

 KeyCite Yellow Flag - Negative Treatment
Called into Doubt by State v. Cameron, N.J., September 25, 1986

78 N.J. 454

Supreme Court of New Jersey.

STATE of New Jersey, Plaintiff-Appellant,
v.

Howard Warren ATKINS,
Defendant-Respondent.

Argued Sept. 11, 1978.

|

Decided Jan. 18, 1979.

Synopsis

Defendant was convicted in the Union County Court of breaking and entering with intent to steal, and he appealed. The Superior Court, Appellate Division, 151 N.J.Super. 555, 377 A.2d 718, reversed. On appeal, the Supreme Court, Schreiber, J., held that: (1) voluntary intoxication was not available to disprove charge of breaking and entering with intent to steal, and (2) trial judge did not abuse his discretion in ruling two 1965 convictions, one for breaking and entering and larceny and the other for attempted breaking and entering with intent to steal, admissible as relevant with respect to whether entry was inadvertent or for purpose of committing theft.

Reversed.

Handler, J., concurred in result and filed opinion in which Clifford, J., joined.

Pashman, J., dissented and filed opinion.

West Headnotes (5)

[1] Criminal Law

Intoxication

110 Criminal Law

110VI Capacity to Commit and
Responsibility for Crime

110k52 Intoxication

110k53 In general

Voluntary intoxication is not generally available to disprove charge of breaking and entering with intent to steal.

1 Cases that cite this headnote

[2] Criminal Law

Other Misconduct Showing Intent

Criminal Law

Other Misconduct Showing Absence of Mistake or Accident

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by
Accused

110XVII(F)7 Other Misconduct
Showing Intent

110k371.27 In general

(Formerly 110k371(1))

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by
Accused

110XVII(F)9 Other Misconduct
Showing Absence of Mistake or
Accident

110k372.1 In general

(Formerly 110k371(1))

Whether prior crimes are admissible into evidence requires balancing of probative value regarding intent or absence of mistake against potential for prejudice. Rules of Evidence, rule 55, N.J.S.A.

5 Cases that cite this headnote

[3] Criminal Law

Burglary and trespass

Criminal Law

Other particular offenses

Criminal Law

Remoteness

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by
Accused

110XVII(F)7 Other Misconduct

Showing Intent

110k371.31 Burglary and trespass

(Formerly 110k371(6))

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by

Accused

110XVII(F)12 Nature and

Circumstances of Other Misconduct

Affecting Admissibility

110k373.7 Similarity to Crime Charged

110k373.12 Other particular offenses

(Formerly 110k371(6))

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by

Accused

110XVII(F)12 Nature and

Circumstances of Other Misconduct

Affecting Admissibility

110k373.18 Temporal Relation of

Events

110k373.21 Remoteness

(Formerly 110k371(6))

In prosecution for breaking and entering with intent to steal, trial judge did not abuse his discretion in ruling two 1965 convictions, one for breaking and entering and larceny and the other for attempted breaking and entering with intent to steal, admissible as relevant with respect to whether entry was inadvertent or for purpose of committing theft. Rules of Evidence, rule 55, N.J.S.A.

8 Cases that cite this headnote

[4] Criminal Law

🔑 Purposes for Admitting Evidence of Other Misconduct

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by

Accused

110XVII(F)1 Other Misconduct as

Evidence of Offense Charged in General

110k368.3 Purposes for Admitting

Evidence of Other Misconduct

110k368.4 In general

(Formerly 110k372(1), 110k371(12))

That evidence of prior crimes may have some bearing on motive, intent, plan, absence of mistake, knowledge or identity does not automatically warrant its admission. Rules of Evidence, rule 55, N.J.S.A.

2 Cases that cite this headnote

[5] Criminal Law

🔑 Necessity that intent be in issue

Criminal Law

🔑 Other particular offenses

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by

Accused

110XVII(F)7 Other Misconduct

Showing Intent

110k371.28 Necessity that intent be in issue

(Formerly 110k369.7)

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by

Accused

110XVII(F)12 Nature and

Circumstances of Other Misconduct

Affecting Admissibility

110k373.7 Similarity to Crime Charged

110k373.12 Other particular offenses

(Formerly 110k369.7)

If defense in prosecution for breaking and entering with intent to steal had been alibi or general denial, prior convictions for breaking and entering and larceny and attempted breaking and entering with intent to steal might properly have been excluded even though they were relevant to intent. Rules of Evidence, rule 55, N.J.S.A.

