

DEVELOPMENTS IN VERMONT LAW

STATE v. CATSAM: A CLARIFICATION OF EVIDENTIARY STANDARDS IN VERMONT CHILD SEXUAL ABUSE CASES

INTRODUCTION

In *State v. Catsam*,¹ the Vermont Supreme Court handed down a decision that clarified several evidentiary issues that relate to child sexual abuse cases. Although the court ultimately reversed the conviction of the defendant, Peter Catsam, for sexual assault of a ten-year-old girl,² many in the Vermont criminal justice community view the decision as a victory for the prosecution.³

In *Catsam*, the court addressed three distinct evidentiary issues. First, the court considered the problem of whether an expert on post-traumatic stress disorder⁴ (hereinafter PTSD) can be asked the question: Do children who suffer from PTSD generally tell the truth about their sexual experiences?⁵ The court answered with a definitive "no."⁶ However, the court explicitly endorsed the

1. — Vt. —, 534 A.2d 184 (1987).

2. *Id.* at —, 534 A.2d at 196. A sexual act with a person under the age of 16 is proscribed by VT. STAT. ANN. tit. 13, § 3252(3) (Supp. 1987).

3. Interview with Assistant Attorney General Linda Purdy, Director of the Vermont Attorney General's Child Protection Unit, in Montpelier, Vermont (Oct. 10, 1987).

4. *Catsam*, — Vt. at —, 534 A.2d at 186-89. PTSD is defined as having as its essential feature "the development of characteristic symptoms following a psychologically traumatic event that is generally outside the range of usual human experience." THE AMERICAN PSYCHIATRIC ASSOCIATION DIAGNOSTIC & STATISTICAL MANUAL OF MENTAL DISORDERS, 236-39 (3d ed. 1980). One of the "stressors" that may bring on the disorder is identified as rape. *Id.* at 236. A partial list of symptoms would include depression, anxiety, irritability, and impulsive behavior. *Id.* at 237. The disorder is most often associated with veterans or adults who experience an extremely traumatic event. *Id.*; see also Note, *Post-Traumatic Stress Disorder as an Insanity Defense in Vermont*, 9 VT. L. REV. 91 (1981); Note, *Post-Traumatic Stress Disorder—Opening Pandora's Box*, 17 NEW ENG. L. REV. 91 (1981); Comment, *Expert Testimony on Rape Trauma Syndrome: Admissibility and Effective Use in Criminal Rape Prosecution*, 33 AM. U.L. REV. 417, 442 (1984). With children, PTSD is sometimes referred to as child sexual abuse accommodation syndrome. Symptoms of the syndrome include: (1) secrecy; (2) helplessness; (3) entrapment; (4) delayed, conflicting, and unconvincing disclosure; and (5) retraction. See Note, *The Admissibility of Expert Testimony in Interfamily Child Sexual Abuse Cases*, 34 UCLA L. REV. 175, 184-88 (1986) (citing Summit, *The Child Sexual Abuse Accommodation Syndrome*, 7 CHILD ABUSE & NEGLECT 177 (1983)).

5. *Catsam*, — Vt. at —, 534 A.2d at 186.

6. *Id.* at —, 534 A.2d at 187-88.

use of a PTSD expert to give profile evidence in child sexual abuse cases.⁷

Second, the court addressed the cross-examination of a child-complainant regarding prior sexual assaults by a third party.⁸ In a well-reasoned discussion of the statutory and constitutional arguments presented, the court held that, in this case, the defendant was not entitled to cross-examine the child-complainant concerning a prior sexual assault by a third party.⁹

Finally, the court set forth a detailed analysis governing the admission of evidence pertaining to prior sexual relations between the defendant and the child-complainant.¹⁰ Focusing upon both the similarities in the occurrences and their proximity in time, the court found no error in the lower court's admission of the evidence of prior sexual acts between the defendant and the child-complainant.¹¹

This note focuses on the Vermont Supreme Court's decision in *Catsam* as a guide to evidentiary standards regarding child sexual abuse cases in Vermont.

