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157 N.J. 554

Supreme Court of New Jersey.

STATE of New Jersey, Plaintiff–Appellant,

v.

Thomas William COVELL,
Defendant–Respondent.

Argued Feb. 17, 1999.

|

Decided March 24, 1999.

Synopsis

Defendant was convicted in the trial court of child luring arising from incident in which defendant motioned at and called for eight-year-old girl, who was riding her bicycle, to enter his vehicle. Defendant appealed. The Superior Court, Appellate Division, reversed. State petitioned for certification. After grant of certification, the Supreme Court, Garibaldi, J., held that: (1) defendant's 16-month-old statement to police about alleged prior act of lewdness involving young girl at grocery store was admissible as other conduct evidence, to prove motive and intent; (2) statement was not too prejudicial to be admissible; (3) statement was admissible as statement by party-opponent; and (4) limiting instruction on use of other conduct evidence was sufficient.

Judgment of Appellate Division reversed.

West Headnotes (19)

[1] Criminal Law

🔑 Showing bad character or criminal propensity in general

110 Criminal Law110XVII Evidence110XVII(F) Other Misconduct by
Accused110XVII(F)1 Other Misconduct as
Evidence of Offense Charged in General110k368.3 Purposes for Admitting
Evidence of Other Misconduct110k368.5 Showing bad character or
criminal propensity in general

(Formerly 110k369.1)

Evidence of other crimes, wrongs,
or acts may not be introduced into
evidence to prove defendant's criminal
disposition as basis for establishing
guilt of crime charged. N.J.S.A.
2A:84A, App. A, Rules of Evid.,
N.J.R.E. 404(b).

13 Cases that cite this headnote**[2] Criminal Law**🔑 Factors Affecting Admissibility**Criminal Law**

🔑 Nature and Circumstances
of Other Misconduct Affecting
Admissibility

Criminal Law🔑 Degree of proof**Criminal Law**🔑 Degree of proof110 Criminal Law110XVII Evidence110XVII(F) Other Misconduct by
Accused110XVII(F)1 Other Misconduct as
Evidence of Offense Charged in General110k368.7 Factors Affecting
Admissibility110k368.8 In general

(Formerly 110k374, 110k369.2(1))

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Accused110XVII(F)12 Nature and
Circumstances of Other Misconduct
Affecting Admissibility110k373.1 In general

(Formerly 110k374, 110k369.2(1))

110 Criminal Law110XVII Evidence110XVII(F) Other Misconduct by
Accused110XVII(F)13 Proof and Effect110k374.15 Preliminary Evidence

110k374.19 Proof of Other Misconduct
110k374.19(2) Degree of proof
 (Formerly 110k369.2(1))
110 Criminal Law
110XVII Evidence
110XVII(F) Other Misconduct by
 Accused
110XVII(F)13 Proof and Effect
110k374.15 Preliminary Evidence
110k374.20 Proof of Defendant's
 Commission of or Connection with
 Other Misconduct
110k374.20(2) Degree of proof
 (Formerly 110k374)

For other crime and other conduct evidence to be admissible, evidence must meet four-part test: (1) evidence must be relevant to material issue; (2) evidence must be similar in kind and reasonably close in time to offense charged; (3) evidence of other crime must be clear and convincing; and (4) probative value of evidence must not be outweighed by its apparent prejudice. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 404(b).

34 Cases that cite this headnote

[3] **Criminal Law**

🔑 Discretion of court in general

110 Criminal Law
110XVII Evidence
110XVII(F) Other Misconduct by
 Accused
110XVII(F)1 Other Misconduct as
 Evidence of Offense Charged in General
110k368.2 Discretion of court in general
 (Formerly 110k369.2(1))
 Admissibility of other crime evidence
 is left to discretion of trial court.
 N.J.S.A. 2A:84A, App. A, Rules of
 Evid., N.J.R.E. 404(b).

9 Cases that cite this headnote

[4] **Criminal Law**

🔑 Other offenses

110 Criminal Law
110XXIV Review

110XXIV(N) Discretion of Lower
 Court
110k1153 Reception and Admissibility
 of Evidence
110k1153.5 Other offenses
 (Formerly 110k1153(1))

Trial court's decision as to admissibility of other crime evidence is entitled to deference and is to be reviewed under abuse of discretion standard. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 404(b).

9 Cases that cite this headnote

[5] **Criminal Law**

🔑 Other offenses

110 Criminal Law
110XXIV Review
110XXIV(N) Discretion of Lower
 Court
110k1153 Reception and Admissibility
 of Evidence
110k1153.5 Other offenses
 (Formerly 110k1153(1))

Only where there is clear error of judgment should trial court's conclusion with respect to admissibility of other crime evidence be disturbed. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 404(b).

1 Cases that cite this headnote

[6] **Criminal Law**

🔑 Relevancy in General

110 Criminal Law
110XVII Evidence
110XVII(D) Facts in Issue and
 Relevance
110k338 Relevancy in General
110k338(1) In general

When court determines whether evidence is relevant, court's inquiry should focus on logical connection between proffered evidence and fact in issue; if evidence offered makes inference to be drawn more logical, then evidence should be admitted unless otherwise excludable by rule of law.

N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 401.

19 Cases that cite this headnote

[7] **Criminal Law**

🔑 Evidence calculated to create prejudice against or sympathy for accused

110 Criminal Law

110XVII Evidence

110XVII(D) Facts in Issue and Relevance

110k338 Relevancy in General

110k338(7) Evidence calculated to create prejudice against or sympathy for accused

Evidence claimed to be unduly prejudicial can be excluded only where its probative value is so significantly outweighed by its inherently inflammatory potential as to have probable capacity to divert minds of jurors from reasonable and fair evaluation of basic issues of case. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 403.

27 Cases that cite this headnote

[8] **Criminal Law**

🔑 Evidence calculated to create prejudice against or sympathy for accused

110 Criminal Law

110XVII Evidence

110XVII(D) Facts in Issue and Relevance

110k338 Relevancy in General

110k338(7) Evidence calculated to create prejudice against or sympathy for accused

Admissibility of evidence over claim that probative value is substantially outweighed by risk of undue prejudice falls largely within trial judge's discretion, and his discretion is broad one. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 403.

3 Cases that cite this headnote

[9] **Criminal Law**

🔑 Relevance

110 Criminal Law

110XXIV Review

110XXIV(N) Discretion of Lower Court

110k1153 Reception and Admissibility of Evidence

110k1153.3 Relevance

(Formerly 110k1153(1))

Only where there has been clear error of judgment should appellate court overturn trial court's determination of whether probative value of relevant evidence is substantially outweighed by risk of undue prejudice. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 403.

10 Cases that cite this headnote

[10] **Criminal Law**

🔑 Evidence calculated to create prejudice against or sympathy for accused

Criminal Law

🔑 Remoteness of evidence

110 Criminal Law

110XVII Evidence

110XVII(D) Facts in Issue and Relevance

110k338 Relevancy in General

110k338(7) Evidence calculated to create prejudice against or sympathy for accused

110 Criminal Law

110XVII Evidence

110XVII(H) Materiality

110k384 Remoteness of evidence

Question of remoteness of relevant evidence that is claimed to be unduly prejudicial is to be decided by trial court as matter of discretion, and determination so made is not reviewable unless it appears there was palpable abuse of discretion. N.J.S.A.

2A:84A, App. A, Rules of Evid.,
N.J.R.E. 401, 403.

1 Cases that cite this headnote

[11] Criminal Law

🔑 Remoteness of evidence

110 Criminal Law

110XVII Evidence

110XVII(H) Materiality

110k384 Remoteness of evidence

Remoteness of relevant evidence that is claimed to be unduly prejudicial cannot ordinarily be determined by passage of time alone; nature of evidence must be considered as well. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 401, 403.

1 Cases that cite this headnote

[12] Criminal Law

🔑 Evidence calculated to create prejudice against or sympathy for accused

110 Criminal Law

110XVII Evidence

110XVII(D) Facts in Issue and Relevance

110k338 Relevancy in General

110k338(7) Evidence calculated to create prejudice against or sympathy for accused

In addition to remoteness, court that is deciding whether to exclude relevant evidence on grounds that probative value is substantially outweighed by risk of undue prejudice must consider availability of other evidence that can be used to prove same point. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 401, 403.

20 Cases that cite this headnote

[13] Criminal Law

🔑 Sex offenses, incest, and prostitution

Criminal Law

🔑 Obscenity and lewdness

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by Accused

110XVII(F)6 Other Misconduct Showing Motive

110k371.22 Sex offenses, incest, and prostitution

(Formerly 110k371(12))

110 Criminal Law

110XVII Evidence

110XVII(F) Other Misconduct by Accused

110XVII(F)7 Other Misconduct Showing Intent

110k371.46 Obscenity and lewdness

(Formerly 110k371(9))

Defendant's 16-month-old statement to police about alleged prior act of lewdness involving young girl at grocery store was admissible as other conduct evidence, to prove motive and intent, in prosecution for child luring arising from incident in which defendant motioned at and called for eight-year-old girl, who was riding her bicycle, to enter his vehicle. N.J.S.A. 2C:13-6; N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 403(b), 404(b).

15 Cases that cite this headnote

[14] Criminal Law

🔑 Remoteness

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 110k369.2(5))

Defendant's 16-month-old statement to police about alleged prior act of lewdness involving young girl at grocery store was not too prejudicial to be admitted as other conduct evidence

or statement by party-opponent, in prosecution for child luring arising from incident in which defendant motioned at and called for eight-year-old girl, who was riding her bicycle, to enter his vehicle. N.J.S.A. 2C:13-6; N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 403(b), 404(b), 803(b)(1).

2 Cases that cite this headnote

[15] Criminal Law

🔑 Particular cases

110 Criminal Law

110XVII Evidence

110XVII(M) Statements, Confessions, and Admissions by or on Behalf of Accused

110XVII(M)1 In General

110k410.5 Admissibility in General

110k410.8 Particular cases

(Formerly 110k412(3))

Defendant's 16-month-old statement to police about alleged prior act of lewdness involving young girl at grocery store was relevant, and thus admissible as statement by party-opponent, in prosecution for child luring arising from incident in which defendant motioned at and called for eight-year-old girl, who was riding her bicycle, to enter his vehicle. N.J.S.A. 2C:13-6; N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 401, 803(b)(1).

1 Cases that cite this headnote

[16] Criminal Law

🔑 Admissions by Party Opponent

110 Criminal Law

110XVII Evidence

110XVII(M) Statements, Confessions, and Admissions by or on Behalf of Accused

110XVII(M)2 Hearsay

110k410.11 Admissions by Party Opponent

110k410.12 In general

(Formerly 110k412(3))

Defendant's statements admitted as statement by party-opponent are subject to balancing test of rule on exclusion of relevant evidence if probative value of evidence if substantially outweighed by risk of undue prejudice. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 401, 403, 803(b)(1).

24 Cases that cite this headnote

[17] Criminal Law

🔑 Limiting effect of evidence of other offenses

110 Criminal Law

110XX Trial

110XX(C) Reception of Evidence

110k673 Effect of Admission

110k673(5) Limiting effect of evidence of other offenses

When trial court admits evidence of other conduct to show defendant's motive, intent, or absence of accident, court must instruct jury on limited use of evidence. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 404(b).

7 Cases that cite this headnote

[18] Criminal Law

🔑 Purpose and Effect of Evidence

110 Criminal Law

110XX Trial

110XX(G) Instructions:Necessity, Requisites, and Sufficiency

110k783 Purpose and Effect of Evidence

110k783(1) In general

Trial court's limiting instruction as to use of other conduct evidence admitted to show motive, intent, or absence of accident must be formulated carefully to explain precisely the permitted and prohibited purposes of evidence. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 404(b).

6 Cases that cite this headnote

[19] Criminal Law **Purpose and Effect of Evidence**110 Criminal Law110XX Trial110XX(G) Instructions: Necessity, Requisites, and Sufficiency110k783 Purpose and Effect of Evidence110k783(1) In general

Limiting instruction on use of other conduct evidence consisting of defendant's statement to police about prior act of lewdness involving young girl at grocery store was sufficient, in prosecution for child luring arising from arising from incident in which defendant motioned at and called for eight-year-old girl, who was riding her bicycle, to enter his vehicle; evidence was limited to deciding only defendant's motive, intent, and state of mind, court instructed jury not to consider other conduct evidence for any other purpose, and court specifically prohibited jury from using evidence to infer that because of defendant's conduct in grocery store he had propensity or predisposition to commit crime against victim. N.J.S.A. 2C:13-6; N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 404(b).

10 Cases that cite this headnote**Attorneys and Law Firms**

****677 *558 Julie Davidson**, Assistant Prosecutor, for plaintiff-appellant (Glenn Berman, Middlesex County Prosecutor, attorney).

Jodi L. Ferguson, Assistant Deputy Public Defender, for defendant-respondent (Ivelisse Torres, Public Defender, attorney).

Opinion

The opinion of the Court was delivered by

GARIBALDI, J.

Defendant, Thomas Covell, was convicted of child luring in violation of N.J.S.A. 2C:13-6. That statute states:

****678 *559** A person commits a crime of the third degree if he attempts to lure or entice a child into a motor vehicle, structure or isolated area with a purpose to commit a criminal offense with or against the child.