3 Cases that cite this headnote

Attorneys and Law Firms

****1123 *455** Ileana N. Saros, Deputy Atty. Gen., for plaintiff-appellant (John J. Degnan, Atty. Gen., attorney).

Susan T. Sinins, Asst. Deputy Public Defender, for defendant-respondent (Stanley C. Van Ness, Public Defender, attorney).

Opinion

The opinion of the court was delivered by

SCHREIBER, J.

Defendant was convicted in a jury trial of breaking and entering with intent to steal and was sentenced to serve a three-to-five-year term in State Prison. On appeal the Appellate Division, one judge dissenting, reversed. The majority found that the failure to instruct the jury that voluntary intoxication could negate the specific intent element ***456** of the offense charged constituted reversible error. It also held that introduction into evidence of certain prior convictions of the defendant was erroneous. 151 N.J.Super. 555, 377 A.2d 718 (App.Div.1977). Judge Allcorn dissented on both issues, giving rise to this appeal as of right. R. 2:2-1(a).

The facts are substantially undisputed. On August 21, 1974, Mr. and Mrs. Maggipinto, who lived in a one-family dwelling in Union, N.J., retired for the night at approximately 10:00 p. m., their two children having gone to bed earlier in the evening. When they went to bed a 12-inch portable television weighing about 50 pounds was left in its usual position on the kitchen cabinet, plugged into the outlet and with the "rabbit ears" antenna extended in a "V" position.

At approximately 12:15 a. m., the Maggipintos were awakened by a loud noise. Upon going downstairs to investigate, they discovered the defendant standing in the den. Seeing that the defendant had nothing in his hand, Mr. Maggipinto grabbed defendant and brought him into the kitchen, and Mrs. Maggipinto returned upstairs and telephoned the police. Upon being apprehended by Mr. Maggipinto, defendant asked for a cigarette and

stated a number of times that he was in the wrong house.

The television set had been moved a distance of about 10 feet from the kitchen cabinet to the dining room. It was no longer plugged in, the plug was wrapped around the handle on the top of the set, and the "rabbit ears" were no longer extended. A clock which had been on top of the set had been placed on the floor. Mr. Maggipinto testified that the defendant pointed to the television and said, "I just want to take your TV."

The Union Township police arrived in about five minutes. The arresting officer testified that defendant had a "normal appearance" with an "odor of alcohol beverage on his breath." The officer questioned the defendant about his consumption of alcohol, and defendant, whose speech was not slurred, told him he had had "a few" drinks. ****1124** On cross-examination Mrs. ***457** Maggipinto testified that the defendant did not appear intoxicated at all.

The defendant, his hands placed in handcuffs behind his back, walked with no difficulty from the kitchen to the front entrance, down a flight of eight or nine steps and then to the police car. He exhibited no signs of intoxication during the ride to the police station. At police headquarters he stated his name and address and recited his social security number from memory. His speech was not slurred.

During questioning later in the morning, defendant appeared normal and did not complain of feeling ill. He explained that he walked from the Blue Ribbon Tavern in Hillside to the Maggipinto home, a distance of approximately one mile, that he entered the house believing it to be the home of a girlfriend who lived next door to the Maggipinto home, and that he entered through the basement so as not to alert her husband. Detectives canvassed the area but were unable to locate the residence of the alleged girlfriend or anyone bearing the same name. Subsequent investigation revealed that a lock on a basement window in the Maggipinto home had been broken, the window pushed open and the door from the basement to the kitchen forced.

At trial the defendant did not take the stand. However, three defense witnesses testified that

they had observed the defendant in an intoxicated condition earlier in the day. The evidence suggested that defendant had been drinking all day. His business partner testified that when he last saw defendant at approximately 6:30 p. m. defendant was totally drunk and had a bottle in his hand.

At the close of defendant's case the State moved that the court not give an intoxication instruction on the ground that there was no direct evidence that defendant was intoxicated at the time of the crime. The trial judge denied the motion. However, he did charge the jury:

(T)here is testimony and evidence in the case that indicates a voluntary consumption of alcoholic beverages by the defendant prior to *458 the time that he is alleged to have committed the offense charged in the indictment.