I. THE QUESTION YOU CANNOT ASK

In *Catsam*, the court clearly answered one question: A PTSD expert cannot be asked whether children who suffer from PTSD generally tell the truth about their sexual experiences.¹² During its case in chief, the prosecution called a mental health outpatient clinician as an expert witness¹³ on child sexual abuse. In response to two of the prosecution's key questions, the expert witness testified that: (1) the complaining witness suffered from PTSD; and (2) in her opinion, sufferers of PTSD generally do not fabricate stories about sexual abuse. The Vermont Supreme Court drew a distinc-

7. *Id.*

8. *Id.* at ___, 534 A.2d at 189-93.

9. *Id.* at ___, 534 A.2d at 191-93.

10. *Id.* at ___, 534 A.2d at 193-96.

11. *Id.* at ___, 534 A.2d at 195-96.

12. *Id.* at ___, 534 A.2d at 187-88.

13. A witness may qualify as an expert "by knowledge, skill, experience, training, or education . . ." VT. R. EVID. 702. The means for establishing the expertise of any particular witness is left to "the trial court's discretion, subject to reversal under a 'clearly erroneous' test." VT. R. EVID. 702 reporter's notes at 398; *see also* State v. Bubar, 146 Vt. 398, 402, 505 A.2d 1197, 1200 (1985) (citing O'Bryan Construction Co. v. Boise Cascade Corp., 139 Vt. 81, 424 A.2d 244 (1980)).

tion between these two questions, allowing the former, but not the latter.¹⁴

Although the court held that questions regarding general trustworthiness of PTSD sufferers are inappropriate, with regard to profile evidence¹⁵ of PTSD, they now "joined the majority of courts that have concluded that it is within the trial court's discretion to admit such evidence in appropriate circumstances."¹⁶ Thus, the court squarely held that PTSD profile evidence may be admissible in child sexual abuse cases.¹⁷ However, the court was not as receptive to questions pertaining to the general trustworthiness of PTSD sufferers.

The court concluded that the question asked of the PTSD expert pertaining to general trustworthiness "went beyond the psychological and emotional profile of PTSD sufferers and an opinion as to whether the testifying complainant suffers from the disorder . . ." ¹⁸ The court held this testimony to be "tantamount to a direct comment that the complainant was telling the truth about the alleged sexual assault for which the defendant was charged."¹⁹ This evidence would, in the court's opinion, "unduly influence the jury's judgment with regard to the truthfulness of the complaining witness . . ." ²⁰

Although condemned by the Vermont Supreme Court, other state courts allow experts to comment on the general trustworthiness of children who suffer from PTSD.²¹ For example, in *State v.*

14. *Catsam*, ___ Vt. ___, 534 A.2d at 187-88.

15. "Profile or syndrome evidence, is evidence elicited from an expert, that a person is a member of a class of persons who share a common physical, emotional, or mental condition." *State v. Percy*, 146 Vt. 475, 483, 507 A.2d 955, 960 (1986); see generally 1 J. WEINSTEIN & M. BERGER, WEINSTEIN'S EVIDENCE § 401(1), at 88-91 (1985).

16. *Catsam*, ___ Vt. ___, 534 A.2d at 187.

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.* at ___, 534 A.2d at 188.

21. See *State v. Kim*, 64 Haw. 598, 645 P.2d 1330 (1982); see also *People v. Russel*, 69 Cal.2d 187, 196, 443 P.2d 794, 801, 70 Cal. Rptr. 210, 217 (1968) ("[E]xpert opinion is admitted in this area in order to inform the jury of the effect of a certain medical condition upon the ability of the witness to tell the truth—not in order to decide for the jury whether the witness was or was not telling the truth on a particular occasion."); *State v. Myers*, 359 N.W.2d 604, 610 (Minn. 1984) ("The nature . . . of sexual abuse of children places lay jurors at a disadvantage. Background data providing a relevant insight into the puzzling aspects of the child's conduct and demeanor which the jury could not otherwise bring to its evaluation of her credibility is helpful and appropriate in cases of sexual abuse of children . . .").

