

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM HUNTER*,	§	
	§	No. 78, 2013
Defendant Below,	§	
Appellant,	§	
	§	Court Below: Superior Court
v.	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	
	§	Cr. I.D. No. 1104009274
Plaintiff Below,	§	
Appellee.	§	

Submitted: February 5, 2014

Decided: March 24, 2014

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 24th day of March 2014, on consideration of the briefs and arguments of the parties, it appears to the Court that:

1) William Hunter appeals from his conviction, following a jury trial, of one count of endangering the welfare of a child, ten counts of first degree sexual abuse of a child by a person in a position of trust (SACPPT), one count of continual sexual abuse of a child and two counts of violation of privacy. He argues that it was plain

* Pursuant to Supr. Ct. Rule 7(d), the Court *sua sponte* assigned pseudonyms to Appellant and the victim to protect the identity of the victim.

error to admit evidence of improperly indicted crimes. We find no merit to this claim and affirm.

2) Hunter began sexually abusing his daughter, Sally, in 2008, when she was 12 years old. The abuse included using a vibrator on her vagina; inserting sex toys and his fingers into Sally's vagina and anus; and forcing Sally to masturbate him. The abuse continued regularly, several times a week, until April 2011. Sally disclosed the abuse to the Department of Family Services, when she was interviewed in April 2011. Based on that interview, New Castle County Police Officers obtained and executed two search warrants for Hunter's home. They found vibrators and sex toys. The sex toys contained Sally's DNA, and, in some cases, both Sally's and Hunter's DNA.

3) Hunter was indicted on 25 counts of SACPPT, one count of continual sexual abuse of a child, one count of endangering the welfare of a child, and two counts of violation of privacy. Early in 2012, the jury found Hunter guilty on all charges, after a six-day trial. In June 2012, before sentencing, the State advised Hunter and the trial court that SACPPT was not enacted until June 2010, and that counts 2-16 related to a time period before June 2010. The State suggested that, since the elements of both crimes are the same, counts 2-16 should be amended by substituting the crime of second degree rape for SACPPT. Ultimately, the State *nolle prossed* counts 2-16.

4) Hunter argues that evidence supporting those 15 SACPPT charges was highly prejudicial, and should not have been admitted. Because Hunter did not object at trial, this Court reviews for plain error, which is error “so clearly prejudicial to substantial rights as to jeopardize the fairness and integrity of the trial process.”¹

5) There is no plain error for two reasons. First, Hunter was charged with continuous sexual abuse of a child. That offense requires the jury to find that Hunter engaged in three or more acts of sexual conduct over a period of at least three months.² Hunter’s sexual abuse of Sally before June 2010 is probative as an element of that crime. Second, the evidence at issue was not unduly prejudicial in light of the remaining charges of SACPPT. The jury heard evidence of a pattern of abuse that continued for more than two years. Each count of SACPPT is a separate crime and the jury found Hunter guilty on all 25 charges. Under these circumstances, there is no reason to believe that evidence of the first 15 incidents affected the jury’s verdict on the remaining 10 counts.

¹ *Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986).

² 11 *Del. C.* § 776(a).

NOW, THEREFORE, IT IS ORDERED that the judgments of the Superior Court be, and the same hereby are, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice