

SUPREME COURT OF CALIFORNIA

People v. Westerfield

People v. Westerfield, 243 Cal. Rptr. 3d 18 (Cal. 2019) · No. S112691 · Decided February 4, 2019

SUMMARY

The California Supreme Court affirmed David Westerfield's death sentence for the 2002 first-degree murder and kidnapping of seven-year-old Danielle Van Dam, along with his conviction for misdemeanor child pornography. The court held that probable cause supported the issuance of five search warrants even without considering the defendant's failed polygraph examination, as the totality of other circumstances—including suspicious behavior, inconsistent statements, and FBI profiler insights—provided a substantial basis for the warrants. The court also found no error in the trial court's denial of a challenge for cause against a prospective juror who gave equivocal responses about impartiality, as the trial court's determination of the juror's state of mind was binding on review. The opinion addresses Fourth Amendment search and seizure, polygraph evidence in probable cause determinations, and juror bias standards in capital cases.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Cantil-Sakauye; Chin; Corrigan; Liu; Cuéllar; Kruger; Slough
JURISDICTION	California
DECIDED	February 4, 2019
DOCKET	S112691
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a judgment of death and conviction for first degree murder, kidnapping, and child pornography
STANDARD OF REVIEW	For review of probable cause determination, deferential substantial basis standard; for challenges for cause, abuse of discretion; for sequestration, abuse of discretion; for additional peremptory challenges, constitutional error standard
PRECEDENTIAL VALUE	published
PARTIES	David Alan Westerfield v. The People

TOPICS

criminal procedure

fourth amendment

search and seizure

sentencing

jury selection

standard of review

preservation of error

appellate procedure

PRACTICE AREAS

Criminal Law

Appellate Practice

QUESTIONS PRESENTED

1. Whether the trial court erred in denying the motion to suppress evidence obtained pursuant to five search warrants, specifically whether the first warrant was supported by probable cause without considering the polygraph evidence.
2. Whether the trial court erred in denying defendant's challenge for cause to Prospective Juror number 19, and whether that forced him to use a peremptory challenge and later be tried by biased jurors.
3. Whether the trial court erred in denying defendant's request for additional peremptory challenges due to pretrial publicity.
4. Whether the trial court erred in failing to sequester the jury given the extensive media attention.

HOLDINGS

1. Probable cause supported the issuance of the first search warrant even without consideration of the polygraph results, and therefore the subsequent warrants were also valid. The trial court properly denied the motion to suppress.
2. The trial court did not err in denying the challenge for cause because the prospective juror's responses were equivocal and the court's determination of her ability to be fair and impartial is binding on appeal.
3. Defendant forfeited the claim by not raising pretrial publicity as a basis, and even on the merits, no error occurred because defendant failed to show he was likely to receive an unfair trial.
4. The trial court did not abuse its discretion; it took numerous precautions, repeatedly admonished the jury, and reasonably concluded that the jury was abiding by its orders.

KEY QUOTATIONS

"The test for probable cause is not reducible to 'precise definition or quantification.'" (at 34)

"We will uphold a trial court's ruling on a challenge for cause 'if it is fairly supported by the record.'" (at 44)

"The trial court is present and able to observe the juror itself. It can judge the person's sincerity and actual state of mind far more reliably than an appellate court reviewing only a cold transcript." (at 44)

FACTUAL BACKGROUND

On the night of February 1, 2002, seven-year-old Danielle Van Dam disappeared from her home. The defendant, David Westerfield, lived two doors away. He had interacted with the family earlier, including selling Girl Scout cookies. After Danielle's disappearance, Westerfield drove his motorhome to various locations, behaved oddly, and later dropped off bedding and a jacket at a dry cleaner. Forensic evidence linked Danielle to Westerfield's

motorhome, jacket, and home. Her body was found on February 27, 2002, in a remote area. The defendant relied on an alibi based on entomological evidence suggesting the body was placed later, after he was under police surveillance.

PROCEDURAL HISTORY

The defendant was convicted of first degree murder, kidnapping, and child pornography, and sentenced to death. The trial court denied his motion for modification of penalty. This appeal is automatic.

DISPOSITION

affirmed

CASES CITED

- Illinois v. Gates, 462 U.S. 213 (1983)
- People v. Kraft, 23 Cal. 4th 978 (2000)
- Florida v. Harris, 568 U.S. 237 (2013)
- People v. Bryant, Smith and Wheeler, 60 Cal. 4th 335 (2014)
- Skelton v. Superior Court, 1 Cal. 3d 144 (1969)
- People v. Carrington, 47 Cal. 4th 145 (2009)
- Miranda v. Arizona, 384 U.S. 436 (1966)
- People v. Virgil, 51 Cal. 4th 1210 (2011)
- People v. Mills, 48 Cal. 4th 158 (2010)
- People v. Avila, 38 Cal. 4th 491 (2006)
- People v. Carasi, 44 Cal. 4th 1263 (2008)
- People v. Rices, 4 Cal. 4th 49 (2017)
- People v. Souza, 54 Cal. 4th 90 (2012)
- People v. Clark, 52 Cal. 4th 856 (2011)
- People v. Hillhouse, 27 Cal. 4th 469 (2002)
- People v. Bittaker, 48 Cal. 3d 1046 (1989)
- People v. Vitelle, 61 Cal. App. 695 (1923)
- People v. Black, 58 Cal. 4th 912 (2014)
- In re Carpenter, 9 Cal. 4th 634 (1995)
- People v. Bonin, 46 Cal. 3d 659 (1988)
- People v. Jenkins, 22 Cal. 4th 900 (2000)
- People v. Scott, 21 Cal. 3d 284 (1978)
- Ross v. Oklahoma, 487 U.S. 81 (1988)
- People v. DePriest, 42 Cal. 4th 1 (2007)
- People v. Prince, 40 Cal. 4th 1179 (2007)

- People v. Peoples, 62 Cal. 4th 717 (2016)

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