This in no way should be construed as relieving the defendant of criminal responsibility for the crime charged under this indictment. This principle rests upon the sound public policy which holds all men accountable for acts voluntarily undertaken. In this case if you find that the alcohol was voluntarily taken or consumed and the defendant willfully or maliciously entered the home of Mr. and Mrs. Maggipinto at 1110 Salem Road, Township of Union, you may infer that the defendant acted intentionally in committing those acts with which he has been charged.

Explaining that his charge was based on the then existing model jury charge,¹ and commenting that *State v. Maik*, 60 N.J. 203, 287 A.2d 715 (1972), encompassed more than murder cases when it declared voluntary intoxication not to be a defense to criminal **1125 conduct, the trial judge rejected defense counsel's objection that the charge failed to indicate that intoxication could negate specific intent to steal, an element of breaking and entering with intent to steal.

¹ Prior to June 26, 1974, the Model Jury Charge provided that voluntary intoxication would lead to an acquittal if defendant was so intoxicated that he "was rendered incapable of forming an intent to commit the offense * * * ." L. Arnold, 31 *New Jersey Practice* s 1025 at 775 (1976). On June 26, 1974, the Supreme

Court's Committee on Model Jury Charges, Criminal, approved a new jury charge almost identical to that given by the trial judge in the instant case. *Id.* at 776. In formulating this new jury charge the Supreme Court Committee apparently believed that *State v. Maik*, 60 N.J. 203, 287 A.2d 715 (1972), required that the defense of intoxication no longer be available. *Id.* The trial in the instant case was held in July 1975, one year after the new Model Jury Charge was promulgated. Neither the defense counsel nor the assistant prosecutor, however, was aware of the existence of the new Model Jury Charge. On January 31, 1977, after the trial in the instant case, the Supreme Court Committee again revised the charge so that voluntary intoxication would require an acquittal if defendant was not "* * * capable of forming the necessary specific intent to commit the crime charged." Finally, on January 24, 1978, the Supreme Court Committee wrote to all judges, indicating that the law with regard to the effect of voluntary drunkenness as a defense was in a state of flux, and recommending that the Model Jury Charge then in effect on intoxication not be used.

*459 At the conclusion of the defendant's case, the prosecutor sought to rebut the notion that defendant had mistakenly entered the Maggipinto house by introducing some prior convictions to show the absence of mistake or accident. Evid.R. 55. Defendant opposed this motion on the grounds that the convictions did not go to the question of mistake, that they were too remote in time, and that their prejudicial effect outweighed their probative value. The trial court sustained defendant's objections with respect to a 1960 robbery conviction, a 1965 conviction for possession of stolen property, and a 1967 conviction for larceny, finding that these convictions were not sufficiently related to the issue of mistake. However, the court did permit the introduction into evidence of two 1965 convictions, one for entering and larceny and a second for attempted breaking and entering with intent to steal. The court rejected defendant's assertion that these convictions were too remote in time. Instead, noting the similarity between the prior convictions and the offense charged, he found that the probative value of these

convictions outweighed their prejudicial effect. In his charge to the jury the trial judge emphasized on several occasions that the two 1965 convictions had been admitted “for the limited purpose * * * as bearing upon the issue of the absence of mistake or accident when the defendant entered the home of Mr. and Mrs. Maggipinto on August 22, 1974.”

The jury found the defendant guilty. A sentence of a three-to-five-year prison term was imposed in view of some nine prior convictions and the defendant's having violated the terms of his release while awaiting sentence by moving to California.

I

The first issue raised on appeal is whether intoxication is available as a defense to the charge of breaking and entering with intent to steal. The majority of the Appellate Division found that the trial judge's instruction that voluntary *460 intoxication was not a defense constituted reversible error. Relying on the distinction between general and specific intent, State v. Del Vecchio, 142 N.J. 359, 361 A.2d 579 (App.Div.), cert. den., 71 N.J. 501, 366 A.2d 657 (1976), the court held that voluntary intoxication is a defense to a charge of breaking and entering with intent to steal to the extent that it prevents the defendant from forming the specific intent to steal. In so ruling, the Appellate Division viewed the rule set forth by this Court in State v. Maik, 60 N.J. 203, 287 A.2d 715 (1972), as being limited to murder cases.