Kim,²² the Hawaii Supreme Court held that:

When . . . the nature of a witness' mental or physical condition is such that the common experience of the jury may represent a less than adequate foundation for assessing the credibility of a witness, the testimony of an expert is more likely to be of value, and thus more likely to be admissible when its probative value is measured against its prejudicial effect.²³

In *Kim*, as in other state court decisions allowing this type of evidence, the significant distinction is between evidence that will aid the jury and evidence that adds nothing to the jury's understanding of the case.²⁴ The special circumstances surrounding child sexual abuse deprive the jury of its usual ability to assess credibility. Courts that allow this type of evidence do so in order to aid the jury in its task of discerning the truth.²⁵ While the Vermont Supreme Court conceded that "the unique psychological effects of sexual assault on children place the average juror at a disadvantage in understanding the behavior of the victim,"²⁶ the court stopped short of giving the jury what could arguably be considered the most useful information available.

II. THE QUESTION THAT PROBABLY CANNOT BE ASKED

In a less definitive but equally instructive manner, the court addressed the question of whether the defendant "was improperly barred from cross-examining the complaining witness regarding a prior sexual assault that had been committed upon her by a third party for which the third party had been convicted."²⁷ The defendant's theory was that a third party, who had previously plead guilty to committing a lewd and lascivious act upon the complainant, was the cause of the complainant's PTSD.²⁸ While the trial court allowed the defendant to cross-examine the expert on possible alternative causes of the complainant's PTSD, it held that Ver-

22. 64 Haw. 598, 645 P.2d 1330 (1982).

23. *Id.* at 607, 645 P.2d at 1337.

24. *See supra* note 18.

25. *See, e.g., Myers*, 349 N.W. at 609 ("The basic consideration in admitting expert testimony . . . is whether it will assist the jury in resolving the factual questions presented.")

26. *Catsam*, — Vt. at —, 534 A.2d at 187.

27. *Id.* at —, 534 A.2d at 189.

28. *Id.*

mont's rape shield statute²⁹ barred any cross-examination of the complainant regarding this issue.³⁰ After analyzing the question under Vermont's rape shield statute and the United States and Vermont Constitutions, the Vermont Supreme Court found no error with the lower court's decision to bar the defendant's cross-examination.³¹

A. *The Rape Shield Analysis*

Under Vermont's rape shield statute, evidence of any past sexual conduct of the complaining witness may only be admitted in certain limited situations. Two requirements are set out in the statute to determine whether the evidence is admissible. First, the evidence must "bear[] on the credibility of the complaining witness or . . . [be] material to a fact at issue and its probative value outweighs its private character"³² Second, a court may only admit:

- (A) Evidence of the complainant witness' past sexual conduct with the defendant;
- (B) Evidence of specific instances of the complaining witness' sexual conduct showing the source of origin of semen, pregnancy or disease;
- (C) Evidence of specific instances of the complaining witness' past false allegations of violations of this chapter.³³

The *Catsam* court, for purposes of analysis, assumed that PTSD was a disease within the meaning of the rape shield statute,³⁴ thus satisfying the second requirement. Addressing the first requirement, the court stated that "the evidence may have the minimum amount of logical relevance such that the evidence arguably 'bears on the credibility of the complaining witness'"³⁵ The court then proceeded to balance the "probative value of the evidence" versus its "private character."³⁶

29. VT. STAT. ANN. tit. 13, § 3255 (Supp. 1986).

30. *Catsam*, ___ Vt. at ___, 534 A.2d at 189.

31. *Id.* at ___, 534 A.2d at 193.

32. VT. STAT. ANN. tit. 13, § 3255(3) (Supp. 1987).

33. *Id.*

34. *Catsam*, ___ Vt. at ___, 534 A.2d at 189. Implicit in the court making this only an assumption is that PTSD may *not* be a disease within the meaning of section 3255. A strong argument can be made that, in this context, "disease" refers specifically to a physical sexually transmitted disease.

35. *Id.* (quoting VT. STAT. ANN. tit. 13, § 3255(a)(3) (Supp. 1987)).

36. *Id.* at ___, 534 A.2d at 189-92.

