 underage children. While there, W.I. would photograph the children and himself. He later
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18 distributed these photographs using the Internet, which led to his arrest. W.I. engaged in
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20 sadomasochistic behaviors with these children, and with other prostitutes for much of his adult
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22 life. The prosecution anticipated that the man’s defense might include an attempt to blame his
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24 behaviors on mental illness or addictive behaviors, and cited precedent “[M]ost people who
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26 collect a sizeable amount of child pornography are in some way addicted to collecting it [26].”
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33 Prior to trial, W.I. attended a residential treatment center in Florida, where he was treated for
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35 “alcohol abuse problems and sexual addiction.” W.I. was evaluated by a psychiatrist, and a
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37 psychologist. The psychiatrist diagnosed W.I. with pedophilia. In contrast, the psychologist’s
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39 psychosexual report suggested W.I.’s behaviors “could be described as a `sexual addiction,' with
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41 many behaviors and an obsessive fixation which included frequent masturbation, anonymous sex
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43 with prostitutes and the eventual use of brothels in Cambodia.” The psychologist described W.I.
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45 as “sexually obsessed for at least the last ten years,” and stated during trial, that W.I. had “a long-
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47 standing problem with sexual obsession,” “something like sexual addiction,” and ... "obsessive-
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49 compulsive type disorder, not the full-blown disorder, but with the sexual behavior being the
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51 most prominent feature.”
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4 In a letter W.I. wrote to the district court a week before sentencing, W.I. admitted to his
5 actions and acknowledged their wrongness adding “but it was to[o] late, my “sex addiction” was
6 now in full control of me.” W.I. was initially sentenced to 17 and a-half years in prison, but the
7 sentence was appealed by prosecutors. The Federal Appeals Court held that the judge in the
8 initial trial had been inappropriately swayed by testimony about W.I.’s personal philanthropy,
9 and by testimony about W.I.’s impaired ability to control himself. After appeal, W.I. was
10 sentenced to the maximum sentence, thirty years in Federal prison [27].
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22 **Example 3:** In Raleigh, North Carolina, J.W. faced the death penalty as he stood trial for the
23 rape and murder of a prominent local figure, K.T., a member of the state board of education. Part
24 of the defense strategy was to paint J.W. as a sex addict, who was acting out of control, driven by
25 sex desires that he was powerless to resist. A social worker and “sex addiction” specialist
26 testified that J.W. had earned an “18 on a 20 point-scale” measuring “sex addiction,” and that he
27 was one of the most severe sex addicts she’d ever seen. A psychiatrist testified that he had
28 treated J.W. for mental and alcohol problems, but had been unaware of any sexual issues. J.W.’s
29 defense attorneys argued that because of his “sex addiction” and other disorders, their client had
30 diminished capacity when he committed these crimes, and thus should not be held fully
31 responsible for his actions. The jury in the case voted unanimously for a life sentence, and J.W.
32 was sentenced to life in prison without parole [28].
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50 A telephonic interview for this article was conducted of two of the North Carolina
51 prosecutors who led the prosecution of Jason W. [29] These attorneys reported that they did not
52 actively attempt to discredit or invalidate testimony about “sex addiction,” as a part of their
53 overall legal strategy. “Paying too much attention to it would have given it more
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4 credibility... The defense counsel threw lots of things out there, from drug addiction to mental
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6 illness and “sex addiction,” just trying to get something to stick.” The attorneys interviewed
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8 acknowledged that there was substantial evidence of treatment for mental illness prior to the
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10 crime, though they believed the mental health history was “broad but not deep,” and did not
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12 reflect diminished capacity of the severity argued by defense. On the basis of this history of
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14 treatment, they believed early on that they would be unlikely to achieve the death penalty in the
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16 case. During cross examination of the “sex addiction” therapist, the prosecutors questioned her
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18 about both diagnosis and testing and the therapist testified that although “sex addiction” was not
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20 currently a formal diagnosis, DSM 5 was expected to include the disorder. She acknowledged
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22 that the tests she used to diagnose “sex addiction” were “unregulated.” The attorneys interviewed
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24 were surprised to learn during interview that “sex addiction” had not in fact been included in
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26 DSM5.
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35 Criminal law cases include some of the most serious and concerning uses of the “sex
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37 addiction” construct. These cases reflect extremely serious, violent criminal acts, with the most
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39 serious legal penalties, up to and including the death penalty. Under these circumstances, it is
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41 perhaps understandable that “sex addiction” may be invoked in desperate efforts to mitigate
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43 punishments. Similarly, prosecutors seeking to protect communities from defendants seen as
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45 highly dangerous may also utilize claims of “sex addiction” in order to paint defendants in the
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47 worst possible light.
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52 **Conclusion**