At issue is whether defendant's statement to police officers about an alleged prior act of lewdness that occurred sixteen months before the offense for which he was convicted was properly admitted in evidence. To resolve that question, we consider the admissibility of defendant's statement as evidence of "other crimes, wrongs or acts" under N.J.R.E. 404(b), and as a "statement by party-opponent" under N.J.R.E. 803(b). We also must determine whether that statement's probative value is outweighed by its prejudicial effect, pursuant to N.J.R.E. 403(a).

I.

On October 8, 1994, A.P., an eight-year-old girl, was riding her bicycle alone on the sidewalk outside of her home in Perth Amboy, New Jersey. As she rode by a store several houses down from her home, a man pulled up in a blue car and beckoned her by motioning with his right index finger. A.P. shook her head "no" and continued to ride her bicycle. When A.P. rode past the man a second time, he made a "waving" gesture with his right hand. A.P. again shook her head "no" and continued to ride her bicycle. When A.P. rode past the man a third time, he motioned to her again and told her to "get in the car before somebody sees you." A.P. refused to get into the car and continued riding her bicycle until her mother called her to come inside the house.

A.P. identified Covell in court and testified that the man in the car was caucasian with balding blond hair, blue eyes, and looked like Hulk Hogan. Her initial description to the police included tattoos on the right hand and a beard. During

her formal police statement, however, the beard became a mustache and the tattoos were on his arms. A.P. also testified that she had seen the man approximately two years earlier when she had been sitting on her bicycle and “[h]e did the same thing.” She did not know the man and did not have any reason to speak to him. She did not make an in-court identification of defendant during her direct examination. *560 However, after cross-examination and a break in the trial, the prosecutor requested that a hearing be held outside the presence of the jury. At that time A.P. said that she did recognize defendant. When recalled on redirect examination, A.P. made an in-court identification of defendant as the man in the blue car.

Ramon Taveras, a cousin of A.P.'s mother who lives next to the store, testified that he noticed a blue car with one occupant blocking the entrance to his driveway. Although he did not hear what was said he noticed the occupant, a caucasian man with blond hair and a bald spot, calling to A.P. and beckoning her with his right index finger. When Taveras approached the blue car to see what the man wanted with A.P., the car sped off. Taveras followed the car and wrote down the license plate number. He then returned home, spoke with A.P.'s mother, and called the police. In court, Taveras was not asked to identify defendant. The license plate number led the police to Thomas Covell, who was arrested for child luring, contrary to *N.J.S.A. 2C:13-6*.

The arrest report described defendant as a forty-four-year-old caucasian male, weighing two hundred and thirty pounds, and having balding blond hair, a mustache, blue eyes, and several tattoos on his arms. During the ride to the Middlesex County Correction Center, defendant told an officer that “now that I have time to think about it, I did see a girl on a bike in the area and I let her go across the street, waving her on.”

To secure a conviction under *N.J.S.A. 2C:13-6*, for the State to establish that defendant was the man in the car is not sufficient. The State also must prove that Covell attempted to lure A.P. for the purpose of committing a criminal offense

with or against her. To establish that point, the State sought to admit evidence related to an alleged prior incident of lewdness. Defendant was never charged and it was never established that defendant in fact committed that offense. The State presented evidence that on June 25, 1993, defendant was questioned at the Perth Amboy Police Department regarding **679 an incident that allegedly took place *561 on June 24, 1993, in a Shop Rite store in Perth Amboy, involving defendant and a young girl.

During the questioning on June 25, 1993, defendant told the officers that he had approached a young girl in the store and asked “if she knew what kind of Spanish fruit ... was hanging in the store.” Defendant then lowered two plastic plums that he had in his hand to the level of his groin area and told the girl that “she should eat fruit to grow big like me.” Defendant then told the officers that he “felt himself starting to go off” and was about to leave when a man approached him. The man observed that defendant had an erection at the time, and defendant ran away. Defendant told the officers that “if it's a crime to talk to girls, then I'm guilty.” He also said during that police interview:

I have a problem with girls. I never was interested in older women just young girls and teenage girls. I never had a childhood and I'm trying to relive it.... I have this thing with young girls that I can't help.

After a pre-trial hearing, the trial court determined the above portion of defendant's police statement to be admissible. In addition to the statement itself, the investigating officer told the jury that defendant gave the statement while being questioned at police headquarters and that *Miranda*¹ warnings had been administered. He also stated, however, that no charges were brought against defendant because nothing defendant said had inculpated him in a crime. In addition, the trial court told the jury that the evidence was not to be used to show any predisposition on the part of defendant to commit an offense.

¹ Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L. Ed.2d 694 (1966).

In her closing arguments, however, the prosecutor hinted that Covell was brought in for questioning in connection with a prior sexual offense. She stated:

[A.P.] testified that she lives across the street from a school. And if you are going to look for young girls—

...

***562** If you are going to look for young girls, the most likely place is across the street from the school. Even though it's a Saturday, ladies and gentlemen, kids play in the school yard, kids are around the school.

The defendant is a block from an elementary school. He is in a neighborhood—although he is in a neighborhood that is not his own, he is not going to stay in his own neighborhood, people know him there. He is going to a different neighborhood of Fayette Street, a block away from a school. That brings us to what Thomas Covell told Detective Bielinski in June, on June 25th of 199[3]—no, he wasn't charged with a crime at that point, but in the interview with Detective Bielinski he says, I have a problem with girls. I was never interested in older women, just young girls and teenage girls. I never had a childhood and I am trying to live it. I have this thing with young girls that I can't help.

Before the jury began to deliberate, the court provided limiting instructions with regard to defendant's June 25th statement. During its deliberation the jury asked for a readback of Detective Bielinski's testimony that explained the circumstances under which defendant gave that statement, and also asked for an explanation about why defendant had been brought in for questioning in 1993. With regard to the latter request, the court advised the jury that that question was not "germane."

The jury returned a verdict convicting defendant of third-degree child luring. A custodial term of five years with a two and one-half year parole disqualifier was imposed, along with fines and penalties. Defendant appealed his conviction, asserting that the trial court made the following errors: (1) it erred in admitting defendant's statement, which was made sixteen months before this offense and addressed an unrelated matter; (2) its instruction concerning the use of the other-bad-acts evidence was inadequate; (3) it improperly denied defendant's motion for a judgment of acquittal; and, finally (4) it imposed a sentence not warranted by an appropriate ****680** balancing of aggravating and mitigating factors.

In an unpublished opinion, the Appellate Division, citing the four-part test set forth in State v. Nance, 148 N.J. 376, 387, 689 A.2d 1351 (1997), determined that defendant's statement was inadmissible as other-conduct evidence to prove intent under N.J.R.E. 404(b). Specifically, the court found that the evidence ***563** lacked relevance, was too prejudicial pursuant to N.J.R.E. 403, and did not admit to conduct. The panel also observed that the statement did not fit under N.J.R.E. 803(c)(25) as a statement against interest because it would be inadmissible under N.J.R.E. 403. Further, the court explained that because the admission of that statement was necessary for the State to convict defendant, it was not harmless.

Because the Appellate Division reversed defendant's conviction on the erroneous admission of his statement, it did not address his other contentions, and remanded the case for further proceedings consistent with its opinion.

We granted the State's petition for certification, 156 N.J. 409, 719 A.2d 641 (1998), and now reverse.

II.

A. N.J.R.E. 404(b)

At trial, the State's primary argument was that defendant's statement should have been admitted under N.J.R.E. 404(b). That Rule states:

Evidence of other crimes, wrongs, or acts is not admissible to prove the disposition of a person in order to show that he acted in conformity therewith. Such evidence may be admitted for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident when such matters are relevant to a material issue in dispute.

[1] Evidence of other crimes, wrongs or acts may not be introduced into evidence to prove a defendant's criminal disposition as a basis for establishing guilt of the crime charged. *State v. Stevens*, 115 N.J. 289, 293, 558 A.2d 833 (1989). The evidence presented through this rule should not be used to “suggest that because the defendant is a person of criminal character, it is more probable that he committed the crime for which he is on trial.” *State v. Weeks*, 107 N.J. 396, 406, 526 A.2d 1077 (1987). However, the Rule expressly permits such evidence to be admitted to prove other facts in issue, such as “motive, intent, plan, knowledge, *564 identity, or absence of mistake or accident.” *State v. Stevens*, *supra*, 115 N.J. at 293, 558 A.2d 833.

[2] In order for other-crime and other-conduct evidence to be admissible, the evidence must meet the four-part test set forth in *State v. Cofield*, 127 N.J. 328, 338, 605 A.2d 230 (1992). That test is as follows: (1) It must be relevant to a material issue; (2) It must be similar in kind and reasonably close in time to the offense charged; (3) The evidence of the other crime must be clear and convincing; and (4) The probative value of the evidence must not be outweighed by its apparent prejudice.

[3] [4] [5] The admissibility of other-crime evidence is left to the discretion of the trial court: “The trial court, because of its intimate knowledge of the case, is in the best position to engage in

this balancing process. Its decisions are entitled to deference and are to be reviewed under an abuse of discretion standard.” *State v. Ramseur*, 106 N.J. 123, 266, 524 A.2d 188 (1987); *see also State v. DiFrisco*, 137 N.J. 434, 496, 645 A.2d 734 (1994) (noting that “[w]e accord trial judges broad discretion in applying the balancing test”), *cert. denied*, 516 U.S. 1129, 116 S.Ct. 949, 133 L. Ed.2d 873 (1996). Only where there is a “clear error of judgment” should the “trial court's conclusion with respect to that balancing test” be disturbed. *State v. Marrero*, 148 N.J. 469, 483, 691 A.2d 293 (1997) (citing *DiFrisco*, *supra*, 137 N.J. at 496–97, 645 A.2d 734).

Defendant argues that the statement he made to the police on June 25, 1993 fails all four parts of the *Cofield* test. The State, on the other hand, contends that the Appellate Division erred by failing to admit the statement under *N.J.R.E. 404(b)*. In addition, the State argues that the statement was not too prejudicial to be admitted.

****681 1. Relevance**

[6] The first part of the *Cofield* test states that the evidence of the prior bad act, crime or wrong must be relevant to a material *565 issue that is genuinely disputed. Evidence is relevant if it tends “to prove or disprove any fact of consequence to the determination of the action.” *N.J.R.E. 401*. In determining whether evidence is relevant, the inquiry should focus on the “logical connection between the proffered evidence and a fact in issue.” *State v. Hutchins*, 241 N.J. Super. 353, 358, 575 A.2d 35 (App.Div.1990). If the evidence offered makes the inference to be drawn more logical, then the evidence should be admitted unless otherwise excludable by a rule of law. Biunno, *Current N.J. Rules of Evidence*, comment 1 on *N.J.R.E. 401* (1998–1999).

In criminal prosecutions, New Jersey courts generally admit a wider range of evidence when the motive or intent of the accused is material. *State v. Rogers*, 19 N.J. 218, 228, 116 A.2d 37 (1955). That includes evidentiary circumstances that “tend to shed light” on a defendant's motive and intent or which “tend fairly to explain his actions,”

even though they may have occurred before the commission of the offense. *Ibid.*

Other-crime evidence and other-conduct evidence have been found probative of intent and motive. In *State v. Erazo*, 126 N.J. 112, 594 A.2d 232 (1991), the State introduced evidence showing that the defendant had been convicted of murder to support its argument that the defendant had killed the victim to prevent her from causing a revocation of his parole. *Id.* at 130–31, 594 A.2d 232. The Court held that the other-crime evidence was properly admitted because it was “necessary to prove the State’s theory of defendant’s motive.” *Id.* at 131, 594 A.2d 232. In *State v. Stevens*, *supra*, 115 N.J. at 306–07, 558 A.2d 833, the Court found evidence of the defendant’s prior unauthorized searches of two women to be highly probative of his purpose in conducting the searches, which was to “gratify his sexual desires and [that he] did so knowing that such conduct was unauthorized.” Such evidence was deemed relevant and admissible. *Ibid.*

In *State v. Mulero*, 51 N.J. 224, 238 A.2d 682 (1968), and *State v. Cusick*, 219 N.J. Super. 452, 530 A.2d 806 (App.Div.), *certif. denied*, 109 N.J. 54, 532 A.2d 1118 (1987), other-crime evidence to prove *566 intent was admissible. In *Mulero*, the defendant was accused of beating to death the daughter of his paramour. *Mulero*, *supra*, 51 N.J. at 226–27, 238 A.2d 682. He admitted that he had struck the victim, but denied having killed her. *Id.* at 227–28, 238 A.2d 682. The paramour testified that the defendant had beaten her on previous occasions. *Ibid.* The Court held that admitting the testimony was proper because it was probative of the defendant’s intent with regard to his striking the victim.

The Appellate Division reached the same conclusion in *State v. Cusick*, 219 N.J. Super. 452, 530 A.2d 806 (App.Div.), *certif. denied* 109 N.J. 54, 532 A.2d 1118 (1987), a case in which the defendant was accused of sexually assaulting a child. Over the defendant’s objection, testimony by the victim and another child concerning prior acts of sexual assault for which the defendant had been convicted in a separate proceeding were permitted by the trial court. *Id.* at 464, 530 A.2d 806. The Appellate Division affirmed, finding that the evidence was

admissible to show intent and lack of mistake. On the intent issue, the court noted:

Extremely probative of whether defendant’s acts were done for purposes of sexual arousal or gratification was the evidence that defendant had previously pleaded guilty to having sexually assaulted young girls. This fact supported the inference that defendant enjoyed or was stimulated by sexual acts with young girls and was therefore relevant to whether or not defendant was guilty of sexual contact.