Judge Allcorn, reading Maik as precluding voluntary intoxication as a defense generally for crimes other than first degree murder, disagreed. He viewed Del Vecchio to be in conflict with the rule laid down in Maik. Judge Allcorn also concluded that, even if intoxication were a valid defense, the lack of evidence of intoxication at the time of the breaking and entering would have precluded a charge on that issue.

[1] For the reasons stated in State v. Stasio, 78 N.J. 467, 396 A.2d 1129 (1979), decided this day, we reverse the Appellate Division's holding that voluntary intoxication was available generally to disprove a charge of breaking and entering with intent to steal. The trial court properly charged the

jury in this regard and the defendant is not entitled to a new trial on this ground.

Our opinion in Stasio does not preclude the introduction of evidence of intoxication to buttress the affirmative defense of reasonable mistake. This is distinguishable from the use of voluntary intoxication as a general denial of the intent to commit the crime. In the present case the trial court's instruction on intoxication did not prevent the jury from considering defendant's possible intoxication as it might have related to mistake. The court tied the intoxication instruction into the requirement that the jury find that Atkins willfully or maliciously entered the Maggipinto home. While the trial court might have given instructions somewhat more favorable to the defendant's apparent theory that he *461 entered the **1126 home by mistake induced in part by his intoxicated state, when the charge is read as a whole, we are satisfied that the jury was not misled nor improperly instructed. State v. Wilbely, 63 N.J. 420, 422, 307 A.2d 608 (1973). Furthermore, evidence of the defendant's guilt was overwhelming. We have no doubt that the jury would have arrived at the same verdict even had the trial court's instructions been more favorable in this regard.

II

An additional issue raised on appeal is the admissibility of two 1965 convictions, one for breaking and entering and larceny and the other for attempted breaking and entering with intent to steal. While refusing to admit evidence of prior convictions for robbery, larceny, carrying a weapon, and possession of stolen property, the trial court did admit the evidence of the two 1965 convictions under Evid.R. 55 as tending to prove absence of mistake or accident. A majority of the Appellate Division disagreed with the trial court, finding instead that the potential prejudice of the prior crimes evidence outweighed its probative value. In addition, the majority concluded that the erroneous admission of the prior convictions constituted reversible error. Judge Allcorn, in dissent, argued that in light of the defendant's claim that he entered the Maggipinto home by

mistake, the prior offenses of breaking and entering with intent to steal and larceny were relevant with respect to whether the entry was inadvertent or for the purpose of committing a theft. He further maintained that even if the evidence had been improperly admitted, the error was clearly harmless. We agree with Judge Allcorn's dissent on this issue.

[2] [3] Whether prior crimes are admissible into evidence requires a balancing of the probative value regarding intent or absence of mistake against the potential for prejudice. See 1963 Report of the New Jersey Supreme Court Committee on Evidence, Comment on Rule 55 at 104; *462 State v. Butler, 32 N.J. 166, 189, 160 A.2d 8, Cert. den. 362 U.S. 984, 80 S.Ct. 1074, 4 L.Ed.2d 1019 (1960). The trial judge engaged in just this sort of balancing and, particularly in view of his feel of the case, we do not find his judgment constituted an abuse of the discretion vested in him. See People v. Townsend, 28 Ill.App.3d 1094, 329 N.E.2d 804 (App.Ct.1975) (where defendant in burglary trial disclaimed any intent to steal, prior convictions for unrelated burglaries admissible); State v. Nading, 214 Kan. 249, 252-253, 519 P.2d 714, 718-719 (1974) (where defendant in attempted burglary trial disclaimed any intent to steal, seven- and eight-year-old convictions for unconnected burglaries probative of defendant's intent); People v. Romero, 244 Cal.App.2d 495, 53 Cal.Rptr. 260 (Dist.Ct.App.1966) (where defendant charged with burglary contended that as a result of intoxication he was without specific intent necessary for burglary, evidence of prior burglaries with similar Modus operandi admissible to show defendant's intent).

