

180 Ga.App. 312  
Court of Appeals of Georgia.

CHASTAIN

v.

The STATE.

No. 72872. | Sept. 4, 1986. |  
Rehearing Denied Sept. 17, 1986.

Defendant was convicted in the Gilmer Superior Court, Milam, J., of aggravated sodomy and child molestation, and he appealed. The Court of Appeals, Pope, J., held that evidence concerning alleged incidents with same child/victim with other men was not admissible to show child's knowledge of crimes.

Affirmed.

West Headnotes (2)

[1] **Infants**

☞ Prior sexual history, experience, or abuse; rape shield

**Sodomy**

☞ Evidence

Evidence in prosecution for aggravated sodomy and child molestation that child victim had suffered other incidents with other men was not admissible to show child's knowledge of crimes of child molestation and sodomy, as knowledge of crime gained through being victim of that crime at hands of others can have no relevance to issue of guilt or innocence of defendant on trial.

12 Cases that cite this headnote

[2] **Infants**

☞ Prior sexual history, experience, or abuse; rape shield

Past sexual experience of child in child molestation prosecution is irrelevant to issue whether molestation was committed by defendant on trial.

**Attorneys and Law Firms**

\*\*6 \*313 David E. Ralston, Blue Ridge, for appellant.

Roger G. Queen, Dist. Atty., for appellee.

**Opinion**

\*312 POPE, Judge.

Randy Calvin Chastain was convicted on five counts of aggravated sodomy and child molestation and was sentenced to serve twenty years on each of four counts, the sentences to run concurrently, with ten years probation on the fifth count.

1. Chastain raises the general grounds. We have carefully reviewed the record and find that the evidence is sufficient beyond any reasonable doubt to enable a rational trier of fact to convict Chastain on each count. Accord *Chapman v. State*, 170 Ga.App. 779(1), 318 S.E.2d 213 (1984); see also *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979).

[1] [2] 2. Chastain argues that the court erred in restricting his right to a thorough and sifting cross-examination by granting the State's motion in limine precluding him from questioning the child about alleged incidents with other men for the purpose of showing the child's knowledge of the crimes of child molestation and sodomy. Knowledge of a crime gained through being a victim of that crime at the hands of others can have no relevance to the issue of guilt or innocence of the defendant on trial. The past sexual experience of a child in a case such as this is irrelevant to the issue of whether molestation was committed by the defendant on trial. *Decker v. State*, 139 Ga.App. 707(2), 229 S.E.2d 520 (1976). The trial court did not err in excluding such evidence.

*Judgment affirmed.*

McMURRAY, P.J., and CARLEY, J., concur.

**Parallel Citations**

349 S.E.2d 6

257 Ga. 54  
Supreme Court of Georgia.

CHASTAIN

v.

STATE.

No. 43947. | April 8, 1987. |  
Reconsideration Denied April 29, 1987.

Defendant was convicted in the Gilmer Superior Court, Bobby C. Milam, J., of aggravated sodomy and child molestation, and he appealed. The Court of Appeals, 180 Ga.App. 312, 349 S.E.2d 6, affirmed, and defendant appealed. The Supreme Court, Clarke, P.J., held that evidence of victim's prior sexual conduct was irrelevant, and trial court properly limited defendant's cross-examination of victim regarding such prior incidents.

Affirmed.

Smith and Gregory, JJ., dissented.

Bell, J., concurred in judgment only.

West Headnotes (1)

**1 Infants**

↔ Prior sexual history, experience, or abuse; rape shield

**Witnesses**

↔ Particular matters as subjects of cross-examination

Evidence in prosecution for child molestation and aggravated sodomy of victim's alleged prior molestation by other men was irrelevant on issue of whether certain acts were performed on child by defendant, and trial court properly limited defendant's cross-examination of victim regarding such prior incidents.

26 Cases that cite this headnote

**Attorneys and Law Firms**

**\*\*421 \*55** David E. Ralston, Blue Ridge, for Randy Calvin Chastain.

Robert G. Queen, Dist. Atty., Ellijay, for the State.

**Opinion**

**\*54** CLARKE, Presiding Justice.

We granted certiorari in this case to consider the issue of whether the trial court was within its discretion in restricting cross-examination of the victim in a child molestation case. The Court of Appeals found no error and we affirm. *Chastain v. State*, 180 Ga.App. 312, 349 S.E.2d 6 (1986).

Chastain was convicted of child molestation and aggravated sodomy; the victim, his daughter, was eleven years old at the time of the incident. Prior to trial the state made a motion that the defense not be allowed to cross-examine the victim regarding the fact that when she was 5 and 7 years old she slept in a bed with an uncle. The defense contended past conduct was relevant here to show what the girl considered molestation to be; it was argued that she could believe molestation to be being alone with a man in a bed or in the woods, or the act of putting an arm around her.

**\*\*422** The trial court ruled that what she believed molestation to be was irrelevant to the issue of whether certain acts were performed upon her. The evidence supporting the verdict is based upon overt individual acts of a sexual nature. On the issue of relevance we have held that in sexual crimes where consent is not a defense, evidence of prior sexual conduct is not material to the issues. *Deen v. State*, 216 Ga. 387, 116 S.E.2d 595 (1960). This conviction rests upon the testimony of the parties and does not involve expert testimony or the child abuse syndrome.

The defense is entitled to a thorough cross-examination; however, the scope of cross-examination is within the sound discretion of the trial court and will not cause reversal unless the discretion is abused. *White v. State*, 253 Ga. 106, 317 S.E.2d 196 (1984); *Gravitt v. State*, 220 Ga. 781, 141 S.E.2d 893 (1965). Under the facts of this case the appellant has failed to show an abuse of discretion and we therefore affirm.

*Judgment affirmed.*

All the Justices concur, except SMITH and GREGORY, JJ., who dissent.

BELL, J., who concurs in judgment only.

**Parallel Citations**

354 S.E.2d 421

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