[*Id.* at 465–66, 530 A.2d 806.]

In interpreting defendant’s statement, it is logical to conclude that defendant meant he was sexually attracted to young girls. That is especially true because he specifically stated that he was not interested in older women, just young girls and teenage girls. A logical interpretation of that statement is that defendant is insinuating that society would expect him to be attracted to women, **682 but instead, he is interested only in young girls and teenagers. Such a statement implies that defendant’s “interest” in A.P. was a physical attraction for his sexual gratification.

Being sexually attracted to young girls does not, as defendant properly asserts, prove that he intended to commit a crime, much less a crime of a sexual nature against A.P. However, it does make *567 it more likely that defendant’s purpose in beckoning to A.P. was to commit a sexual crime with or against her. Because defendant’s purpose in luring A.P. is an essential element to convict defendant, part one of the *Cofield* test is satisfied.

2. Similar in Kind and Reasonably Close

Part two of the *Cofield* test, providing that other-conduct evidence must be similar in kind and reasonably close in time to the offense charged, also is satisfied. First, the incidents are similar. They both involve young girls. They both occurred during the day in a public place when the girls were alone. When an adult approached, defendant fled. In each case, it can be inferred that defendant sought to sexually gratify himself with or in the presence of a young girl. In the prior incident,

for example, defendant was observed having an erection while talking to a young girl. In the present case, it was the State's belief that defendant attempted to lure A.P. into the car so he could engage in an act to sexually gratify himself.

To satisfy the temporal requirement, cases using *Evid. R. 55*, replaced by *N.J.R.E. 404(b)*, have admitted evidence involving longer time periods between the prior other-crime evidence and the crime charged than are present in this case. In *State v. Stevens*, *supra*, 115 N.J. at 295–96, 558 A.2d 833, we held that prior incidents occurring approximately two-and-one-half years prior to the event for which the defendant was indicted were admissible. *See also State v. Ramseur*, *supra*, 106 N.J. at 266, 524 A.2d 188 (holding that evidence of arguments between defendant and woman one-and one-half-years prior to woman's stabbing was admissible and not too remote to prove motive and intent).

3. Clear and Convincing Evidence of Conduct

Part three of the *Cofield* test provides that the other-crime or conduct evidence must be clear and convincing. Defendant asserts that the statement indicates only that defendant has some type of problem with young girls. The statement does not set forth a prior incident and is not evidence of conduct. A similar argument was advanced by defendant concerning why defendant's statement was not relevant. We find all the reasons that make defendant's statement relevant to indicate his intent and purpose in luring A.P. applicable here. *Supra*, at 566–67, 725 A.2d 675.

Further, an analogous argument was asserted in *State v. Crumb*, 307 N.J.Super. 204, 704 A.2d 952 (App.Div.1997), *certif. denied*, 153 N.J. 215, 708 A.2d 66 (1998). The Appellate Division in *Crumb* allowed defendant's letters, verses, and drawings espousing his hatred toward African-Americans into evidence pursuant to *N.J.R.E. 404(b)* to prove defendant's motive in murdering an African-American man. The court in *Crumb*, *supra*, stated that “[a]lthough defendant's writings are constitutionally protected free expressions of his racial beliefs and are not themselves unlawful, they nonetheless may be interpreted by a jury to

constitute other wrongs or acts ... which may not necessarily be unlawful.” 307 N.J.Super. at 231, 704 A.2d 952.

Although being sexually attracted to young girls in and of itself is not a crime, a jury may interpret defendant's expression of those feelings to be a wrong or bad act in relation to his intent just as the jury could have found the defendant's writing in *Crumb* to be a bad act. We find that the statement satisfies part three of the *Cofield* test.

B. N.J.R.E. 403 Analysis

[7] [8] [9] To satisfy part four of the *Cofield* test, we apply the balancing test of *N.J.R.E. 403*. That rule excludes evidence if “its probative value is substantially outweighed by the risk of... undue prejudice.” In particular, evidence claimed to be unduly prejudicial can be excluded only where its probative value “is so significantly outweighed by [its] inherently inflammatory potential as to have a probable capacity to divert the minds of the jurors from a reasonable and fair evaluation” of the basic issues of the case. *State v. Thompson*, 59 N.J. 396, 421, 283 A.2d 513 (1971). Ultimately, however, the admissibility of such evidence falls largely within a judge's discretion, and “[h]is discretion is a broad one.” *State v. Sands*, 76 N.J. 127, 144, 386 A.2d 378 (1978). Only where there has been “a clear error of judgment” should a *N.J.R.E. 403* determination be overturned. *See State v. Koedatich*, 112 N.J. 225, 313, 548 A.2d 939 (1988), *cert. denied*, 488 U.S. 1017, 109 S.Ct. 813, 102 L.Ed.2d 803 (1989).

[10] [11] The “more attenuated and the less probative the evidence, the more appropriate it is for a judge to exclude it” under *N.J.R.E. 403*. *State v. Medina*, 201 N.J.Super. 565, 580, 493 A.2d 623 (App.Div.), *certif. denied*, 102 N.J. 298, 508 A.2d 185 (1985). In evaluating the probative value of certain evidence, the “remoteness” of the evidence is often discussed. *Rogers*, *supra*, 19 N.J. at 229, 116 A.2d 37. “The question of remoteness is to be decided by the trial court as a matter of discretion, and the determination so made is not reviewable unless it appears there was a palpable abuse of discretion.” *Ibid*. Remoteness, however,

“cannot ordinarily be determined by the passage of time alone.” *Sands, supra*, 76 N.J. at 144, 386 A.2d 378. The nature of the evidence must be considered as well. See *ibid.* (stating that when evaluating remoteness the nature of convictions will be significant). In *State v. Bass*, 221 N.J. Super. 466, 483–84, 535 A.2d 1 (App.Div.1987), the court held that statements made by the defendant more than two years before he allegedly murdered his son, which reflected a cavalier attitude toward care for the boy, were not so remote as to require exclusion.

[12] In addition to remoteness, a court must consider the availability of other evidence that can be used to prove the same point. *Biunno, supra*, comment 3 on N.J.R.E. 403. Probative value is enhanced by the absence of any other evidence that can prove the same point. See *State v. Stevens, supra*, 115 N.J. at 303, 558 A.2d 833. Conversely, relevant evidence loses some of its probative value if there is other non-inflammatory evidence available to prove that point. See *State v. Johnson*, 120 N.J. 263, 298, 576 A.2d 834 (1990); *State v. Davis*, 116 N.J. 341, 366, 561 A.2d 1082 (1989).

***570** Some types of evidence require a very strong showing of prejudice to justify exclusion. One example is evidence of motive or intent. The Court in *State v. Carter*, 91 N.J. 86, 106, 449 A.2d 1280 (1982) (quoting 1 Wharton, *Criminal Evidence*, ¶ 170 at 316 (13th ed.1972)), stated that “evidence as to motive of a criminal defendant is admissible even though it may be prejudicial in the sense that it will arouse or inflame the jury against the defendant.” See also *Rogers, supra*, 19 N.J. at 228, 116 A.2d 37 (“[W]hen the motive or intent of the accused is important and material, a somewhat wider range of evidence is permitted in showing such motive or intent than is allowed in the support of other issues.”). For example, evidence of a defendant's former membership in the Black Panther Party and the defendant's express hatred of police was held to be admissible on the issue of motive at his trial on a charge of shooting an officer. *State v. Cherry*, 289 N.J. Super. 503, 527–28, 674 A.2d 589 (App.Div.1995).

In this case, the trial court did recognize that the statement was prejudicial towards defendant, but

after weighing its probative value and potential prejudice concluded that the statement's prejudicial effect did not outweigh its probative value. In reaching that conclusion, the trial court considered the following factors. First, defendant's statement is the State's only evidence to prove defendant's intent or motive. That fact enhances the probative value of the evidence. Second, and closely aligned to that first reason, the statement was made after defendant had been questioned about an incident with a young girl. Therefore, the statement is probative of his intentions when young girls are concerned, and specifically probative of his intention in beckoning A.P. and telling her to get into his car before anyone saw her. Third, the statement is not too remote. Courts have allowed statements into evidence ****684** that were made beyond the sixteen-month period that passed in this case.

Moreover, although the court recognized that the statement was clearly prejudicial, it found that the statement was unlikely to be so highly inflammatory that it would distract the jurors from ***571** performing their jobs properly. As previously observed, the court's tendency is to be more open to the admission of motive or intent evidence. This weighs heavily in favor of the statement's admissibility.

New Jersey courts have admitted sexual conduct evidence that appears more inflammatory than defendant's statement. See *State v. Zeidell*, 299 N.J. Super. 613, 618, 691 A.2d 866 (App.Div.), *certif. denied*, 151 N.J. 470, 700 A.2d 882 (1997) (“The evidence of defendant's prior acts of lewdness and masturbation would be admissible as relevant to the material issue showing past involvement with children for motive.”); *State v. Cusick, supra*, 219 N.J. Super. at 464, 530 A.2d 806 (allowing victim and another eight-year-old child to testify regarding defendant's prior acts of sexual assault to prove defendant's motive and absence of mistake in sexually molesting the victim).

[13] **[14]** Defendant's statement is not as inflammatory as was the evidence of crime in *Cusick* and *Zeidell*. Furthermore, the nature of the crime, luring, makes it difficult to infer a criminal intent. Defendant's statement was material to prove motive

and intent that were genuinely in dispute. There was no other evidence available to establish motive and intent, and the statement was not too remote. Consequently, the trial court did not abuse its discretion in holding that defendant's statement was admissible under N.J.R.E. 404(b), and that the statement was not too prejudicial to be admitted under 403(b).

III.

N.J.R.E. 803(b)(1)

At trial the State asserted that the statement should be admitted pursuant to N.J.R.E. 404(b). Although not abandoning that claim before this Court, the State now asserts that the statement also could have been admitted under N.J.R.E. 803(b)(1). Defendant's brief never addresses whether defendant's statement is admissible under N.J.R.E. 803(b).

***572** N.J.R.E. 803(b)(1) provides that a statement can be admitted into evidence if the "statement [is] offered against a party which is the party's own statement, made either in an individual or in a representative capacity." A statement admitted under N.J.R.E. 803(b)(1) does not have to be contrary to the party's interest when made. Cf. N.J.R.E. 803(c)(25) (declaring the admissibility of declarations against interest).

[15] Generally, as long as there are no *Bruton*,² *Miranda*, privilege or voluntariness problems, and subject to N.J.R.E. 104(c), the State may introduce at a criminal trial any relevant statement made by a defendant. Biunno, *supra*, comment 1 on N.J.R.E. 803(b)(1) (1998). Here, there are no such problems. In addition, it is clear that the statement was made by defendant. Therefore, in determining whether the statement should be admitted under N.J.R.E. 803(b)(1), we must determine only whether the statement was relevant. For the reasons previously set forth, defendant's statement was relevant. *Supra*, at 566, 725 A.2d 675.

² Bruton v. United States, 391 U.S. 123, 88 S.Ct. 1620, 20 L. Ed.2d 476 (1968).

The more interesting issue is whether a statement admitted under N.J.R.E. 803(b)(1) is subject to N.J.R.E. 403. Without citing any authority, the State asserts that it is not. Defendant's brief does not address N.J.R.E. 803(b). Few cases or commentators specifically address the issue of whether a defendant's statement admitted under N.J.R.E. 803(b) is subject to the balancing test of 403. We believe the reason for such sparse authority on that issue is because, as in this case, the parties usually argue that the evidence is admissible under N.J.R.E. 404(b), rather than N.J.R.E. 803(b)(1). Nonetheless, 2 *McCormick, Evidence*, ¶ 254, at 142 (J. Strong 4th ed.1992), states, "Moreover, while generally received in evidence because of their substantial probative value in most situations, admissions may be excluded if their ****685** probative value is substantially outweighed by the prejudicial impact."

***573** Several comments in Biunno, *Current N.J. Rules of Evidence* suggest that N.J.R.E. 803(b) statements are subject to N.J.R.E. 403. Biunno, *supra*, comment 1 on N.J.R.E. 803(b)(1), states, "[a]pplication of N.J.R.E. 403 could keep out of evidence an otherwise admissible statement of a party," citing State v. Bass, 221 N.J.Super. 466, 483-84, 535 A.2d 1 (App.Div.1987), and State v. Ellis, 280 N.J.Super. 533, 548, 656 A.2d 25 (App.Div.1995). Although both cases applied the N.J.R.E. 403(b) balancing test to statements admitted under N.J.R.E. 803(b), neither case offered any explanation about why N.J.R.E. 403(b) applied.

Biunno, *supra*, comment 8 on N.J.R.E. 403, states that:

N.J.R.E. 404(a)(2) provides that a trial judge may not use N.J.R.E. 403 to exclude evidence of good character offered by a defendant in a criminal case. See comment 4 to N.J.R.E. 404. That is the only other Rule which specifically prohibits exclusion of proffered evidence under N.J.R.E. 403.

The last sentence of 803(b) states, "In a criminal proceeding, the admissibility of a defendant's statement which is offered against the defendant is subject to Rule 104(c)." *N.J.R.E.* 104(c) provides, in part: "Where by virtue of any rule of law a judge is required in a criminal action to make a preliminary determination as to the admissibility of a statement by the defendant, the judge shall hear and determine the question of its admissibility out of the presence of the jury."