[4] [5] That evidence of prior crimes may have some bearing on motive, intent, plan, absence of mistake, knowledge or identity, Evid.R. 55, does not automatically warrant its admission. 1972 Rules of Evidence, Comment 55.3(a) at 219-220. If the defense in the instant case had been alibi or a general denial, these prior convictions might properly have been excluded even though they were relevant to intent. See State v. Putnam, 178 Neb. 445, 133 N.W.2d 605 (1965) (reversible error to allow evidence of prior break-ins where defense was general denial). While intent would still be

a necessary element of the prosecutor's case, the question of motive or intent would not have been raised by the evidence and thus the probative value of the prior offenses would likely be outweighed by their prejudicial effect.

Evidence of the defendant's guilt, as we noted above, was so overwhelming that even if the evidence of other crimes had not been admissible, the error was at most harmless. His breaking and entering and movement of the *463 television set were undisputed. Any possible inadvertence was ruled out when no one bearing the name of the defendant's friend was found to reside **1127 in the neighborhood. The defendant produced no evidence to support this position. We have no doubt that the jury would have arrived at its verdict irrespective of the prior convictions. See State v. La Porte, 62 N.J. 312, 318-319, 301 A.2d 146 (1973).

The judgment of the Appellate Division is reversed and the conviction is reinstated.

CLIFFORD and HANDLER, JJ., concurring in the result.

For reversal: Chief Justice HUGHES and Justices MOUNTAIN, SULLIVAN, CLIFFORD, SCHREIBER and HANDLER 6.

For affirmance: Justice PASHMAN 1.

HANDLER, J., concurring.

For reasons which I have expressed in my concurring opinion in State v. Stasio, 78 N.J. 467, 396 A.2d 1129 (1979), decided this day, I would recognize that facts bearing upon voluntary intoxication may be presented to the jury as a defense to the crime here charged, breaking and entering with intent to steal. To reiterate some of my observations in the companion case, I would allow voluntary intoxication as a defense but not for the reason that the crime with which Atkins was charged involves "specific intent" as opposed to "general intent". That is a distinction which I reject. Nevertheless intoxication, obviously, may affect a defendant's mental state and, if the crime calls for a particular state of mind to affix criminal

responsibility, intoxication as a fact should not be withheld from a jury's deliberations and assessment of guilt. To ignore or disregard such facts imports a fiction into the criminal process which ought not be countenanced.

The criminal law should not excuse criminal acts merely because they have been committed by drunks. The need to protect society from this brand of criminality is as real and important as protection from sober malefactors. That need, however, is adequately met by recognizing that the level or degree of intoxication which will be sufficient in fact to overcome a mental state otherwise required to ascribe guilt to a defendant must be substantial. Intoxication that so affects a defendant's mind as to render him unconscious or deprive him of will or volition or leaves him unable to *464 reason or think should be required in order to constitute a defense in fact to the commission of a crime calling for consciousness, volition, purpose or knowledge. State v. Stasio, supra at 489, 396 A.2d at 1140 (Handler, J., concurring).

The majority of this Court, while professing to repudiate voluntary intoxication as a defense in these circumstances, approaches a similar result. Intoxication of a degree that will prostrate the senses may constitute a defense, according to the majority, if it demonstrates defendant was "mistaken", Ante at 1125-1126 or in some way negates the very commission of the crime, State v. Stasio, supra at 482-484, 396 A.2d at 1136-1137.

In my view, the requisite mental state for the commission of the charged crime of breaking and entering with intent to steal involves volitional ability and consciousness, Cf. N.J.S.A. 2C:2-2. If a defendant has become so inebriated as to be in a stuporous and unconscious state, without will or ability to think, then voluntary intoxication would become a relevant fact bearing upon the mental components of the crime itself and should be considered by the jury in their determination of the facts.

This case illustrates, as does State v. Stasio, supra, a level of intoxication which, in my opinion, would Not justify a factual determination that defendant lacked the requisite consciousness, volition and

reasoning ability to be responsible for his criminal acts. The facts indicative of defendant's mental state are recited in the majority's opinion. Ante at 1123-1124. To be underscored is defendant's admission of guilt on the scene, "I just want to take your TV.". This revealed graphically willful and purposeful conduct on the part of defendant. It is inconceivable that the jury's conviction would have been altered even by an instruction on voluntary intoxication as a factual defense. While it would have been proper for the trial court to have given that charge, since there was evidence of substantial drinking by defendant antecedent to **1128 the breaking and entering, under the total factual picture demonstrating overwhelmingly *465 defendant's guilt, the error was harmless. State v. Stefanelli, 78 N.J. 418, 396 A.2d 1105 (1979).