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56 A number of interesting issues arise with respect to the cases we have reviewed in the
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58 present article. It would appear that the line between sex offending and “sex addiction” needs
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4 more clarity. Although it's possible for dysregulated sexual behavior to exist concurrently with
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6 sex offending behavior, several of the cases cited appear to misapply an "addiction" model to sex
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8 offending behavior. Such confusion can lead to recommending treatment that is contra-indicated
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10 (e.g. someone with sex offending behavior ordered into treatment for "sex addiction," as opposed
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12 to referral to empirically-supported sex offender treatment). Additionally, in cases of family law,
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14 this may have ramifications for child custody and parental visitation rights, particularly if
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16 children at risk are deemed safe due to misdiagnoses.
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22 The lack of clear operationalized criteria and universal agreement about "sex addiction"
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24 allows for claims that one is addicted to sex as an explanation for a referred offense which may
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26 be inaccurate or one step removed from the "real" problem. For example, if the effects of drugs
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28 lead to dysregulated sexual behavior, then substance-abuse might be the more parsimonious
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30 explanation rather than "sex addiction." Moreover, abuse of a "sex addiction" label may emerge
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32 in family law where communication problems, a lack of emotionally intimacy, or sexual
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34 incompatibility may be miscategorized as "sex addiction." This could lead to faulty judgments in
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36 family law cases with their associated consequences for the non-prevailing party.
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42 Some attorneys may erroneously conclude that the claim of mental health illness (e.g.
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44 "sex addiction") as a defense will somehow reduce sentencing or elicit compassion from the
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46 court leading to more lenient sentencing. Some of the cases cited in this article clearly illustrate
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48 abuse of the "sex addiction" concept as a mental illness as part of a legal strategy with little
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50 understanding of what constitutes mental illness, let alone, sexual behavior problems. Courts
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52 should be encouraged to understand that at the present time, "sex addiction" is not a sanctioned
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54 disorder or mental illness and thus it does not receive the same recognition or privileges as
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56 disorders contained in the DSM-5. This may affect the degree to which testimony related to "sex
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4 addiction” is seen as helpful in determining a person’s level of self-control, responsibility, or risk
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6 of re-offending.
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10 Despite claims that the concept of “sex addiction” may hold little real risk for forensic
11 misuse [4], the current review finds a number of examples where “sex addiction” has played a
12 significant role in legal proceedings of many types. In the current review, it is unclear to what
13 degree claims of “sex addiction” are truly influencing court decisions. However, it is difficult to
14 determine whether this inconsistent reception by courts is due to the ways in which the “sex
15 addiction” construct is used, or due to legal skepticism regarding the notion that sex constitutes
16 an addictive disorder, which in part is justified. In many cases, the concept has been misused.
17 However, it must be recognized that a thorough assessment of the frequency of such claims may
18 be impossible, due to limitations on data collection in US courts. Nevertheless, our limited
19 review suggests that “sex addiction” is playing an increasingly significant role in many different
20 types of forensic matters. The legal response to “sex addiction” has not been universally
21 negative, or positive. This inconsistent response increases the chances that plaintiffs and
22 defendants will continue to utilize the “sex addiction” strategy in future cases, at least until either
23 the legal system develops a consistent stance.
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45 Current standards of legal proceedings regarding the admissibility of scientific
46 information related to mental health do exist. These rules require that scientific testimony be
47 based on research that is repeatable, involves testing of hypotheses, with real world data, using
48 sound science, and upon research and scientific information that is generally accepted [30].
49 Whether testimony related to “sex addiction” fulfills these criteria does not appear to have been
50 tested in legal proceedings. Colasurdo recommended that “in the eyes of the law, the concept of
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4 addiction should be restricted to chemical substance dependence,” and that the unsettled,
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6 unreliable and contentious nature of this field “is likely to have an unjustified distorting effect on
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8 the law [6].”
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12 In the cases reviewed, there are several instances where the legitimacy or validity of
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14 claims of “sex addiction” have been directly questioned or challenged on the basis of their
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16 acceptance as a formal diagnosis. Allen Frances, MD., a former editor of DSM-IV and a vocal
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18 critic of the American Psychiatric Association’s DSM 5 process [31] has testified in one
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20 California civil commitment case, specifically against the use of a “sex addiction” diagnosis.
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22 Frances argued that promiscuity was not a mental disorder, and asserted that “Compulsive
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24 sexuality is ‘an incompetent diagnosis in a forensic case,’ and a psychologist who would offer
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26 such a diagnosis as an expert opinion should not be taken seriously [32].” Where research and
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28 theory are unclear, as with “sex addiction,” expert testimony and evidence related to mental
29
30 health diagnosis or treatment should acknowledge that lack of empirical clarity. Legal standards
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32 regarding expert testimony in such matters limit the degree to which experimental or developing
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34 science can be utilized or accepted as evidence. [30]
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44 Even where courts appear to have questioned the validity of “sex addiction,” they have
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46 typically used administrative procedures to exclude the question of “sex addiction,” rather than
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48 making determinations on the legitimacy of these claims. No cases were identified in this review,
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50 where testimony related to “sex addiction” was subjected to evidentiary proceedings to
