

SUPREME COURT OF NEVADA

N.J. v. State (In re N.J.)

420 P.3d 1029 (Nev. 2018) · Decided June 28, 2018

SUMMARY

The Nevada Supreme Court held that a juvenile court did not abuse its discretion by admitting testimony concerning two uncharged acts in a delinquency proceeding. Applying NRS 62D.420, the court concluded that juvenile courts may receive competent, material, and relevant evidence, notwithstanding the restrictions on uncharged-act evidence in NRS 48.045. The court affirmed the delinquency adjudications for battery and harassment.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Douglas, C.J.; Cherry, J.; Gibbons, J.; Pickering, J.; Hardesty, J.; Parraguirre, J.; Stiglich, J.
JURISDICTION	Nevada
DECIDED	June 28, 2018
DISPOSITION	affirmed
PROCEDURAL POSTURE	N.J. appealed a juvenile court adjudication of delinquency for battery and harassment after the court admitted testimony concerning two uncharged acts.
STANDARD OF REVIEW	The admission or exclusion of uncharged-act evidence is reviewed for abuse of discretion and will not be reversed absent manifest error. Questions of statutory interpretation are reviewed de novo. Sufficiency of the evidence is reviewed by asking whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion
PARTIES	N.J. v. State

TOPICS

- evidence
- statutory interpretation
- relevance
- character evidence
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether NRS 62D.420 permits a juvenile court to admit evidence of uncharged acts that is competent, material, and relevant to the charged conduct notwithstanding the restrictions in NRS 48.045.
2. Whether the juvenile court abused its discretion by admitting testimony about N.J.'s earlier challenge to fight the victim and subsequent spitting.
3. Whether inconsistent and contradictory witness testimony rendered the evidence insufficient to support the delinquency adjudication.

HOLDINGS

1. NRS 62D.420 is the more specific statute governing the admission of evidence in juvenile proceedings and creates an exception to the more restrictive provisions of NRS 48.045. A juvenile court may receive any evidence that is competent, material, and relevant to the underlying charge and may rely on it to the extent of its probative value.
2. The juvenile court did not abuse its discretion in admitting testimony that N.J. challenged the victim to a fight earlier in the day and spat on the victim after the charged battery and harassment because the testimony was competent, material, and relevant to the underlying charges.
3. N.J.'s challenge to the sufficiency of the evidence based on inconsistent and contradictory witness testimony lacked merit.

KEY QUOTATIONS

“NRS 62D.420 unequivocally provides that a juvenile court may receive any evidence that is competent, material, and relevant to the underlying charge and is more relaxed than the rules of evidence provided in NRS 48,045.” (420 P.3d at 1031)

“As the specific statute, in juvenile proceedings, NRS 62D.420 sets forth an exception to NRS 48.045.” (420 P.3d at 1032)

FACTUAL BACKGROUND

N.J. confronted the victim at a park after believing that the victim was sexually intimate with N.J.'s boyfriend. Later that evening, N.J. followed the victim and the boyfriend to an isolated area behind Walmart, entered the vehicle carrying the victim, struck the victim's temple, threatened the victim, and spat on the victim. The State charged N.J. with battery and harassment and sought to introduce testimony about the earlier attempted fight and the spitting as uncharged acts.

PROCEDURAL HISTORY

The State filed a delinquency petition charging N.J. with battery and harassment. At an evidentiary hearing, the juvenile court admitted testimony that N.J. had challenged the victim to a fight earlier in the day and had spat on

the victim after the charged conduct, relying on the res gestae doctrine. The court adjudicated N.J. delinquent on both counts, and N.J. appealed.

DISPOSITION

affirmed

CASES CITED

- Braunstein v. State, 118 Nev. 68, 72, 40 P.3d 413, 416
- State v. Lucero, 127 Nev. 92, 95, 249 P.3d 1226, 1228
- Taylor v. Thunder, 116 Nev. 968, 973, 13 P.3d 43, 46
- Union Plaza Hotel v. Jackson, 101 Nev. 733, 736, 709 P.2d 1020, 1022
- State v. Javier C., 128 Nev. 536, 540, 289 P.3d 1194, 1197
- N.L. v. State, 989 N.E.2d 773, 779
- State v. Eighth Judicial Dist. Court (Logan D.), 129 Nev. 492, 508, 306 P.3d 369, 380
- Williams v. State, Dep't of Corr., 402 P.3d 1260, 1265
- Piroozi v. Eighth Judicial Dist. Court, 131 Nev. 1004, 1009, 363 P.3d 1168, 1172
- Tavares v. State, 117 Nev. 725, 730, 30 P.3d 1128, 1131
- Barber v. State, 131 Nev. 1065, 1071, 363 P.3d 459, 464
- City of Sparks v. Reno Newspapers, Inc., 399 P.3d 352, 356

OPINION

DOUGLAS, J.

