

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,
DIVISION THREE

People v. Konther

People v. Konther · No. G063674 · Decided June 12, 2026

SUMMARY

The California Court of Appeal affirmed Kevin Michael Konther’s convictions and 140-years-to-life sentence for sexual offenses. The published portion of the opinion holds that a defendant has no reasonable expectation of privacy in semen abandoned at a crime scene, and therefore law enforcement’s use of investigative genetic genealogy on that biological material did not violate the Fourth Amendment. The court declined to reach the merits of Konther’s challenge to evidence of uncharged assaults, finding any assumed error harmless beyond a reasonable doubt.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division Three
WRITING FOR THE COURT	Moore, Acting Presiding Justice; Sanchez, Justice; Delaney, Justice
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division Three
DECIDED	June 12, 2026
DOCKET	G063674
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of conviction and sentence after a jury trial, challenging the denial of his pretrial motion to suppress DNA evidence obtained through investigative genetic genealogy and the admission of statements concerning other uncharged assaults.
STANDARD OF REVIEW	The appellate court defers to the trial court’s express or implied factual findings when supported by substantial evidence and independently determines whether the search or seizure was reasonable under the Fourth Amendment. Abandonment findings are upheld if supported by substantial evidence. The assumed evidentiary error was reviewed for prejudice and deemed harmless beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published in part; the Fourth Amendment analysis is precedential, while part I, subsection E and part II, subsection B are unpublished and nonprecedential.

PARTIES

Kevin Michael Konther v. The People

TOPICS

fourth amendment

search and seizure

warrant requirement

suppression of evidence

criminal procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether law enforcement conducted a warrantless Fourth Amendment search by using investigative genetic genealogy and genetic testing to analyze DNA contained in semen Konther left at two crime scenes.
2. Whether the trial court's admission of Konther's statements about other uncharged assaults required reversal, including in light of the corpus delicti rule and Evidence Code section 1108.

HOLDINGS

1. Police did not conduct a Fourth Amendment search by conducting genetic testing of DNA contained in semen Konther voluntarily abandoned at the scenes of two rapes. Because Konther had no reasonable expectation of privacy in the abandoned property, the warrant requirement was not implicated.
2. Even assuming the trial court erroneously admitted Konther's statements concerning other uncharged assaults, any error was harmless beyond a reasonable doubt because the DNA evidence, Konther's admissions concerning the charged rapes, his knowledge of crime-specific facts, and corroborating evidence overwhelmingly established his guilt.

KEY QUOTATIONS

"In this case, Konther had unprotected sex when he raped Jackie in 1995, and when he raped Lucia in 1998. As in Carbo, Konther's actions reasonably indicate that he had no expectation of privacy in the genetic information or DNA contained in his ejaculated semen." (at 19-20)

"Similar to the analysis in Carbo, and the supporting DNA cases, we hold that police did not conduct a warrantless "search" within the meaning of the Fourth Amendment by conducting genetic testing of Konther's DNA, which he had abandoned at two crime scenes." (at 21-22)

"In sum, we find any alleged evidentiary errors harmless beyond a reasonable doubt." (at 28)

FACTUAL BACKGROUND

Konther sexually assaulted a nine-year-old girl in 1995 and a 21-year-old woman in 1998, leaving semen at both crime scenes. In 2018, police used investigative genetic genealogy to develop Konther and his identical twin as suspects, then confirmed that DNA obtained from discarded items matched the crime-scene DNA. Konther later made incriminating statements during secretly recorded conversations with his brother. A jury convicted him of multiple sex offenses and the trial court imposed 140 years to life.

PROCEDURAL HISTORY

An Orange County Superior Court jury convicted Konther of forcible rape, forcible oral copulation, lewd acts upon a child, and related offenses and found the alleged sentencing enhancements true. The trial court denied his Penal Code section 1538.5 motion to suppress and imposed a sentence of 140 years to life. The Court of Appeal affirmed, holding in the published portion that genetic testing of semen abandoned at crime scenes was not a Fourth Amendment search and, in the unpublished portion, that any assumed evidentiary error was harmless beyond a reasonable doubt.

DISPOSITION

affirmed

CASES CITED

- Katz v. United States, 389 U.S. 347, 350, 353 (1967)
- People v. Parson, 44 Cal. 4th 332, 345-346 (2008)
- People v. Johnson, 21 Cal. App. 5th 1026, 1031-1032 (2018)
- People v. Banks, 6 Cal. 4th 926, 934 (1993)
- People v. Williams, 20 Cal. 4th 119, 127 (1999)
- Rakas v. Illinois, 439 U.S. 128, 143-148 (1978)
- People v. Ayala, 23 Cal. 4th 225, 255 (2000)
- People v. Reyes, 19 Cal. 4th 743, 751 (1998)
- Abel v. United States, 362 U.S. 217, 241 (1960)
- California v. Greenwood, 486 U.S. 35, 40-41 (1988)
- People v. Daggs, 133 Cal. App. 4th 361, 365 (2005)
- State v. Carbo, 6 N.W.3d 114, 118-122 (Minn. 2024)
- People v. Gallego, 190 Cal. App. 4th 388, 393, 395-398 (2010)
- Williamson v. State, 993 A.2d 626, 633-642 (Md. Ct. App. 2010)
- Commonwealth v. Perkins, 883 N.E.2d 230, 239 (Mass. 2008)
- State v. Athan, 158 P.3d 27, 33-34 (Wash. 2007)
- People v. LaGuerre, 29 A.D.3d 820, 822 (N.Y. Sup. Ct. 2006)
- State v. Reed, 641 S.E.2d 320, 321-323 (N.C. Ct. App. 2007)
- Riley v. California, 573 U.S. 373, 378-403 (2014)
- United States v. Robinson, 414 U.S. 218 (1973)
- United States v. Small, 944 F.3d 490, 503-504 (4th Cir. 2019)
- State v. Brown, 815 S.E.2d 761, 765-766 (S.C. 2018)
- Edwards v. State, 497 S.W.3d 147, 161 (Tex. App. 2016)
- United States v. Hunt, 153 F.4th 858, 862 (9th Cir. 2025)
- Carpenter v. United States, Carpenter v. United States, 585 U.S. 296, 301-316 (2018)

- People v. Slayton, 26 Cal. 4th 1076, 1084 (2001)
- People v. Watson, 46 Cal. 2d 818, 836 (1956)
- Chapman v. California, 386 U.S. 18, 24 (1967)
- Rayyis v. Superior Court, 133 Cal. App. 4th 138 (2005)

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