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52 determine whether they met criteria for admissibility as scientific evidence. It is possible that this
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54 is an intentional strategy by courts, in order to “dance around the concept” due to legal issues
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56 such as the exclusion of conditions including sexual problems from laws such as the Americans
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4 with Disabilities Act [6]. The social acceptance of the concept of “sex addiction” seems to have
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6 resulted in a growing presence of the concept of “sex addiction” in legal proceedings throughout
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8 the United States. Although it appears that attorneys may be aware that “sex addiction” is not an
9
10 accepted diagnosis, it is often included in cases as a part of overall legal strategies. Though
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12 courts are thus far often resolving cases without formally addressing the question of “sex
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14 addiction,” the prevalence of this issue raises questions about effective use of court and systemic
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16 resources on a diagnosis not currently supported by modern medicine.
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22 The label of “sex addiction” is used both punitively, and in an exculpatory manner in
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24 forensic cases. The label of sex addict is used by both plaintiffs and defendants, to assert or
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26 imply that an individual’s sexual behaviors are out of their control, to excuse their choices, or to
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28 establish them as likely to continue such behaviors. Despite the belief that “sex addiction” is
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30 “uncontrollable,” research with self-identified sex addicts has suggested that they are no less able
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32 to exert control of their sexual arousal than are non sex-addict counterparts [33]. Many anecdotal
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34 descriptions of “sex addiction” suggest that sex addicts demonstrate difficulties with impulsivity,
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36 cognitive rigidity, emotional dysregulation and other forms of executive functioning. While
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38 research certainly supports comorbid psychopathology with “sex addiction,” conceptualizing it as
39
40 a brain disorder (e.g. executive deficits) or a problem of generalized impulse control does not
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42 appear to be supported in well-designed studies. [34, 35]. Where questions of self-control are
43
44 central to a legal case, research and theory regarding “sex addiction” may not be as helpful to the
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46 courts, as research and diagnoses related to impulse control disorders or other diagnoses where
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48 there is a greater body of empirical research. Testimony related to claims of “sex addiction”
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50 should then be grounded by extant empirical research.
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4 For patient well-being, it is extremely important that medical and mental health
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6 interventions be based upon the most accurate, up to date scientific evidence possible. Given the
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8 powerful influence that medical and mental health practice plays in legal realms, it must be
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10 informed and moderated by acknowledgment that cultural and social biases can intrude into
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12 medical practices, in harmful and destructive ways. The history of American medicine is replete
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14 with examples where sexual issues such as recovered memory of sexual abuse, and
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16 homosexuality were treated in ultimately damaging ways by the medical and mental health
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18 fields, based upon poor science.
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25 Given the many questions and concerns about the concept of “sex addiction” and related
26
27 formulations, it is important that the role of “sex addiction” in legal proceedings be critically
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29 examined. Because “sex addiction” is often accepted and endorsed in the general media, and
30
31 because attorneys are mostly concerned with the outcome of cases, it is understandable that court
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33 proceedings may be faced with addressing the legitimacy of this concept. It remains to be seen
34
35 whether, in the long run, claims of “sex addiction” and related concepts, will prove useful in
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37 court cases, or whether they will be regarded as fruitless efforts, and abandoned as an ineffective
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39 legal stratagem.
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45 It is essential that mental health professionals, forensic psychologists and psychiatrists,
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47 sex offender therapists and sexologists, all endeavor to educate the courts about these questions
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49 and concerns, when “sex addiction” claims or labels are presented in court. Where professional
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51 licensing boards are involved, it seems appropriate and judicious for these groups to make
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53 decisions about both impairment and treatment, upon the most current, accurate empirical and
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55 medical evidence available. Accurate, ethical testimony based upon the most current medical
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4 diagnostic framework and research preserves judicial effectiveness, the credibility of clinical
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6 testimony, protects victims and ensures that individuals are held responsible for their behaviors,
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8 and offered the most current and effective treatments.
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10 11 12 **Compliance with Ethics Guidelines**

13 14 **Conflict of Interest**

15
16 David J. Ley has testified as an expert witness in legal cases related to “sex addiction,” has
17 received royalties from Rowman & Littlefield Publishers, is a paid blogger/writer for Psychology
18 Today, and has had travel expenses covered by various media outlets for appearances on
19 television shows.
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23 Julie Brovko, reports no relevant disclosures.
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25
26 Rory Reid, was the principal investigator for the DSM-5 field trial on hypersexual disorder. He
27 receives funding from NIMH grants, consulting with universities and mental health agencies, and
28 has been compensated for writing mental health related articles for various websites. He has
29 received honorariums or financial compensation for providing training or research consulting
30 related to hypersexual behavior and gambling disorders from domestic and foreign government
31 entities.
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35 **Human and Animal Rights and Informed Consent** This article does not contain any studies
36 with human or animal subjects performed by any of the authors.
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39 **References**

40
41 Papers of particular interest, published recently, have been highlighted as:
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43

- 44 • Of importance
- 45 •• Of major importance
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