By the Court, DOUGLAS, C.J.: In this opinion, we are asked to determine whether the juvenile court abused its discretion in admitting uncharged acts as evidence. We conclude that it did not because the evidence was competent, material, and relevant to appellant's underlying charges, as required pursuant to juvenile justice statute NRS 62D.420. FACTS AND PROCEDURAL HISTORY On September 22, 2015, appellant N.J. and a group of mutual acquaintances were at a park in Fallon, Nevada, when N.J. attempted to fight the victim in this case.

According to witness testimony, N.J. believed that her boyfriend, T.H., was sexually intimate with the victim. The victim eluded an altercation and left the park. Later that evening, the victim received a text message from T.H.

The victim and T.H. planned to visit Walmart to purchase pajamas. T.H. picked up the victim, but instead of visiting Walmart, they drove to an isolated area behind Walmart. After they parked the vehicle, N.J. pulled up in a vehicle behind them. N.J. left her vehicle and entered the vehicle carrying the victim. N.J. struck the temple of the victim's head, threatened to hurt the victim if she did not stay away from T.H., and spat on the victim.

The State filed a delinquency petition in juvenile court charging N.J. with one count of battery and one count of harassment. During an evidentiary hearing, N.J. objected to the admission of testimony regarding two uncharged acts, namely testimony that she had (1) challenged the victim to a fight earlier in the day at the park, and (2) spat on the victim after the battery and harassment.

With regard to the two uncharged acts, the district court overruled the objections based on the *res gestae* doctrine. The district court ultimately adjudicated N.J. delinquent on both counts. This appeal followed. *1031DISCUSSION This court generally defers to the district court's discretion in admitting or excluding evidence of uncharged acts. *Braunstein v. State*, 118 Nev. 68, 72, 40 P.3d 413, 416 (2002).

Thus, this court will not reverse such determinations absent manifest error. *Id.* However, questions of statutory interpretation are reviewed *de novo*. *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011). N.J. argues that the testimony regarding two uncharged acts constitutes bad act evidence and is inadmissible in juvenile proceedings because NRS Chapter 62D does not have a provision similar to NRS 48.045, which allows the admission of bad act evidence for certain limited purposes in adult criminal proceedings.¹ We disagree.

In criminal cases involving adult defendants, NRS 48.045 permits the admission of uncharged-act evidence for certain limited purposes. Although evidence of prior misconduct "is not admissible to prove the character of a person," it may be admitted "for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident."

NRS 48.045(2). Prior to the admission of evidence of other wrongs in the context of a criminal case, the prosecutor has the burden of establishing at a hearing outside the jury's presence that: "(1)... the evidence is relevant to the crime charged; (2) that the other act is proven by clear and convincing evidence; and (3) that the probative value of the other act is not substantially outweighed by the danger of unfair prejudice."

Taylor v. Thunder, 116 Nev. 968, 973, 13 P.3d 43, 46 (2000) (internal quotation marks omitted). NRS 48.045 makes no mention of its inadmissibility in juvenile proceedings. See *Union Plaza Hotel v. Jackson*, 101 Nev. 733, 736, 709 P.2d 1020, 1022 (1985) (providing that this court is "not empowered to go beyond the face of a statute to lend it a construction contrary to its clear meaning"); see also NRS 49.295(2)(d) (providing unequivocally that the marital privileges do not apply in juvenile proceedings).

Although juvenile proceedings are civil in nature, formal evidentiary hearings are required to adjudicate a juvenile as delinquent. See *State v. Javier C.*, 128 Nev. 536, 540, 289 P.3d 1194, 1197 (2012) (recognizing that juvenile proceedings and confinement resulting therefrom are civil, not criminal); *N.L. v. State*, 989 N.E.2d 773, 779 (Ind. 2013) (holding that while juvenile delinquency

hearings are civil in nature, a formal fact-finding hearing is analogous to a criminal trial and the rules of evidence apply to the same extent as in a criminal case).