I must also express disagreement with the majority's decision upholding the admission into evidence under Evid.R. 55 of the two 1965 convictions. The Court does so on the thesis that since defendant claimed his presence in the Maggipinto house was the result of a mistake or accident, these prior convictions involving similar charges were probative of the "absence of mistake or accident". Ante at 1126-1127.

The reasoning of the majority of the Appellate Division on the question of the admissibility of these prior convictions is sound. 151 N.J.Super. 555, 558-568, 377 A.2d 718. The record demonstrates only that the prior conviction involved similar charges; it is barren of any proof that these were similar crimes. I do not agree with its conclusion, however, that the admission of these convictions was not harmless error. The evidence of defendant's guilt was overwhelming. The guilty verdict upon this evidence was inescapable. The evidential ruling of the trial court on the admissibility of the prior conviction was, it is to be emphasized, a discretionary one involving close balancing of competing considerations. While that exercise of discretion was mistaken, it did not serve to destroy the essential fairness of defendant's trial. The error therefore should be regarded as harmless in light of the abundant evidence of guilt and the overall proper discharge of the judge's responsibility in assuring a fair trial.

Accordingly, I would reverse the decision below and reinstate the convictions.

Justice CLIFFORD joins in this opinion.

PASHMAN, J., dissenting.

I cannot subscribe to the result reached by the majority in this case. To hold that a defendant may be convicted of the crime of breaking and entering With intent to steal when in fact he never possessed such intent “not only defies logic and sound public policy, (but) also runs counter to dictates of prior caselaw and the policies enunciated by our Legislature in the new criminal code.” *466 State v. Stasio, 78 N.J. 467, 490, 396 A.2d 1140 (1979) (Pashman, J., dissenting). I therefore dissent for the reasons expressed in my dissenting opinion in State v. Stasio, 78 N.J. 467, 396 A.2d 1129 (1979), decided this day.

Moreover, I disagree with the majority's holding that the admission of two 9-year-old convictions unrelated to the offense with which the defendant was charged did not constitute error. My conclusion in this regard is based substantially upon the grounds expressed in the well-reasoned and exhaustive opinion of the Appellate Division majority, State v. Atkins, 151 N.J.Super. 555, 377

A.2d 718 (App.Div.1977). In State v. Kociolek, 23 N.J. 400, 129 A.2d 417 (1957), we clearly held that the admission of “other crimes” evidence

* * * (“) is limited to facts which are so connected with the subject in controversy as to make it apparent that the party had a common purpose in both transactions”; “on the trial of a criminal charge it is Not relevant to show that the defendant has committed other similar crimes which are not connected in any way with the one in question.” (Id. at 418, 129 A.2d at 427 (quoting from Bullock v. State, 65 N.J.L. 557, 47 A. 62 (E. & A. 1900) (emphasis supplied))

There is no contention here that the past crimes were part of a common plan or scheme. Thus, their use was for the sole purpose of showing that the alleged current offense “sprung from the same vicious disposition” as the earlier crimes. Therefore, they were not admissible. Kociolek, supra, 23 N.J. at 419, 129 A.2d 417 (quoting from State v. Raymond, 53 N.J.L. 260, 264, 21 A. 328 (Sup.Ct.1891). See also State v. Sands, et al., 76 N.J. 127, 386 A.2d 378 (1978).

For the foregoing reasons, I would affirm the Appellate Division and remand for a new trial.

All Citations

78 N.J. 454, 396 A.2d 1122

Negative Treatment**Negative Citing References (1)**

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

Treatment	Title	Date	Type	Depth	Headnote(s)
Called into Doubt by	 1. <u>State v. Cameron</u> MOST NEGATIVE 514 A.2d 1302 , N.J. Defendant was convicted of aggravated assault, possession of weapon with purpose to use it unlawfully, and resisting arrest and defendant appealed. The Appellate Division...	Sep. 25, 1986	Case		—

Citing References (29)