In this case, the trial court did hold a preliminary hearing pursuant to *N.J.R.E.* 403, and did balance the probative and prejudicial effects of defendant's statement. As required by *N.J.R.E.* 104(c), the trial court also specifically instructed the jury with respect to defendant's statements that it was their "function to determine whether or not they were actually made by him and if made whether the statements or any portions are credible." The court further stated, "If after a consideration of these factors you determine the statement was not made or is not credible, you must disregard it entirely."

[16] We perceive no policy reason why *N.J.R.E.* 403 should not be applied to *N.J.R.E.* 803(b). In most cases, we suspect that the *574 probative value of a defendant's statement would outweigh its prejudicial effect and be admitted. Undoubtedly, however, there will be some cases where the prejudicial impact of a defendant's statement will outweigh its probative value. Such a case may arise where there is available less inflammatory evidence. In that context, a defendant's statement may not be admissible. Accordingly, statements admitted under *N.J.R.E.* 803(b)(1) are subject to the *N.J.R.E.* 403 balancing test. Applying the 403 balancing test to defendant's statement, we find that its probative value outweighed its prejudicial effect on defendant. *See, supra*, at 570, 725 A.2d 675.

IV.

Although the Appellate Division did not reach the issue of the sufficiency of the limiting jury instruction because it reversed on other grounds, we

have reviewed the instruction and conclude that it was sufficient.

[17] [18] When a trial court admits evidence of other conduct to show the defendant's motive, intent, or absence of an accident, "the court must instruct the jury on the limited use of the evidence." *Cofield, supra*, 127 N.J. at 340–41, 605 A.2d 230. To satisfy that standard, a court's instruction must "be formulated carefully to explain precisely the permitted and prohibited purposes of the evidence." *Id.* at 341, 605 A.2d 230 (quoting *Stevens, supra*, 115 N.J. at 304, 558 A.2d 833). In this case, the court cautioned the jury that the evidence could not be used to conclude that defendant "is a bad person and thus has a disposition which shows he is likely to have done the act that he is presently charged with or showing general disposition to commit bad acts." The court further instructed the jury that the evidence was admitted "as it may bear on the issue of whether the alleged purpose in attempting to lure or induce [A.P.] to the motor vehicle was to commit a criminal offense with or against *686 her or to obtain some sort of sexual gratification or as to show that there was no mistake about the defendant's actions." The court further commented that the jury had to decide whether the testimony had any *575 bearing on the issues of intent, purpose, absence of mistake or accident and that the jury could disregard the testimony if it found the testimony had no bearing on its deliberations. Those instructions are similar to the instructions given in *State v. Cusick, supra*, 219 N.J. Super. at 467, 530 A.2d 806 (cited with approval in *State v. Marrero, supra*, 148 N.J. at 495, 691 A.2d 293). Defendant did not object to the charge.

[19] As the foregoing charge reflects, the jury was properly instructed on how it could use the other-conduct evidence. The evidence was limited to deciding only defendant's motive, intent, and state of mind. The court instructed the jury not to consider the other-conduct evidence for any other purpose. Finally, the court specifically prohibited the jury from using that evidence to infer that because of defendant's conduct on June 23, 1993, he had a propensity or a predisposition to commit a crime against A.P.

V.

We conclude that the Appellate Division erred in reversing the trial court's decision to admit defendant's statement under N.J.R.E. 404(b). We further find that the statement also could have been admitted under N.J.R.E. 803(b)(1). Moreover, applying the balancing test of N.J.R.E. 403, the statement's probative value was not outweighed by its prejudicial effect on defendant.

Because defendant's other grounds for appeal of the trial court's decision, namely, that it erroneously denied defendant's motion for a judgment of acquittal and imposed a sentence not warranted

by an appropriate balancing of aggravating and mitigating factors have no merit, we do not remand the case to the trial court. Instead, we reverse the judgment of the Appellate Division and reinstate defendant's conviction and sentence.

For reversal and reinstatement—Chief Justice PORITZ and Justices POLLOCK, O'HERN, GARIBALDI, STEIN, and COLEMAN—6.

Opposed—None.

All Citations

157 N.J. 554, 725 A.2d 675

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Negative Treatment

Negative Citing References (3)

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)
Distinguished by	 1. <u>State v. Perez</u>  793 A.2d 89 , N.J.Super.A.D. CRIMINAL JUSTICE - Child Endangerment. Defendant's statement was not probative of criminal purpose so as to support his conviction for child endangerment.	Mar. 14, 2002	Case		13 A.2d
Distinguished by	2. <u>State v. Beckler</u>  840 A.2d 271 , N.J.Super.A.D. CRIMINAL JUSTICE - Sex Offenses. Defendant's statement concerning uncharged sexual offenses was irrelevant and inadmissible.	Jan. 16, 2004	Case		13 19 A.2d
Distinguished by	 3. <u>State v. J.M., Jr.</u>  102 A.3d 1233 , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Evidence of alleged prior sexual assault was not admissible under other-crimes rule at trial for sexual assault.	Nov. 21, 2014	Case		17 A.2d

Citing References (196)