Thus, initially, NRS 48.045 appears to apply in juvenile proceedings. We now turn to the application of NRS 62D.420, which provides, in pertinent part: 1. In each proceeding conducted pursuant to the provisions of this title, the juvenile court may: (a) Receive all competent, material and relevant evidence that may be helpful in determining the issues presented, including, but not limited to, oral and written reports; and (b) Rely on such evidence to the extent of its probative value.

NRS 62D.420 unequivocally provides that a juvenile court may receive any evidence that is competent, material, and relevant to the underlying charge and is more relaxed than the rules of evidence provided in NRS 48.045. NRS 48.045 excludes the admission of evidence of uncharged acts for the purpose of proving character, while NRS 62D.420 is void of such exclusion.

This distinction makes sense given that NRS 48.045 acts as a procedural safeguard in a criminal case to ensure "that the jury will [not] be unduly influenced by the evidence, and thus convict the accused because it believes the accused is a bad person." *1032Tavares v. State, 117 Nev. 725, 730, 30 P.3d 1128, 1131 (2001).

In contrast, juvenile proceedings "[m]ust be heard without a jury." NRS 62D.010. Consequently, NRS 62D.420 and NRS 48.045, applied in the context of juvenile proceedings, conflict. "When two statutory provisions conflict, this court employs the rules of statutory construction and attempts to harmonize conflicting provisions so that the act as a whole is given effect."

State v. Eighth Judicial Dist. Court (Logan D.), 129 Nev. 492, 508, 306 P.3d 369, 380 (2013) (internal citations omitted). "Under the general/specific canon, the more specific statute will take precedence and is construed as an exception to the more general statute, so that, when read together, the two provisions are not in conflict, but can exist in harmony."

Williams v. State, Dep't of Corr., 133 Nev. ----, ----, 402 P.3d 1260, 1265 (internal citations and quotation marks omitted); see also Piroozi v. Eighth Judicial Dist. Court, 131 Nev. 1004, 1009, 363 P.3d 1168, 1172 (2015) (providing that "[w]here a general and a special statute, each relating to the same subject, are in conflict and they cannot be read together, the special statute controls" (internal quotation marks omitted)).

Because NRS 62D.420 is a statute focusing specifically on the admission of evidence in juvenile proceedings, it is the more specific statute, and it governs here. See NRS 47.020(1)(a) (providing, NRS 48.045 governs proceedings except "[t]o the extent to which its provisions are relaxed by a statute or procedural rule applicable to the specific situation").

As the specific statute, in juvenile proceedings, NRS 62D.420 sets forth an exception to NRS 48.045.2 Based on the foregoing analysis, the district court was allowed to receive any evidence that was competent, material, and relevant to N.J.'s underlying charges of battery and harassment.

The district court concluded that the two uncharged acts provide a full account of the circumstances surrounding the commission of the battery and harassment. We note that the district court acknowledged that N.J. could have been charged with a separate battery for spitting on the victim but was not. Nonetheless, the district court allowed such testimony as evidence in this case.

We are satisfied that the testimony regarding the two uncharged acts is competent, material, and relevant, as required pursuant to NRS 62D.420(1)(a). Thus, the district court did not abuse its discretion in admitting the testimony regarding the two uncharged acts, and therefore, we affirm the district court's order.

We concur: Cherry, J. Gibbons, J. Pickering, J. Hardesty, J. Parraguirre, J. Stiglich, J. We note that N.J. also argues there is insufficient evidence to support the delinquency adjudication due to inconsistent and contradictory witness testimony.

After considering this claim, we conclude that it lacks merit. See *Barber v. State*, 131 Nev. 1065, 1071, 363 P.3d 459, 464 (2015) (explaining that the standard of review when analyzing "the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt" (internal quotation marks omitted)).

We note that NRS 48.045 was enacted 32 years prior to the enactment of NRS 62D.420. This court must assume that, when enacting NRS 62D.420, the Legislature was aware of related statutes, such as NRS 48.045. See *City of Sparks v. Reno Newspapers, Inc.*, 133 Nev. ----, ----, 399 P.3d 352, 356 (2017).

Thus, the Legislature could have used identical language in NRS 62D.420 or structured the statute in a similar way.