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	 1. State v. Stevens 558 A.2d 833, 838+ , N.J. Police officer was convicted of two counts of second-degree official misconduct and one count of third-degree criminal coercion in the Superior Court, Law Division, Burlington...	June 01, 1989	Case		2 A.2d
Discussed by	 2. State v. Stasio  396 A.2d 1129, 1132+ , N.J. Defendant was found guilty by jury of assault with intent to rob and of assault while being armed with a dangerous knife, and he appealed. The Superior Court, Appellate Division,...	Jan. 18, 1979	Case		1 3 A.2d
Discussed by	3. State v. Humphrey  444 A.2d 1135, 1138+ , N.J.Super.L. In prosecution for knowingly receiving stolen property, the Superior Court, Law Division, Essex County, Baime, J. S. C. (temporarily assigned), held that: (1) statute purporting...	Mar. 01, 1982	Case		2 A.2d
Called into Doubt by 	 4. State v. Cameron 514 A.2d 1302, 1305+ , N.J. Defendant was convicted of aggravated assault, possession of weapon with purpose to use it unlawfully, and resisting arrest and defendant appealed. The Appellate Division...	Sep. 25, 1986	Case		—
Cited by	 5. State v. G.V. 744 A.2d 137, 143 , N.J. CRIMINAL JUSTICE - Evidence. Evidence of sexual assault against victim's sister was inadmissible in sexual assault prosecution.	Jan. 27, 2000	Case		5 A.2d
Cited by	 6. State v. Nance  689 A.2d 1351, 1356 , N.J. CRIMINAL JUSTICE - Evidence. Evidence of defendant's bad conduct against a third party was admissible in murder prosecution to prove that the murder was neither accidental nor in...	Mar. 20, 1997	Case		3 A.2d
Cited by	 7. State v. Marrero  691 A.2d 293, 300+ , N.J. CRIMINAL JUSTICE - Evidence. Reversal of superior court's decision not to admit evidence of prior sexual assault was harmless error.	Mar. 20, 1997	Case		3 A.2d
Cited by	 8. State v. Marshall 586 A.2d 85, 184+ , N.J. Defendant was convicted in the Superior Court, Law Division, Atlantic County, of conspiracy and murder, and was sentenced to death, and he appealed. The Supreme Court, Stein, J.,...	Jan. 24, 1991	Case		3 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 9. State v. Ramseur 524 A.2d 188, 259+ , N.J. Defendant was convicted in the Superior Court, Law Division, Essex County, of murder and sentenced to death, and defendant appealed. The Supreme Court, Wilentz, C.J., held that:...	Mar. 05, 1987	Case		2 A.2d
Cited by	 10. State v. Ingenito 432 A.2d 912, 923 , N.J. Defendant was convicted in the Superior Court, Law Division, of unlicensed transfer of weapons, and in later trial, of possession of a firearm by a convicted felon, and he...	July 27, 1981	Case		—
Cited by	11. State v. Lashinsky 404 A.2d 1121, 1125 , N.J. A press photographer was convicted in the Sayreville Municipal Court of being a disorderly person for his refusal to heed police officer's order to move back from immediate...	July 23, 1979	Case		—
Cited by	12. State v. Richardson 2017 WL 4456359, *11 , N.J.Super.A.D. The opinion of the court was delivered by Lacking a valid driver's license, defendant was caught giving a false name during a traffic stop for a motor vehicle violation. The...	Oct. 04, 2017	Case		—
Cited by	13. State v. Cordero 105 A.3d 1129, 1136 , N.J.Super.A.D. CRIMINAL JUSTICE - Larceny. Trial court did not abuse its discretion in postponing its ruling on the admissibility of video depicting defendant's prior alleged shoplifting until...	Dec. 29, 2014	Case		2 4 5 A.2d
Cited by	14. State v. Boyd 2012 WL 2974910, *11+ , N.J.Super.A.D. Defendant was convicted in absentia of first-degree robbery with a simulated deadly weapon, N.J.S.A. 2C:15-1. He was sentenced to a term of eighteen years, with a parole...	July 23, 2012	Case		—
Cited by	15. State v. Anderson 2007 WL 209928, *5 , N.J.Super.A.D. On March 13, 2004, defendant, Reginald Anderson, was charged under Camden County Indictment No. I-1273-03-04 with second-degree burglary, contrary to N.J.S.A. 2C:18-2 (count one),...	Jan. 29, 2007	Case		—