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	 1. State v. Skinner ” 95 A.3d 236, 244+ , N.J. CRIMINAL JUSTICE - Homicide. State's introduction of violent, profane, and disturbing rap lyrics that defendant had written was unduly prejudicial.	Aug. 04, 2014	Case		2 17 19 A.2d
Examined by	 2. State v. Koskovich ” 776 A.2d 144, 163+ , N.J. CRIMINAL JUSTICE - Death Penalty. Combined effect of three penalty phase instructional errors required reversal of death sentence.	June 07, 2001	Case		13 14 19 A.2d
Examined by	3. State v. Lindsey ” 2014 WL 2971236, *5+ , N.J.Super.A.D. Defendant Lloyd Lindsey appeals from denial of his petition for post-conviction relief (PCR) alleging ineffective assistance of counsel. The court did not conduct an evidentiary...	July 03, 2014	Case		2 7 A.2d
Examined by	 4. State v. Willis ” 2013 WL 1163942, *5+ , N.J.Super.A.D. Defendant appeals from his sentence and convictions for third-degree criminal restraint, N.J.S.A. 2C:13-2(b)(2) (count one); second-degree sexual assault, N.J.S.A. 2C:14-2(c)(1)...	Mar. 22, 2013	Case		2 6 11 A.2d
Distinguished by 	5. State v. Beckler ” 840 A.2d 271, 276+ , N.J.Super.A.D. CRIMINAL JUSTICE - Sex Offenses. Defendant's statement concerning uncharged sexual offenses was irrelevant and inadmissible.	Jan. 16, 2004	Case		13 19 A.2d
Distinguished by 	 6. State v. Perez ” 793 A.2d 89, 94+ , N.J.Super.A.D. CRIMINAL JUSTICE - Child Endangerment. Defendant's statement was not probative of criminal purpose so as to support his conviction for child endangerment.	Mar. 14, 2002	Case		13 A.2d
Discussed by	7. State v. Willis ” 137 A.3d 452, 459+ , N.J. CRIMINAL JUSTICE - Sex Offenses. Improper admission of other-crimes evidence caused undue prejudice to defendant in sexual assault prosecution.	May 11, 2016	Case		2 6 A.2d
Discussed by	 8. State v. Calleia 20 A.3d 402, 414+ , N.J. CRIMINAL JUSTICE - Homicide. No categorical rule bars admission, to show motive, of deceased victim's hearsay statements that do not express fear of defendant.	June 09, 2011	Case		17 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	9. State v. Long  801 A.2d 221, 236+ , N.J. CRIMINAL JUSTICE - Evidence. Victim's statements to her mother that defendant's mother had fallen and died were part of the res gestae.	July 15, 2002	Case		7 12 A.2d
Discussed by	10. State v. G.V.  744 A.2d 137, 149+ , N.J. CRIMINAL JUSTICE - Evidence. Evidence of sexual assault against victim's sister was inadmissible in sexual assault prosecution.	Jan. 27, 2000	Case		6 A.2d
Discussed by	11. State v. Bellamy  2017 WL 1381881, *5+ , N.J.Super.A.D. Defendant was convicted by a jury—and later sentenced to two consecutive life terms—of the first-degree murders of Michael Muchioki and Nia Haqq in Jersey City in the early morning...	Apr. 18, 2017	Case		16 A.2d
Discussed by	12. State v. Beckett  2017 WL 541113, *4+ , N.J.Super.A.D. Defendant, Clarence Beckett, appeals from a May 16, 2014 judgment of conviction for two counts of second-degree sexual assault and two counts of fourth-degree criminal sexual...	Feb. 10, 2017	Case		2 12 A.2d
Discussed by	13. State v. Bethea  2016 WL 6440654, *2+ , N.J.Super.A.D. Defendant appeals from his June 12, 2014 convictions for swindling and cheating at casino gaming, N.J.S.A. 5:12–113(a). We affirm. On August 15, 2013, a craps dealer at the Borgata...	Nov. 01, 2016	Case		3 17 A.2d
Discussed by	14. State v. Gaskins  2016 WL 1637208, *6+ , N.J.Super.A.D. Defendant appeals from his convictions for second-degree conspiracy to distribute cocaine, N.J.S.A. 2C:5–2 and 2C:35–5(a)(1) and (b)(2); third-degree conspiracy to distribute...	Apr. 26, 2016	Case		2 A.2d
Discussed by	15. State v. Hare  2016 WL 1229092, *8+ , N.J.Super.A.D. Defendant Abraham Hare appeals his conviction after a jury trial of a single count of third-degree terroristic threats, N.J.S.A. 2C:12–3(a). At sentencing the trial court imposed a...	Mar. 30, 2016	Case		2 6 A.2d
Discussed by	16. State v. Garrison  2015 WL 5009222, *2+ , N.J.Super.A.D. Defendant, Carl J. Garrison, appeals his conviction for aggravated sexual assault, sexual assault, and endangering the welfare of a child. Since we conclude that the court's ruling...	Aug. 17, 2015	Case		2 7 9 A.2d
Discussed by	17. State v. Fuller 2014 WL 5460817, *5+ , N.J.Super.A.D. By leave granted, the State appeals the Law Division's September 10, 2013 order precluding it from introducing testimony concerning an interview of defendant Gordon Fuller by...	Oct. 29, 2014	Case		7 16 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	18. State v. Romeo  2013 WL 4503364, *13+ , N.J.Super.A.D. Following a jury trial, defendant David Romeo, a former sergeant with the Wildwood Police Department, was convicted of official misconduct for kicking two suspects in the head...	Aug. 26, 2013	Case		2 7 16 A.2d
Discussed by	19. State v. Skinner  2012 WL 3762431, *18+ , N.J.Super.A.D. The first jury to hear this case was unable to reach a verdict. A second jury found defendant Vonte L. Skinner guilty of attempted murder, N.J.S.A. 2C:5-1a(3), 2C:11-3a(1);...	Aug. 31, 2012	Case		2 7 A.2d
Discussed by	20. State v. White  2012 WL 2735591, *10+ , N.J.Super.A.D. Following a fifteen-day jury trial, defendant Natasha White was convicted of the disorderly persons offense of criminal mischief, N.J.S.A. 2C:17-3a, amended down from the third...	July 10, 2012	Case		1 2 4 A.2d
Discussed by	21. State v. Belen  2012 WL 2579528, *6+ , N.J.Super.A.D. By leave granted, the State of New Jersey appeals from an order of the Law Division granting defendants Fred Belen and Alexander Lara's motion to sever certain counts from a...	July 05, 2012	Case		1 2 4 A.2d
Discussed by	22. State v. Araiza-Nava-Avila  2012 WL 1231888, *4+ , N.J.Super.A.D. Defendant Jesus A. "Chaparro" Araiza-Nava-Avila appeals a judgment of conviction entered on October 9, 2009. After a jury trial, he was convicted of the first two counts of...	Apr. 13, 2012	Case		1 2 3 A.2d
Discussed by	23. State v. Lewis  2011 WL 2306899, *7+ , N.J.Super.A.D. Defendant Rashaan Lewis appeals his conviction after a jury trial of killing one man and wounding another in a shooting outside of Murphy's Bar in Asbury Park. He was convicted of...	May 31, 2011	Case		1 2 4 A.2d
Discussed by	24. State v. Ceylan  2011 WL 1641992, *3+ , N.J.Super.A.D. CRIMINAL JUSTICE - Obstructing Justice. Evidence that defendant fled from the scene of an accident was admissible in defendant's trial for second-degree eluding.	May 03, 2011	Case		2 7 A.2d
Discussed by	25. State v. Kincey  2010 WL 2869579, *3+ , N.J.Super.A.D. On December 10, 2005, Corrections Officer Samuel Broughton was shot and killed while leaving a Jersey City bar, and his companion, Corrections Officer Brandon Holmes, was wounded...	July 09, 2010	Case		7 8 12 A.2d
Discussed by	26. State v. Leak  2010 WL 4065629, *6+ , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Evidence of defendant's prior bad acts was relevant to show defendant's intent and motive to commit attempted murder and aggravated assault.	July 01, 2010	Case		7 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	27. State v. Langston  2010 WL 153155, *5+ , N.J.Super.A.D. CRIMINAL JUSTICE - Lesser Included Offenses. The trial court's failure to submit to the jury any additional lesser-included charges was not plain error.	Jan. 19, 2010	Case		9 A.2d
Discussed by	 28. State v. Gillispie  2009 WL 2496683, *5+ , N.J.Super.A.D. In these back to back appeals, defendants Dwayne Gillispie and Gregory Buttler, appeal their convictions for offenses arising out of a double homicide that occurred in Barnegat,...	Aug. 18, 2009	Case		19 A.2d
Discussed by	29. State v. M.S.  2008 WL 2901844, *7+ , N.J.Super.A.D. On October 14, 2005, following a jury trial, defendant M.S. was acquitted of the murder of her son, Daniel, who was born on September 7, 2001, but she was convicted of the...	July 30, 2008	Case		13 14 15 A.2d
Discussed by	 30. State v. Castagna  946 A.2d 602, 610+ , N.J.Super.A.D. CRIMINAL JUSTICE - Conspiracy. Other crimes evidence was relevant and material to state's theory of motive in prosecution for conspiracy to commit murder.	May 12, 2008	Case		13 19 A.2d
Discussed by	31. State v. Parker  2007 WL 1425486, *4+ , N.J.Super.A.D. Background: Defendant was convicted by a jury in the Superior Court, Law Division, Passaic County, of second-degree endangering the welfare of a child. A ten-year term of...	May 16, 2007	Case		7 12 A.2d
Discussed by	32. State v. Middleton  2006 WL 3511478, *12+ , N.J.Super.A.D. On August 31, 2002, Floribeth Chinchilla placed a few belongs in defendant Keith Robert Middleton's car and left her home in Summit to start a new life with defendant. At 4:15 the...	Dec. 07, 2006	Case		7 12 A.2d
Discussed by	33. State v. Drew  891 A.2d 621, 627+ , N.J.Super.A.D. CRIMINAL JUSTICE - Counsel. Trial court did not violate defendant's right to a fair trial by terminating his right to self-representation.	Feb. 03, 2006	Case		7 A.2d
Discussed by	34. State v. Hawkins 2006 WL 158642, *6+ , N.J.Super.A.D. On December 12, 2000, an Essex County Grand Jury charged defendant, Michael Hawkins, in Indictment No. 00-12-3231 with first-degree murder, N.J.S.A. 2C:11-3a(1) and (2) (Count...	Jan. 23, 2006	Case		7 A.2d
Discussed by	 35. State v. Figueroa  817 A.2d 982, 983+ , N.J.Super.A.D. CRIMINAL JUSTICE - Sentencing. Defendant was not deprived of constitutional rights by sentencing under Graves Act.	Mar. 17, 2003	Case		9 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	36. State v. Copling 741 A.2d 624, 634+ , N.J.Super.A.D. CRIMINAL JUSTICE - Sentencing. Concurrent, rather than consecutive, sentences were required for murder and possession of handgun.	Dec. 16, 1999	Case		5 A.2d
Discussed by	37. State v. Sanders 727 A.2d 1063, 1068+ , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Evidence of defendant's prior assaults on toddler homicide victim's mother was inadmissible.	May 06, 1999	Case		16 A.2d
Discussed by	38. Torres v. Ricci 2010 WL 99268, *7+ , D.N.J. CRIMINAL JUSTICE - Joinder and Severance. Joinder of three charges against defendant was not prejudicial since the other incidents would have been admissible as other crimes.	Jan. 06, 2010	Case		18 A.2d
Distinguished by NEGATIVE	39. State v. J.M., Jr. 102 A.3d 1233, 1238 , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Evidence of alleged prior sexual assault was not admissible under other-crimes rule at trial for sexual assault.	Nov. 21, 2014	Case		17 A.2d
Cited by	40. State v. J.M., Jr. 137 A.3d 490, 497+ , N.J. Background: After defendant was charged with second-degree sexual assault and fourth-degree criminal sexual contact, State sought to present evidence of an alleged prior sexual...	May 26, 2016	Case		2 6 A.2d
Cited by	41. State v. Gillispie 26 A.3d 397, 412+ , N.J. CRIMINAL JUSTICE - Evidence. Erroneous admission of details of prior robbery under other-crimes rule was harmless in murder trial.	June 09, 2011	Case		1 3 A.2d
Cited by	42. State v. Gore 15 A.3d 844, 855 , N.J. CRIMINAL JUSTICE - Evidence. No plain error occurred in admission into evidence of defendant's transcribed statement of confession.	Mar. 22, 2011	Case		1 16 A.2d
Cited by	43. Henry v. New Jersey Dept. of Human Services 9 A.3d 882, 934 , N.J. LABOR AND EMPLOYMENT - Discrimination. Retaliation cause of action accrued on date of employee's resignation.	Dec. 10, 2010	Case		7 A.2d
Cited by	44. State v. Wakefield 921 A.2d 954, 976 , N.J. CRIMINAL JUSTICE - Death Penalty. Defendant failed to establish that his death sentence was disproportionate.	May 07, 2007	Case		13 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	45. State v. Jenkins  840 A.2d 242, 253 , N.J. CRIMINAL JUSTICE - Homicide. Improper failure to give instructions on lesser-included offenses was reversible error in murder prosecution.	Feb. 04, 2004	Case		18 A.2d
Cited by	46. State v. Perez  832 A.2d 303, 311+ , N.J. CRIMINAL JUSTICE - Child Endangerment. Child-endangerment law requires does not require proof that accused knew or should have known victim was under 16.	July 22, 2003	Case		13 19 A.2d
Cited by	47. State v. Bakka  826 A.2d 604, 610 , N.J. CRIMINAL JUSTICE - Homicide. Driving with revoked license was irrelevant in prosecution for manslaughter and vehicular homicide.	July 01, 2003	Case		6 A.2d
Cited by	48. State v. Darby  809 A.2d 138, 144 , N.J. CRIMINAL JUSTICE - Robbery. Evidence of other crime was inadmissible in robbery prosecution.	Nov. 19, 2002	Case		6 A.2d
Cited by	49. State v. Gooden  2017 WL 4248018, *4 , N.J.Super.A.D. The opinion of the court was delivered by Defendant Maurice Gooden appeals from his 2015 conviction following a jury trial of aggravated sexual assault and robbery, and his...	Sep. 26, 2017	Case		9 A.2d
Cited by	50. State v. Santamaria  2017 WL 2859468, *7 , N.J.Super.A.D. On October 1, 2010, a Middlesex County grand jury returned Indictment No. 10–10–1436, charging defendant, formerly a middle school science teacher, with various counts of sexual...	June 30, 2017	Case		12 16 A.2d
Cited by	51. State v. Brown 2017 WL 2348922, *3 , N.J.Super.A.D. On December 3, 2014, a Salem County grand jury returned an indictment charging defendant Nafeisha Brown with third-degree aggravated assault, N.J.S.A. 2C:12–1(b) (count one);...	May 31, 2017	Case		—
Cited by	52. State v. Catania  2017 WL 1131064, *13 , N.J.Super.A.D. On December 21, 2011, an Atlantic County grand jury returned an indictment charging defendant Denis Catania, his girlfriend Diana Camacho, and their friend Damien Leo with a...	Mar. 27, 2017	Case		3 A.2d
