

SUPREME COURT OF CALIFORNIA

People v. Ewoldt

7 Cal. 4th 380, 867 P.2d 757, 27 Cal. Rptr. 2d 646 (Cal. 1994) · No. S023804 · Decided February 28, 1994

SUMMARY

The Supreme Court of California held that Evidence Code section 1101 remained effective after the adoption of Proposition 8 because the Legislature reenacted it by a more-than-two-thirds vote in 1986. The court further held that evidence of the defendant’s prior uncharged lewd acts was admissible to show a common design or plan and was not required to be excluded under Evidence Code section 352. The court also held that the complaining witness’s uncorroborated testimony regarding an uncharged act was not barred by People v. Stanley.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	George, J.; Lucas, C.J.; Kennard, J.; Arabian, J.; Baxter, J.; Panelli, J.
JURISDICTION	California
DECIDED	February 28, 1994
DOCKET	S023804
DISPOSITION	reversed
PROCEDURAL POSTURE	The People petitioned for review after the Court of Appeal reversed defendant's convictions on the ground that the trial court improperly admitted evidence of uncharged misconduct. The Supreme Court reviewed the admissibility of the uncharged-act evidence under California Evidence Code sections 1101 and 352 and the rule concerning uncorroborated testimony of uncharged misconduct.
STANDARD OF REVIEW	The admissibility of uncharged-misconduct evidence under Evidence Code section 1101 is reviewed for relevance and compliance with applicable exclusionary policies; the weighing under Evidence Code section 352 is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Craig Ewoldt v. The People

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether California Evidence Code section 1101 remained operative after adoption of article I, section 28(d), of the California Constitution.
2. Whether evidence of Ewoldt's prior uncharged misconduct was admissible under Evidence Code section 1101 to establish a common design or plan.
3. Whether the evidence should nevertheless have been excluded under Evidence Code section 352 because its prejudicial effect substantially outweighed its probative value.
4. Whether Evidence Code section 1101 permitted admission of the uncharged misconduct to prove intent when intent was not genuinely disputed.
5. Whether *People v. Stanley* required exclusion of Jennifer's uncorroborated testimony concerning Ewoldt's uncharged misconduct.

HOLDINGS

1. Even if article I, section 28(d), of the California Constitution abrogated Evidence Code section 1101, the Legislature reenacted section 1101 in 1986 by amending it with more than a two-thirds vote of each house.
2. Evidence of uncharged misconduct is admissible under Evidence Code section 1101 when the uncharged misconduct and charged offense share sufficient common features to support an inference that they are manifestations of a common design or plan, even without a single continuing conception or plot.
3. *People v. Tassell* and *People v. Ogunmola* are overruled to the extent they require the charged and uncharged acts to be part of a single, continuing conception or plot before the uncharged acts may establish a common design or plan.
4. To establish a common design or plan, the uncharged and charged acts must share common features indicating a plan rather than merely a series of similar spontaneous acts; the plan need not be unusual or distinctive.
5. The trial court did not abuse its discretion in admitting the uncharged-misconduct evidence because its substantial probative value in showing a common design or plan was not substantially outweighed by the danger of undue prejudice, confusion, or misleading the jury.
6. The uncharged misconduct was inadmissible to prove intent as to the lewd-act charges because, assuming Ewoldt committed the alleged conduct, his intent could not reasonably be disputed; however, the evidence was properly admitted for the distinct purpose of establishing a common design or plan.
7. *People v. Stanley* does not impose an absolute bar on uncorroborated testimony by the complaining witness concerning uncharged misconduct; admissibility depends on the Evidence Code section 352

balancing process.

KEY QUOTATIONS

“We hold instead that evidence of a defendant's uncharged misconduct is relevant where the uncharged misconduct and the charged offense are sufficiently similar to support the inference that they are manifestations of a common design or plan.” (at 402)

“To establish the existence of a common design or plan, the common features must indicate the existence of a plan rather than a series of similar spontaneous acts, but the plan thus revealed need not be distinctive or unusual.” (at 403)

“There will be circumstances, however, in which the uncorroborated testimony of the complaining witness concerning the defendant's uncharged misconduct will be admissible.” (at 408)

FACTUAL BACKGROUND

Craig Ewoldt was charged with lewd acts against his stepdaughter Jennifer and with annoying or molesting a child. The prosecution introduced evidence that Ewoldt had previously molested Jennifer and had committed similar uncharged acts against her older sister Natalie, who was also his stepdaughter and lived in the same home. The jury convicted Ewoldt on three counts, and the Supreme Court determined that the similarities between the charged and uncharged acts supported an inference of a common design or plan.

PROCEDURAL HISTORY

Defendant was tried twice after the first jury deadlocked and a mistrial was declared. At the second trial, the jury convicted him on counts 1, 3, and 4, could not reach a verdict on count 2, and defendant received an eight-year prison sentence. The Court of Appeal reversed, concluding that evidence of prior misconduct involving defendant's older stepdaughter was inadmissible and that the complaining witness's uncorroborated testimony concerning other misconduct was inadmissible under *People v. Stanley*. The Supreme Court granted review and reversed the Court of Appeal.

DISPOSITION

reversed

CASES CITED

- *People v. Tassell*, 36 Cal. 3d 77, 679 P.2d 1 (1984)
- *People v. Ogunmola*, 39 Cal. 3d 120, 701 P.2d 1173 (1985)
- *People v. Stanley*, 67 Cal. 2d 812, 433 P.2d 913 (1967)
- *People v. Lisenba*, 14 Cal. 2d 403, 94 P.2d 569 (1939)
- *People v. Ruiz*, 44 Cal. 3d 589, 749 P.2d 854 (1988)
- *People v. Thomas*, 20 Cal. 3d 457, 573 P.2d 433 (1978)
- *People v. Sam*, 71 Cal. 2d 194, 454 P.2d 700 (1969)

- People v. Archerd, 3 Cal. 3d 615, 477 P.2d 421 (1970)
- People v. Ing, 65 Cal. 2d 603, 422 P.2d 590 (1967)
- In re Lance W., 37 Cal. 3d 873, 694 P.2d 744 (1985)
- People v. Thompson, 45 Cal. 3d 86, 753 P.2d 37 (1988)
- People v. Smallwood, 42 Cal. 3d 415, 722 P.2d 197 (1986)
- People v. Robbins, 45 Cal. 3d 867, 755 P.2d 355 (1988)
- People v. Miller, 50 Cal. 3d 954, 790 P.2d 1289 (1990)
- People v. Nicolaus, 54 Cal. 3d 551, 817 P.2d 893 (1991)
- People v. Daniels, 52 Cal. 3d 815, 802 P.2d 906 (1991)

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