Cited by	 16. State v. Rivera 556 A.2d 1227, 1235 , N.J.Super.A.D. Defendant was convicted by jury in the Superior Court, Law Division, Essex County, of knowing or purposeful murder by his own conduct, robbery, aggravated sexual assault, and...	Mar. 23, 1989	Case		3 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 17. State v. Peltack  411 A.2d 1156, 1159+ , N.J.Super.A.D. Defendant was convicted of conspiracy in demanding and receiving kickbacks, and from the judgment of the Superior Court, Law Division, Somerset County, the defendant appealed. The...	Feb. 08, 1980	Case		4 5 A.2d
Cited by	18. State v. Niemeyer 480 A.2d 963, 964 , N.J.Super.L. In prosecution for two counts of aggravated assault arising out of automobile accident, State moved in limine to declare certain evidence admissible at trial. The Superior Court,...	June 01, 1984	Case		—
Mentioned by	 19. State v. Erazo 594 A.2d 232, 241 , N.J. Defendant was convicted in the Superior Court, Law Division, Essex County, of capital murder and possession of weapon for unlawful purpose. Defendant appealed. The Supreme...	Aug. 08, 1991	Case		3 A.2d
Mentioned by	 20. State v. Savage 577 A.2d 455, 475 , N.J. Defendant was convicted in the Superior Court, Law Division, Essex County, of capital murder and sentenced to death, and he appealed. The Supreme Court, Garibaldi, J., held that:...	July 19, 1990	Case		—
Mentioned by	21. State v. T.A.J. 2008 WL 4949891, *6 , N.J.Super.A.D. After the jury found defendant guilty of three counts of second-degree endangering the welfare of a child, N.J.S.A. 2C:24-4a, the trial court granted her motion for a new trial. By...	Nov. 21, 2008	Case		3 A.2d
Mentioned by	22. State v. Weyant 2006 WL 1600413, *2 , N.J.Super.A.D. We granted the State's motion for leave to appeal the denial of its motion to present "other crimes" evidence. Because the facts and circumstances disclosed during an evidentiary...	June 13, 2006	Case		3 A.2d
Mentioned by	 23. State v. Engel 592 A.2d 572, 590 , N.J.Super.A.D. Defendants were convicted of conspiracy to murder first defendant's former wife by the Superior Court, Law Division, Bergen County, and they appealed. The Superior Court,...	July 02, 1991	Case		2 A.2d
Mentioned by	 24. State v. Stevens 537 A.2d 774, 780+ , N.J.Super.A.D. Defendant was convicted of two counts of second-degree official misconduct and one count of third-degree criminal coercion by the Superior Court, Law Division, Burlington County. ...	Feb. 19, 1988	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	 25. State v. Hofford 404 A.2d 1231, 1235 , N.J.Super.A.D. Defendants at a first trial before the Monmouth County Court were convicted of child cruelty and of unlawful possession of controlled dangerous substances, but because jury was...	July 05, 1979	Case		—
—	26. Modern status of the rules as to voluntary intoxication as defense to criminal charge 8 A.L.R.3d 1236 This comment examines a selection of the more recent cases to determine the present status (1966) of the rules as to the effect of voluntary intoxication from the use of alcohol...	1966	ALR	—	1 A.2d
—	27. 2B N.J. Prac. Series N.J.R.E. 404, Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes; Evidence N.J. Prac. Series Rule 404 generally follows Fed.R.Evid. 404 and replaces N.J.Evid.R. 46, 48, and 55. It also incorporates a portion of N.J.Evid.R. 47. Paragraph (a) of Rule 404 is almost identical...	2017	Other Secondary Source	—	2 3 5 A.2d
—	28. 32 N.J. Prac. Series s 21:57, The prosecutor should, if possible, save evidence of "other bad acts" committed by the defendant for rebuttal N.J. Prac. Series Except when a defendant raises the defense of entrapment, evidence that the defendant committed "other bad acts" (i.e. crimes, wrongs or other acts other than those at issue...	2016	Other Secondary Source	—	1 3 5 A.2d
—	29. EGELHOFF AGAIN 36 Am. Crim. L. Rev. 1203 , 1278+ "I was pretty out of it ... I was there, but I really wasn't there." Louis Ceparano of Elk Creek, West Virginia, about his role in dousing a black companion with gasoline, setting...	1999	Law Review	—	3 5 A.2d