Cited by	53. State v. Hentz 2016 WL 4410718, *1 , N.J.Super.A.D. Defendant Aaron J. Hentz appeals from his conviction for fourth-degree operating a motor vehicle during a period of license suspension for a second offense of driving while...	Aug. 19, 2016	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	54. <u>State v. Williams</u> 2016 WL 3245390, *7, N.J.Super.A.D. On May 1, 2008, twenty-year-old Arrel Bell was found dead in a park in Trenton. Bell had been shot twice at close range in the back of his head. Following an investigation,...	June 14, 2016	Case		2 18 A.2d
Cited by	55. <u>State v. Feliciano</u> 2016 WL 2745851, *9+, N.J.Super.A.D. Tried to a jury, defendant Jose Feliciano appeals from his convictions for first degree murder, N.J.S.A. 2C:11-3(a)(1) and (2) (count one); first degree felony murder, N.J.S.A....	May 12, 2016	Case		2 6 A.2d
Cited by	56. <u>State v. Rodriguez</u> 2016 WL 731935, *4, N.J.Super.A.D. The Camden County grand jury returned Indictment No. 11-08-1761, charging defendant Tremayne Rodriguez with first-degree murder, N.J.S.A. 2C:11-3a(1) and (2); two counts of...	Feb. 25, 2016	Case		16 A.2d
Cited by	57. <u>State v. Sabatini</u> 2015 WL 10034280, *10, N.J.Super.A.D. Defendant Robert Sabatini appeals from his first-degree murder conviction, N.J.S.A. 2C:11-3(a)(1) and (2), and from the sentence of fifty years in prison subject to the No Early...	Feb. 11, 2016	Case		—
Cited by	58. <u>State v. Reevey</u> 2015 WL 8078857, *4, N.J.Super.A.D. By leave granted, the State appeals from a January 22, 2015 interlocutory order of the trial court excluding the identification testimony of a police officer in defendant's trial...	Dec. 08, 2015	Case		12 A.2d
Cited by	59. <u>State v. Figueroa</u> 2015 WL 7554075, *6, N.J.Super.A.D. The State of New Jersey (the State) appeals from the Law Division's November 19, 2014 order that barred the admission of a videotaped statement provided to law enforcement officers...	Nov. 25, 2015	Case		9 16 A.2d
Cited by	60. <u>State v. A.R.</u> 2015 WL 5446690, *5, N.J.Super.A.D. Defendant A.R. appeals his sentence and convictions for second degree sexual assault, second degree endangering the welfare of a child, and offensive touching. After carefully...	Sep. 14, 2015	Case		3 A.2d
Cited by	61. <u>State v. Melia</u> 2014 WL 10186793, *10+, N.J.Super.A.D. Defendants Robert S. Melia, Jr. and Heather Lewis were indicted, tried, and convicted together. They each appeal from their judgments of conviction. We consolidate these...	Aug. 03, 2015	Case		4 A.2d
Cited by	62. <u>State v. Banks</u> 2014 WL 9988554, *8+, N.J.Super.A.D. Defendant Scott Banks appeals his conviction and sentence on two counts of second-degree unlawful possession of a firearm without a permit, N.J.S.A. 2C:39-5(b), arising out of...	July 02, 2015	Case		1 4 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	63. State v. Ibrahim 2015 WL 2212347, *3 , N.J.Super.A.D. The State appeals from an order precluding the testimony at trial of its expert toxicologist. We affirm. On December 10, 2010, R.K. was a guest at the Borgata Casino Hotel in...	May 13, 2015	Case		6 A.2d
Cited by	64. State v. Norwood 2015 WL 1943841, *3 , N.J.Super.A.D. Defendant Victor Norwood appeals from his conviction by a jury on charges of eluding and resisting arrest and his sentence of ten years imprisonment. We affirm the convictions and...	May 01, 2015	Case		7 A.2d
Cited by	65. State v. Harchar 2014 WL 8037072, *7 , N.J.Super.A.D. Defendant John Harchar was charged with fourth-degree peering into a dwelling place, and fourth-degree lewdness. During trial, defendant convinced the court to dismiss the...	Mar. 06, 2015	Case		—
Cited by	66. State v. Cathcart 2014 WL 8036917, *3+ , N.J.Super.A.D. We granted leave to the State to appeal from a January 14, 2014 pretrial ruling, which held that oral statements of witnesses and an oral statement attributed to one co-defendant...	Mar. 05, 2015	Case		7 16 A.2d
Cited by	67. State v. R.S. 2015 WL 345620, *5 , N.J.Super.A.D. Tried before a jury on a four-count indictment, defendant R.S. was convicted of two counts of first-degree aggravated sexual assault, N.J.S.A. 2C:14–2a (counts one and two);...	Jan. 28, 2015	Case		3 A.2d
Cited by	68. State v. Gatti 2014 WL 5460827, *2+ , N.J.Super.A.D. Defendant appeals from her conviction and sentence following a jury verdict finding her guilty of two counts of third-degree uttering a forged instrument, N.J.S.A. 2C:21–1(a)(3),...	Oct. 29, 2014	Case		3 A.2d
Cited by	69. State v. Brack 2014 WL 5343765, *6+ , N.J.Super.A.D. Defendant, who was fourteen years old when the crime occurred and was waived up to adult court, appeals from his conviction for first-degree murder, N.J.S.A. 2C:11–3a(1) and (2)....	Oct. 22, 2014	Case		4 A.2d
Cited by	70. State v. V.E.A. 2014 WL 4675404, *7 , N.J.Super.A.D. Tried before a jury on a two-count indictment, defendant V.E.A. was convicted of second-degree sexual assault, N.J.S.A. 2C:14–2b (count one), and second-degree endangering the...	Sep. 22, 2014	Case		3 A.2d
Cited by	71. State v. Sheppard 97 A.3d 699, 711+ , N.J.Super.A.D. CRIMINAL JUSTICE - Assault and Battery. Admission of witness testimony that defendant made derogatory verbal references about Hispanic persons was reversible error.	Sep. 03, 2014	Case		8 9 16 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	72. State v. Daidone 2014 WL 4288811, *2+ , N.J.Super.A.D. Following a jury trial, defendant Charles J. Daidone was convicted of third-degree eluding, N.J.S.A. 2C:29–2b, and fourth-degree hindering apprehension or prosecution, N.J.S.A....	Sep. 02, 2014	Case		2 A.2d
Cited by	73. State v. Dreadin 2014 WL 3905608, *5+ , N.J.Super.A.D. Defendant Pamela J. Dreadin appeals from the dismissal of her petition for post-conviction relief (PCR), contending that she established a prima facie case of ineffective...	Aug. 12, 2014	Case		7 A.2d
Cited by	74. State v. Roberts 2014 WL 3843153, *17 , N.J.Super.A.D. Defendant Veanzeil Roberts was tried before a jury and convicted of first degree attempted murder of Monica Penalba, N.J.S.A. 2C:5–1 and 2C:11–3(a); first degree conspiracy to...	Aug. 06, 2014	Case		2 16 A.2d
Cited by	75. State v. Dawson 2014 WL 3818685, *3+ , N.J.Super.A.D. Following a three-day trial, a jury convicted defendant Andre M. Dawson, Jr. of third-degree attempted burglary, N.J.S.A. 2C:5–1 and N.J.S.A. 2C:18–2 (count one), and fourth-degree...	Aug. 05, 2014	Case		3 A.2d
Cited by	76. State v. Careno 2014 WL 3557696, *8 , N.J.Super.A.D. Defendant Marcus Zapata Careno was convicted of first-degree kidnapping, N.J.S.A. 2C:13–1(b), and simple assault, N.J.S.A. 2C:12–1(a)(1), a lesser-included offense of second-degree...	July 21, 2014	Case		2 A.2d
Cited by	77. State v. Royal 2014 WL 3015453, *9 , N.J.Super.A.D. The Cumberland County grand jury returned a twelve-count indictment charging defendant James Royal in counts one through five with events that occurred on January 16, 2003,...	July 07, 2014	Case		16 A.2d
Cited by	78. State v. Toro 2014 WL 2864863, *6+ , N.J.Super.A.D. Following a jury trial, defendant Alexis Toro was convicted of third-degree possession of heroin, N.J.S.A. 2C:35–10(a)(1). On October 5, 2012, the judge sentenced defendant to...	June 25, 2014	Case		6 7 A.2d
Cited by	79. State v. Brown 2014 WL 1923375, *3+ , N.J.Super.A.D. Defendant Vanessa Brown awaits trial on charges of aggravated manslaughter, N.J.S.A. 2C:11–4, and vehicular homicide, N.J.S.A. 2C:11–5a. Based on the percentage of alcohol in her...	May 15, 2014	Case		12 A.2d
Cited by	80. State v. Kearney 2014 WL 103228, *5 , N.J.Super.A.D. Tried by a jury, defendant Latisha M. Kearney was convicted of second-degree aggravated assault, N.J.S.A. 2C:12–1B(1), and third-degree possession of a weapon for an unlawful...	Jan. 13, 2014	Case		1 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	81. State v. R.P. 2014 WL 17738, *6 , N.J.Super.A.D. A jury convicted defendant R.P. of four counts of second-degree sexual assault by sexual penetration of a blood relative between the ages of sixteen and eighteen, N.J.S.A....	Jan. 02, 2014	Case		16 A.2d
Cited by	82. State v. Green 2013 WL 5975875, *8+ , N.J.Super.A.D. Following a jury trial, defendant was convicted of second-degree vehicular homicide arising from the death of Kylie Pinheiro in a motor vehicle collision in South Brunswick, and...	Nov. 12, 2013	Case		16 A.2d
Cited by	83. State v. Jones  2013 WL 5925804, *4+ , N.J.Super.A.D. Defendant Naski Jones appeals his January 22, 2010 judgment of conviction (JOC) for possession with intent to distribute cocaine and related charges. He argues that improper...	Nov. 06, 2013	Case		7 A.2d
Cited by	84. State v. L.L.M. 2013 WL 5762613, *7 , N.J.Super.A.D. This direct criminal appeal arises from defendant L.L.M.'s conviction of second-degree sexual assault, N.J.S.A. 2C:14-2b, and endangering the welfare of a child, N.J.S.A. 2C:24-4a....	Oct. 25, 2013	Case		6 A.2d
Cited by	85. State v. Wooden 2013 WL 5221246, *4 , N.J.Super.A.D. Defendant Foshea D. Wooden appeals his conviction for second-degree unlawful possession of a weapon, N.J.S.A. 2C:39-5(b), which resulted from a guilty plea following the denial of...	Sep. 18, 2013	Case		6 A.2d
Cited by	86. State v. Lee  2013 WL 4045542, *12 , N.J.Super.A.D. Defendants Jaquan Julius Lee and Tony Lee Canty appeal from their convictions, after a 2010 jury trial, of eight counts of first-degree armed robbery, N.J.S.A. 2C:15-1; two counts...	Aug. 12, 2013	Case		9 A.2d
Cited by	87. State v. Thomas 2013 WL 1688374, *26+ , N.J.Super.A.D. Defendant Omar Shaheer Thomas appeals his conviction for the following offenses: count one, murder of Jeffrey Eresman, contrary to N.J.S.A. 2C:11-3(a)(1) and (2); count two, felony...	Apr. 19, 2013	Case		2 7 12 A.2d
Cited by	88. State v. Caver  2013 WL 691010, *5+ , N.J.Super.A.D. Defendant Harry L. Caver appeals his August 31, 2011 judgment of conviction (JOC) for distribution of drugs and related charges stemming from a street sale of heroin in...	Feb. 27, 2013	Case		7 12 A.2d
Cited by	89. State v. Moore  2013 WL 238169, *10 , N.J.Super.A.D. A Camden County Grand Jury returned a multi-count indictment charging defendant Earl T. Moore with various offenses against the victim, Dewey Marshall. Following a jury trial,...	Jan. 23, 2013	Case		16 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	90. State v. Alvarez  2012 WL 6632794, *6 , N.J.Super.A.D. Defendant Hector S. Alvarez appeals from a September 30, 2010 judgment of conviction for second-degree conspiracy to commit robbery, N.J.S.A. 2C:5-2 and 2C:15-1, and fourth-degree...	Dec. 21, 2012	Case		7 9 12 A.2d
Cited by	91. State v. Corbin  2012 WL 5499889, *3 , N.J.Super.A.D. Defendant Terrell Corbin appeals from his conviction, following a jury trial, on one count of second-degree robbery, N.J.S.A. 2C:15-1. For the reasons that follow, we affirm. The...	Nov. 14, 2012	Case		7 A.2d
Cited by	92. State v. Scott  2012 WL 5199608, *7 , N.J.Super.A.D. Defendant Darnell Scott appeals from his conviction, following a jury trial, of two counts of first-degree carjacking, N.J.S.A. 2C:15-2; first-degree robbery, N.J.S.A. 2C:15-1;...	Oct. 23, 2012	Case		7 A.2d
Cited by	93. State v. Santos  2012 WL 2051873, *3+ , N.J.Super.A.D. Defendant was convicted by a jury of second-degree eluding, N.J. S.A. 2C:29-2(b), and disorderly persons shoplifting, N.J.S.A. 2C:20-11, and was sentenced as a persistent offender,...	June 08, 2012	Case		2 7 A.2d
Cited by	94. E.A. v. A.A. 2012 WL 1758179, *7 , N.J.Super.A.D. Plaintiff appeals from an order entered April 1, 2011, vacating a temporary restraining order (TRO) and dismissing her complaint against defendant under the Prevention of Domestic...	May 18, 2012	Case		6 A.2d
Cited by	95. State v. Sanborn  2012 WL 1604908, *4 , N.J.Super.A.D. Defendant Vincent Sanborn appeals his conviction for second-degree aggravated assault, contrary to N.J.S.A. 2C:12-1(b)(1) (count one); third-degree aggravated assault, contrary to...	May 04, 2012	Case		2 17 A.2d
Cited by	96. State v. Minor  2012 WL 1123532, *3+ , N.J.Super.A.D. Defendant James E. Minor appeals from his conviction, following a guilty plea, for second-degree burglary, contrary to N.J.S.A. 2C:18-2(b); and fourth-degree contempt of a court...	Apr. 05, 2012	Case		2 16 A.2d
Cited by	97. State v. Norton  2012 WL 652584, *3 , N.J.Super.A.D. Following a jury trial, defendant Kevin M. Norton was convicted of fourth-degree theft, N.J.S.A. 2C:20-3, and was found not guilty of second-degree robbery, N.J.S.A. 2C:15-1. He...	Mar. 01, 2012	Case		16 A.2d
Cited by	98. State v. Zarate 2012 WL 246385, *14 , N.J.Super.A.D. Tried by a jury, defendant Jonathan Zarate was convicted of first-degree murder, N.J.S.A. 2C:11-3(a)(1)-(2) (count 1); third-degree hindering apprehension, N.J.S.A. 2C:29-3(b)(1)...	Jan. 27, 2012	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	99. State v. McNeil 2011 WL 5008314, *11 , N.J.Super.A.D. Defendant, Keshawn McNeil, appeals from his convictions on charges of first-degree conspiracy to commit robbery, N.J.S.A. 2C:5-2 and N.J.S.A. 2C:15-1, first-degree armed robbery,...	Oct. 21, 2011	Case		16 A.2d
Cited by	100. Battaglia v. United Parcel Service, Inc. 2011 WL 3516925, *13 , N.J.Super.A.D. Plaintiff sued his employer, United Parcel Service (UPS), following his demotion from a managerial position to a supervisory one. He alleged his demotion was in retaliation for...	Aug. 12, 2011	Case		12 A.2d
Cited by	101. State v. Mitchell 2011 WL 2935046, *3 , N.J.Super.A.D. A jury convicted defendant Anthony Mitchell, whose nickname is "Scoop," of the purposeful or knowing murder of Toby Davis, N.J.S.A. 2C:11-3(a)(1), (2) (count one); second-degree...	July 22, 2011	Case		16 A.2d
Cited by	102. State v. Spann 2011 WL 2682957, *4 , N.J.Super.A.D. A grand jury indicted defendant Kalin Spann for second-degree conspiracy to commit robbery, N.J.S.A. 2C:5-2 and N.J.S.A. 2C:15-1 (count one); second-degree robbery, N.J.S.A....	July 12, 2011	Case		9 16 A.2d
Cited by	103. State v. D.M. 2011 WL 2321226, *6+ , N.J.Super.A.D. Defendant—now sixty-four years old—appeals from his 2009 conviction and fifty-five-year sentence for numerous sexual offenses involving three children: his two granddaughters—Eve...	May 24, 2011	Case		13 A.2d
Cited by	104. State v. Dennis 2011 WL 709721, *11+ , N.J.Super.A.D. Following a jury trial, defendants Kevin Barnes and Dewan Dennis were convicted of conspiracy, N.J.S.A. 2C:5-2; three counts of first-degree murder, N.J.S.A. 2C:11-3(a)(1) and (2),...	Mar. 02, 2011	Case		12 A.2d
Cited by	105. State v. Scott 2011 WL 487834, *6+ , N.J.Super.A.D. After a previous trial resulted in a hung jury, defendant Stephen Lamont Scott was convicted at his second jury trial of second-degree sexual assault upon a nine-year-old girl,...	Feb. 14, 2011	Case		—
Cited by	106. State v. A.B. 2011 WL 488409, *5+ , N.J.Super.A.D. Defendant was charged in a five-count indictment with various sexual offenses committed against two victims, his daughter Andrea, and his granddaughter Allison. The offenses...	Feb. 14, 2011	Case		2 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	107. <u>State v. Arellano</u> 2010 WL 3516853, *8 , N.J.Super.A.D. Defendant was convicted of luring or enticing a child, N.J.S.A. 2C:13-6 (count one), attempted child endangerment, N.J.S.A. 2C:5-1 and N.J.S.A. 2C:24-4(a) (count four), and...	Sep. 01, 2010	Case		10 A.2d
Cited by	108. <u>New Jersey Div. of Youth and Family Services v. I.H.C.</u> 2 A.3d 1138, 1151 , N.J.Super.A.D. FAMILY LAW - Child Protection. Evidence from father's ex-wife was admissible in protective custody proceeding to prove that he posed risk of harm to children.	Aug. 05, 2010	Case		13 A.2d
Cited by	109. <u>State v. Foglia</u> 1 A.3d 703, 713 , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Defendant's testimony could not be attacked through specific instances of defendant's bad conduct.	July 16, 2010	Case		—
Cited by	110. <u>State v. Sessoms</u> 994 A.2d 1063, 1066 , N.J.Super.A.D. CRIMINAL JUSTICE - Informants. Affidavit of alleged informant in drug case was not a disclosure of his identity, as would require state to confirm or deny identity.	May 17, 2010	Case		4 A.2d
Cited by	111. <u>In re Laufgas</u> 2011 WL 6545, *3 , N.J.Super.A.D. Defendant Bernard Laufgas appeals from a June 19, 2007 order finding him in contempt of an April 1, 2002 revised final judgment containing restraints, and from the six-month jail...	Mar. 16, 2010	Case		—
Cited by	112. <u>State v. J.I.F.</u> 2011 WL 9340, *17 , N.J.Super.A.D. Defendant J.I.F. appeals from a final judgment convicting him of the lesser-included offense of assault, a disorderly persons offense, contrary to N.J.S.A. 2C:12-1a(1);...	Mar. 04, 2010	Case		—
Cited by	113. <u>State v. Boston</u> 2010 WL 86411, *10+ , N.J.Super.A.D. CRIMINAL JUSTICE - Confessions. Substantial evidence supported a determination that a defendant was not too intoxicated to validly waive his Miranda warnings.	Jan. 12, 2010	Case		6 A.2d
Cited by	114. <u>State v. Van Wyk</u> 2009 WL 5125087, *5 , N.J.Super.A.D. Following a jury trial, defendant Roy Van Wyk was convicted of fourth-degree harassment, N.J.S.A. 2C:33-4(e), and fourth-degree contempt, N.J.S.A. 2C:29-9(a). He was sentenced to...	Dec. 30, 2009	Case		13 A.2d
Cited by	115. <u>State v. Farley</u> 2009 WL 4264355, *8 , N.J.Super.A.D. CRIMINAL JUSTICE - Identification. Trial court was required to reexamine the victim's positive "show-up" identification of the defendant at his residence.	Nov. 20, 2009	Case		16 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	116. State v. Poe 2009 WL 3460795, *6 , N.J.Super.A.D. CRIMINAL JUSTICE - Confessions. Defendant's statement was admissible where he was informed of his Miranda rights and knowingly, voluntarily, and intelligently waived them.	Oct. 20, 2009	Case		4 A.2d
Cited by	117. State v. McMullen 2009 WL 2486458, *3 , N.J.Super.A.D. Defendant, Marcus McMullen, was found guilty of third-degree endangering the welfare of a child, N.J.S.A. 2C:24-4a, and fourth-degree lewdness, N.J.S.A. 2C:14-4a, after exposing...	Aug. 17, 2009	Case		12 A.2d
Cited by	118. State v. Ames 2009 WL 2168254, *4 , N.J.Super.A.D. Tried to a jury, defendant was convicted of second-degree eluding, N.J.S.A. 2C:29-2b (Count One); third-degree receiving stolen property (a motor vehicle), N.J.S.A. 2C:20-7a (Count...	July 22, 2009	Case		13 A.2d
Cited by	119. State v. J.F.G. 2009 WL 2168681, *8 , N.J.Super.A.D. Defendant J.F.G. appeals from his March 20, 2006 conviction on thirteen counts of endangering the welfare of a child, consisting of: two first-degree convictions under N.J.S.A....	July 22, 2009	Case		—
Cited by	120. State v. Cook 2009 WL 874223, *9 , N.J.Super.A.D. Defendant Robert Cook appeals his conviction after trial by jury on an indictment charging him with first-degree murder, N.J.S.A. 2C:11-3a(1)(2), third-degree unlawful possession...	Apr. 03, 2009	Case		—
Cited by	121. In re Commitment of G.B.D. 2009 WL 838250, *9 , N.J.Super.A.D. G.B.D. appeals from an order civilly committing him pursuant to New Jersey's Sexually Violent Predator Act (SVPA or Act), N.J.S.A. 30:4-27.24 to -27.38. After reviewing the...	Apr. 01, 2009	Case		—
Cited by	122. State v. McCall 2008 WL 5331730, *4 , N.J.Super.A.D. Defendant, Michael McCall, appeals from his conviction in the Law Division following a jury trial in November 2005, of second-degree conspiracy to commit robbery, N.J.S.A. 2C:5-2...	Dec. 23, 2008	Case		4 A.2d
Cited by	123. State v. D.K. 2008 WL 3539935, *5+ , N.J.Super.A.D. These appeals, which we have calendared back to back, arise from a single indictment that resulted in two trials. The indictment charged defendant D.K., a police officer, with...	Aug. 15, 2008	Case		13 A.2d
Cited by	124. State v. Rogers 2008 WL 2796472, *14+ , N.J.Super.A.D. Defendant, Richard W. Rogers, was found guilty of two counts of first-degree knowing or purposeful murder, N.J.S.A. 2C:11-3a(1), (2), for the 1992 murder of Thomas Mulcahy and the...	July 22, 2008	Case		2 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	125. State v. Bennett  2007 WL 3239199, *5+ , N.J.Super.A.D. Defendant Jacob Bennett (Bennett) appeals from his conviction on robbery, aggravated assault, possession of a weapon, and conspiracy charges and the sentence imposed. We affirm....	Nov. 05, 2007	Case	   	2 A.2d
Cited by	126. State v. Carlino 2007 WL 1687551, *4 , N.J.Super.A.D. Tried to a jury, defendant Anthony Vito Carlino was convicted of the second-degree crime of attempted kidnapping, contrary to N.J.S.A. 2C:13-1(b)(1); luring or enticing a child, a...	June 13, 2007	Case	   	—
Cited by	127. State v. Slattery 2007 WL 1651453, *4+ , N.J.Super.A.D. Tried to a jury, defendant, Patricia A. Slattery, was convicted on two counts of third-degree theft by deception, N.J.S.A. 2C:20-4, from her employer, Trutone, Inc. She was...	June 08, 2007	Case	   	6 A.2d
Cited by	128. State v. Strader  2007 WL 1296407, *11 , N.J.Super.A.D. Defendant Shawn Strader appeals from his conviction of first degree attempted murder, in violation of N.J.S.A. 2C:5-1 and 2C:11-3(a); second degree aggravated arson, in violation...	May 04, 2007	Case	   	18 A.2d
Cited by	129. State v. Bachelder 2007 WL 1146722, *11 , N.J.Super.A.D. In this case, defendant Glen K. Bachelder, appeals from a judgment of conviction for eluding. The following factual and procedural history is relevant to our consideration of the...	Apr. 19, 2007	Case	   	12 A.2d
Cited by	130. State v. Davis 916 A.2d 493, 502 , N.J.Super.A.D. CRIMINAL JUSTICE - Entrapment. Charging of both entrapment and other-crimes or bad-acts evidence before same jury was not plain error.	Feb. 27, 2007	Case	   	13 A.2d
Cited by	131. State v. Freeman 2007 WL 581748, *2 , N.J.Super.A.D. Defendant, Ravon Freeman, appeals the Law Division's December 2, 2005 judgment of conviction for second-degree eluding, contrary to N.J.S.A. 2C:29-2b. We affirm. On September 13,...	Feb. 27, 2007	Case	   	18 A.2d
Cited by	132. In re State ex rel. K.O. 2007 WL 528196, *6 , N.J.Super.A.D. Background: Juvenile was adjudicated delinquent in the Superior Court, Chancery Division, Family Part, Monmouth County, of third-degree receipt of stolen property and fourth-degree...	Feb. 22, 2007	Case	   	19 A.2d
Cited by	133. State v. Eaddy 2006 WL 3751313, *8 , N.J.Super.A.D. Defendant Kristina E. Eaddy appeals from a judgment of conviction entered on April 16, 2004 after a jury found her guilty of first degree attempted murder, N.J.S.A. 2C:5-1, 11-3...	Dec. 22, 2006	Case	   	13 18 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	134. State v. Becheam 2006 WL 1995135, *5 , N.J.Super.A.D. Background: Defendant was convicted by jury in the Superior Court, Law Division, Essex County, of robbery, felony murder, possession of assault firearm without a permit, possession...	July 19, 2006	Case		1 A.2d
Cited by	135. State v. Donato 2006 WL 1633666, *26+ , N.J.Super.A.D. After a lengthy jury trial on an indictment charging him with the murder of his wife, defendant John Donato was convicted of aggravated manslaughter and sentenced to seventeen and...	June 14, 2006	Case		13 A.2d
Cited by	136. State v. Lipinski 2006 WL 1449988, *2 , N.J.Super.A.D. Background: Defendant was convicted in the Superior Court, Law Division, Union County, of fourth-degree lewdness. Defendant appealed. Holding: The Superior Court, Appellate...	May 26, 2006	Case		1 A.2d
Cited by	137. State v. Black 2006 WL 587790, *3 , N.J.Super.A.D. Defendant James Black raped his former girlfriend at knifepoint on January 15, 1995 and murdered her on February 20, 1995. He was indicted for crimes arising out of the two...	Mar. 13, 2006	Case		19 A.2d
Cited by	138. State v. Alquino 2005 WL 3739710, *3 , N.J.Super.A.D. Tried to a jury, defendant Miguel Alquino was found guilty on an indictment charging the following: third-degree possession of a weapon for an unlawful purpose, contrary to...	Feb. 07, 2006	Case		7 A.2d
Cited by	139. State v. Armbruster 2005 WL 3299421, *3+ , N.J.Super.A.D. Defendant Petar N. Armbruster was charged under a Mercer County indictment with aggravated assault, contrary to N.J.S.A. 2C:12-1b(1) (count one); aggravated assault, contrary to...	Dec. 07, 2005	Case		1 A.2d
Cited by	140. State v. Capo 2005 WL 3276271, *5 , N.J.Super.A.D. Following our denial of the State's motion for leave to appeal certain pre-trial evidentiary rulings made by the trial court, the Supreme Court, on the State's further application,...	Dec. 06, 2005	Case		19 A.2d
Cited by	141. State v. Burden 2005 WL 2675107, *7 , N.J.Super.A.D. Defendant married L.T. in 1986. L.T. had a son from a prior marriage, E.T., who was born in 1981. Defendant was charged: with committing an act of sexual penetration upon E.T. when...	Oct. 21, 2005	Case		8 A.2d
Cited by	142. State v. Muhammad 820 A.2d 70, 87 , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Prior consistent statement is not subject to a strict temporal requirement.	Apr. 08, 2003	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 143. <u>State v. Olivera</u> 782 A.2d 988, 992 , N.J.Super.A.D. CRIMINAL JUSTICE - Luring. Charge in luring child prosecution was error as it gave jurors too much autonomy in determining criminal purpose.	Nov. 01, 2001	Case		19 A.2d
Cited by	 144. <u>State v. Baluch</u> 775 A.2d 127, 159 , N.J.Super.A.D. CRIMINAL JUSTICE - Privileges. Husband waived spousal privilege in wife's trial by testimony incriminating her in his trial.	June 13, 2001	Case		2 A.2d
Cited by	 145. <u>State v. Hernandez</u> 758 A.2d 1139, 1143+ , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Accomplice's uncorroborated testimony as to prior drug dealings with defendant was inadmissible.	Sep. 28, 2000	Case		—
Cited by	 146. <u>State v. Swint</u> 745 A.2d 570, 579 , N.J.Super.A.D. CRIMINAL JUSTICE - Witnesses. Witness's prior inconsistent statement to police was sufficiently reliable to be admitted.	Feb. 15, 2000	Case		6 A.2d
Cited by	147. <u>State v. Gaskin</u>  740 A.2d 157, 162+ , N.J.Super.A.D. CRIMINAL JUSTICE - Robbery. Evidence of subsequent robbery on same college campus was admissible to prove identity.	Nov. 08, 1999	Case		2 A.2d
Cited by	148. <u>State v. Young</u>  89 A.3d 242, 250+ , N.J.Super.L. CRIMINAL JUSTICE - Searches and Seizures. Administrative code allowed opening of letter based solely on inmate's known and addressee's suspected gang affiliations.	June 24, 2013	Case		7 12 A.2d
Cited by	149. <u>Polett v. Public Communications, Inc.</u> 126 A.3d 895, 919 , Pa. TORTS - Negligence. Tolling agreement between knee replacement patient and orthopedic surgeon was inadmissible in action against medical device manufacturer.	Oct. 27, 2015	Case		12 A.2d
Mentioned by	150. <u>State v. Garrison</u> 155 A.3d 996, 1005 , N.J. CRIMINAL JUSTICE - Evidence. Evidence of defendant's involvement in game of strip poker with minor victim was admissible other-crimes evidence in sexual-assault prosecution.	Mar. 20, 2017	Case		—
Mentioned by	 151. <u>State v. Kemp</u> 948 A.2d 636, 646 , N.J. CRIMINAL JUSTICE - Evidence. Evidence of prior, uncharged robbery was improperly admitted in robbery and murder trial, and was prejudicial error.	June 16, 2008	Case		16 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	152. <u>State v. Tedesco</u> 2017 WL 876339, *8 , N.J.Super.A.D. Defendant Giuseppe Tedesco appeals from the judgment of conviction entered after a jury found him guilty of first-degree murder, N.J.S.A. 2C:11–3(a), second-degree unlawful...	Mar. 06, 2017	Case		12 A.2d
Mentioned by	153. <u>State v. Mauti</u> 153 A.3d 256, 278 , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Whether reasonable expectation to negotiate plea was exhibited must be considered when deciding whether statements are part of plea negotiations and...	Jan. 26, 2017	Case		6 A.2d
Mentioned by	154. <u>State v. Khan</u> 2017 WL 281008, *7 , N.J.Super.A.D. Following a trial on a four-count Essex County indictment, a jury convicted defendant Khalid Kahn of first-degree murder, N.J.S.A. 2C:11–3(a) (count one); fourth-degree unlawful...	Jan. 23, 2017	Case		2 9 A.2d
Mentioned by	155. <u>State v. Ortiz</u> 2016 WL 7338783, *6 , N.J.Super.A.D. Defendant Jose Ortiz appeals from a judgment of conviction for third-degree terroristic threats, N.J.S.A. 2C:12–3(b), second-degree burglary, N.J.S.A. 2C:18–2(b)(1), and...	Dec. 16, 2016	Case		2 A.2d
Mentioned by	156. <u>State v. Hurt</u> 2016 WL 937166, *2 , N.J.Super.A.D. Defendant appeals from an August 8, 2013 conviction for aggravated manslaughter, N.J.S.A. 2C:11–4(a)(1) after entering a guilty plea. We affirm. R.W. died after being stabbed on...	Mar. 14, 2016	Case		17 A.2d
Mentioned by	157. <u>State v. Thomas</u> 2015 WL 9694263, *1 , N.J.Super.A.D. Defendant appeals his convictions for murder and disturbing human remains, and argues: POINT I DAMAGING HEARSAY STATEMENTS BY THE DECEDENT WERE IMPROPERLY ADMITTED INTO EVIDENCE...	Aug. 31, 2015	Case		—
Mentioned by	158. <u>State v. T.M.</u> 2014 WL 3015209, *4 , N.J.Super.A.D. Following multiple jury trials, defendant T.M. was convicted of third-degree criminal restraint, N.J.S.A. 2C:13–2; second-degree endangering the welfare of a child, N.J.S.A....	July 07, 2014	Case		1 A.2d
Mentioned by	159. <u>State v. Little</u> 2014 WL 243113, *7 , N.J.Super.A.D. Defendant Mark A. Little was tried before a jury and found guilty of murder and other offenses. He appeals from the judgment of conviction entered by the trial court on May 21,...	Jan. 22, 2014	Case		2 A.2d
Mentioned by	160. <u>Adams v. Rubano</u> 2013 WL 5525660, *2 , N.J.Super.A.D. A judgment in the amount of \$6,700 was entered in favor of plaintiff, Nakia Adams, and against defendant, Frank Rubano, following a bench trial in the Special Civil Part. Defendant...	Oct. 08, 2013	Case		16 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	161. <u>State v. Graham</u> 2013 WL 2095903, *11 , N.J.Super.A.D. The grand jurors for Hudson County charged defendant Michael Graham and co-defendants—Tyjuan Wilson and Rashawn Benekin—with crimes that resulted in the death of Christopher...	May 16, 2013	Case		16 A.2d
Mentioned by	 162. <u>State v. Sterling</u> 2011 WL 3557585, *16 , N.J.Super.A.D. In this opinion, we dispose of two appeals by defendant, Bruce D. Sterling, which we now consolidate for disposition in this single opinion. In Indictment No. 05–10–1410, defendant...	Aug. 15, 2011	Case		12 A.2d
Mentioned by	163. <u>State v. McDonald</u> 2011 WL 2305678, *6 , N.J.Super.A.D. Originally slated as a capital trial, when New Jersey abolished the death penalty in 2007, the capital charges against defendant Edward McDonald and co-defendant Hamilton Sanchez...	May 13, 2011	Case		17 A.2d
Mentioned by	164. <u>State v. Lindsay</u> 2009 WL 4253993, *6 , N.J.Super.A.D. CRIMINAL JUSTICE - Evidence. Evidence of a victim's prior contact with a defendant was properly admitted where the evidence was relevant to a retaliation charge against the...	Nov. 30, 2009	Case		—
Mentioned by	165. <u>Lopez v. Borough of Sayreville</u> 2008 WL 2663423, *19 , N.J.Super.A.D. In this products liability action, plaintiff Richard Lopez suffered an acute spinal cord injury when the four-wheeled all terrain vehicle (ATV) he was riding “overturned...	July 09, 2008	Case		6 A.2d
Mentioned by	166. <u>Arc Family, LLC v. Ralph Parnes Associates, Inc.</u> 2008 WL 1820799, *17 , N.J.Super.A.D. Background: Owner of building that was severely damaged by fire brought professional malpractice action against insurance broker, alleging failure to procure sufficient replacement...	Apr. 24, 2008	Case		6 A.2d
Mentioned by	167. <u>State v. V.F.</u> 2007 WL 92406, *5 , N.J.Super.A.D. Defendant, V.F., appeals from a judgment of conviction finding him guilty of sexual assault, aggravated sexual assault, and endangering the welfare of a child. The following...	Jan. 04, 2007	Case		12 A.2d
Mentioned by	168. <u>State v. Michael F.</u> 2005 WL 3964673, *7 , N.J.Super.A.D. Background: Defendant was convicted by a jury in the Superior Court, Law Division, Bergen County, of third-degree aggravated criminal sexual contact. Defendant appealed. Holdings:...	Apr. 17, 2006	Case		1 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	 169. <u>State v. Townsend</u> 863 A.2d 380, 390 , N.J.Super.A.D. CRIMINAL JUSTICE - Indictment and Information. More than 20 year delay between incident and issuance of murder indictment did not violate due process.	Jan. 03, 2005	Case		2 A.2d
Mentioned by	 170. <u>State v. Jones</u> 788 A.2d 303, 312 , N.J.Super.A.D. CRIMINAL JUSTICE - Interference With Custody. Failure to tailor jury instructions was reversible error in interference with custody case.	Jan. 10, 2002	Case		—
Mentioned by	 171. <u>State v. Hackett</u> 733 A.2d 554, 567 , N.J.Super.A.D. CRIMINAL JUSTICE - Obscenity and Pornography. Defendant could be prosecuted for both lewdness and endangering welfare of children.	July 26, 1999	Case		—
Mentioned by	 172. <u>State v. Farquharson</u> 728 A.2d 289, 291 , N.J.Super.A.D. CRIMINAL JUSTICE - Privileges. Admission of evidence of defendant's prior drug convictions violated right not to testify.	May 07, 1999	Case		—
Mentioned by	173. <u>Baker v. Bartkowski</u> 2014 WL 2002286, *8 , D.N.J. Petitioner Jeffrey C. Baker, a convicted state prisoner presently confined at the New Jersey State Prison in Trenton, New Jersey, has submitted a petition for a writ of habeas...	May 14, 2014	Case		—
—	174. <u>Validity, Construction, and Application of State Statutes Prohibiting Child Luring as Applied to Cases Involving Luring of Child by Means of Verbal or Other Nonelectronic Communications</u> 35 A.L.R.6th 361 This annotation collects and discusses all of the cases in which courts have determined the validity of, or have construed and applied, state statutes prohibiting child luring, as...	2008	ALR	—	13 14 15 19 A.2d
—	175. <u>Remoteness in time of other similar offenses committed by accused as affecting admissibility of evidence thereof in prosecution for sex offense</u> 88 A.L.R.3d 8 This annotation collects and analyzes the cases involving the question of the admissibility, in prosecutions for sex offenses, of evidence of similar offenses perpetrated by the...	1978	ALR	—	13 14 15 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
—	176. <u>Handbook of Federal Evidence s 803:3, Rule 803(3): then-existing mental, emotional, or physical condition; intent as proof of doing act intended; statement as proof of fact remembered or believed; will cases</u> Bob and Ralph died when the company plane crashed in the ocean near Boston. A week before leaving on his flight from New York to Boston, Bob said to his wife at dinner, "I really...	2017	Other Secondary Source	—	—
—	177. <u>Handbook of Federal Evidence s 806:1, Rule 806: attacking and supporting the declarant's credibility</u> Harry witnessed an automobile accident. At the time of his deposition, counsel for the plaintiff was aware that although Harry maintained at the deposition that the light for the...	2017	Other Secondary Source	—	—
—	178. <u>2B N.J. Prac. Series N.J.R.E. 401, Definition of "Relevant Evidence"</u> N.J. Prac. Series Rule 401 is similar to N.J.Evid.R. 1(2) in that it incorporates the phrase "evidence having a tendency in reason to prove," but it substitutes for the phrase, "any material..."	2017	Other Secondary Source	—	6 A.2d
—	179. <u>2B N.J. Prac. Series N.J.R.E. 403, Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time</u> N.J. Prac. Series Rule 403 contains the principles established by both N.J.Evid.R. 4 and Fed.R.Evid. 403. Although the formulation is closer to the federal rule than the 1967 New Jersey rule, the...	2017	Other Secondary Source	—	7 8 A.2d
—	180. <u>2B N.J. Prac. Series N.J.R.E. 404, Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes; Evidence</u> 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	—	13 15 19 A.2d
—	181. <u>2D N.J. Prac. Series N.J.R.E. 803(b), Statement by a Party-Opponent</u> N.J. Prac. Series Rule 803(b) follows the structure as well as the substantive content of Fed.R.Evid. 801(d)(2), while retaining some of the language of the 1967 New Jersey rule analogues. The last...	2017	Other Secondary Source	—	13 15 19 A.2d
—	182. <u>32 N.J. Prac. Series s 21:56, Definition of "relevant evidence"</u> N.J. Prac. Series N.J.R.E. 402 states that except as otherwise provided in the rules of evidence or by law, all relevant evidence is admissible. N.J.R.E. 401 defines "relevant evidence" as...	2016	Other Secondary Source	—	19 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
—	183. 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	—	2 A.2d
—	184. 33 N.J. Prac. Series s 10:6, Luring a child N.J. Prac. Series It is a second degree crime to lure or entice a child into a motor vehicle, structure, isolated area or to meet or appear at any other place with a purpose to commit a criminal...	2017	Other Secondary Source	—	—
—	185. 40 N.J. Prac. Series s 4:19, Generally N.J. Prac. Series Certain issues in criminal cases are subject to the same appellate review standards used in civil actions. Examples of decisions that are subject to the same standards of review...	2017	Other Secondary Source	—	—
—	186. 55 N.J. Prac. Series s 2:2, Motion summary N.J. Prac. Series This motion is used to exclude prejudicial evidence. The motion is based upon the statutory balancing test of N.J.R.E. 403, which is the key source for excluding evidence that will...	2017	Other Secondary Source	—	7 A.2d
—	187. 55 N.J. Prac. Series s 2:3, Supporting authorities-Exclusion of prejudicial evidence N.J. Prac. Series N.J.R.E. 403 states as follows: Except as otherwise provided by these rules or other law, relevant evidence may be excluded if its probative value is substantially outweighed by...	2017	Other Secondary Source	—	7 12 A.2d
—	188. 55 N.J. Prac. Series s 2:4, Supporting authorities-Prejudice defined N.J. Prac. Series State v. Castagna, 400 N.J. Super. 164, 946 A.2d 602, 608 (App. Div. 2008) ("Rule 403 is a residual rule to be considered after all other exclusionary principles have been...	2017	Other Secondary Source	—	7 A.2d
—	189. 55 N.J. Prac. Series s 3:3, Supporting authorities-Definition of "relevant evidence" N.J. Prac. Series State v. P.S., 202 N.J. 232, 997 A.2d 163 (2010) (for other bad act evidence to be admissible evidence must first be relevant to a material issue in trial, such as to prove an...	2017	Other Secondary Source	—	6 A.2d
—	190. 55 N.J. Prac. Series s 4:57, Supporting authorities-Exclusion of prejudicial evidence, generally N.J. Prac. Series Evidence Rule 403 states that "(t)he court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a)...	2017	Other Secondary Source	—	12 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
—	191. <u>Wharton's Criminal Evidence s 27:32, New Jersey</u> N.J.R. Evid. 403 provides: Exclusion of relevant evidence on grounds of prejudice, confusion or waste of time. Except as otherwise provided by these rules or other law, relevant...	2017	Other Secondary Source	—	7 A.2d
—	192. <u>Wharton's Criminal Evidence s 28:32, New Jersey</u> Effective July 1, 2007, N.J. R. Evid. 404 provides: Character evidence not admissible to prove conduct; exceptions; other crimes; evidence (a) Character evidence generally....	2017	Other Secondary Source	—	—
—	193. <u>Winning Evidence Arguments s 803:3, Rule 803(3): then-existing mental, emotional, or physical condition; intent as proof of doing act intended; statement as proof of fact remembered or believed; will cases</u> Bob and Ralph died when the company plane crashed in the ocean near Boston. A week before leaving on his flight from New York to Boston, Bob said to his wife at dinner, "I really...	2018	Other Secondary Source	—	—
—	194. <u>Winning Evidence Arguments s 806:1, Rule 806: attacking and supporting the declarant's credibility</u> Harry witnessed an automobile accident. At the time of his deposition, counsel for the plaintiff was aware that although Harry maintained at the deposition that the light for the...	2018	Other Secondary Source	—	—
—	195. <u>PREDATORS AND PROPENSITY: THE PROPER APPROACH FOR DETERMINING THE ADMISSIBILITY OF PRIOR BAD ACTS EVIDENCE IN CHILD SEXUAL ABUSE PROSECUTIONS</u> 39 Am. J. Crim. L. 327 , 379 I. Introduction. 328 II. History of Similar Fact Evidence in Child Sexual Abuse Cases. 331 A. Early American Courts. 331 B. Molineux and Federal Rule of Evidence 404. 333 ...	2012	Law Review	—	—
—	196. <u>P 178,283 LULA M. HENRY, PLAINTIFF-APPELLANT, V. NEW JERSEY DEPARTMENT OF HUMAN SERVICES; HON. CLARK E. BRUNO, ACTING COMMISSIONER OF HUMAN SERVICES; TRENTON STATE PSYCHIATRIC HOSPITAL; GREGORY P. ROBERTS, CHIEF EXECUTIVE OFFICER</u> Labor & Employment Law LULA M. HENRY, Plaintiff—Appellant, v. NEW JERSEY DEPARTMENT OF HUMAN SERVICES; HON. CLARK E. BRUNO, Acting Commissioner of Human Services; TRENTON STATE PSYCHIATRIC HOSPITAL;...	2010	Other Secondary Source	—	—