The state may only introduce expert PTSD evidence "to aid the jury's understanding of particularized behavioral characteristics of child victims of sexual crimes,"³⁷ rather than "to support an inference of [the] defendant's guilt."³⁸ Hence, the probative value of the rebuttal evidence of an alternative source of the PTSD offered by the defendant "is limited to the question of the victim's credibility."³⁹ That is, because the state was not trying to prove the defendant's guilt by the use of the PTSD evidence, the defendant could not use it to prove his innocence. As applied to these circumstances, the court held this evidence to have relatively weak probative value.⁴⁰

In addition, the court concluded that the probative value of the evidence being offered was lowered because other available evidence could be used to prove an alternative source of the complainant's PTSD.⁴¹ Specifically, the court noted that the defendant had ample opportunity to cross-examine the expert witness as to "whether, in her opinion, the prior assault might have been an alternative cause of the PTSD."⁴² The court stated: "Under these circumstances, the probative value of whatever evidence that could have been produced through cross-examination of the complaining witness was substantially diminished by the availability of alternative means of exploring the cause of the syndrome."⁴³

The court went on to hold that "a substantial risk of prejudicial impact . . . derives from [the] 'private character'" of the evidence.⁴⁴ Citing the complaining witness' right to privacy and the

37. *Id.* at ___, 534 A.2d at 190; see *supra* text accompanying notes 12-16.

38. *Catsam*, ___ Vt. at ___, 534 A.2d at 190.

39. *Id.*

40. *Id.*

41. *Id.* at ___, 534 A.2d at 191.

42. *Id.*

43. *Id.*; see 22 C. WRIGHT & K. GRAHAM, FEDERAL PRACTICE AND PROCEDURE § 5214, at 272-73 (1978) ("[I]n measuring the probative value under Rule 403 the judge cannot focus exclusively on the challenged evidence, but must look at other evidence already introduced or available to the proponent."); FED. R. EVID. 403 & advisory committee's notes; *Commonwealth v. Black*, 337 Pa. Super. 548, 557-58, 487 A.2d 396, 401 (1985).

44. *Catsam*, ___ Vt. at ___, 534 A.2d at 191. The Vermont Supreme Court has held that the "private character" test is a specific application of the general test of legal relevancy. It is the private character of past sexual conduct which, in this specific context, produces the evidentiary mischief that the traditional test for legal relevancy is designed to prevent, i.e., the danger of unfair prejudice, confusion of the issues, of misleading the jury, or miring the court in collateral issues.

State v. Patnaude, 140 Vt. 361, 377, 438 A.2d 402, 409 (1981). Thus, while arguably redun-

state's *parens patriae* interest in protecting a child from emotional harm, the court concluded that there existed a "strong potential" for a prejudicial effect.⁴⁵ Based upon this analysis, the court concluded that the lower court's exclusion of the evidence was without error.⁴⁶

B. The Constitutional Analysis

The court next considered the confrontation clause argument presented under the United States and Vermont Constitutions.⁴⁷ The defendant argued that Vermont's rape shield statute, as applied, violated his right to confrontation.⁴⁸ The court weighed "the state's interest—as expressed in the Rape Shield Law—against the defendant's confrontation rights . . ."⁴⁹ Using this analysis, the court held that the balance tipped in favor of the state's interest.⁵⁰

The court stated that "[t]he main and essential purpose of confrontation is to secure for the opponent the opportunity of cross-examination."⁵¹ The court found that the defendant did have an opportunity to cross-examine the expert with regard to the cause of the complainant's PTSD, thus his right to confrontation

dant, the balancing test set out in the rape shield statute is seen as a practical necessity in order to "end abuses caused by the common law's failure to treat rape as it treated other criminal prosecutions." *Id.* But see Note, *Rape Victim Confrontation*, 1984 UTAH L. REV. 687, 694 (arguing that the prior sexual history of women who are raped is relevant).

45. *Catsam*, ___ Vt. at ___, 534 A.2d at 192; see also *People v. Arenda*, 416 Mich. 1, 13, 330 N.W.2d 814, 818 (1982); *Interstate Circuit, Inc. v. City of Dallas*, 390 U.S. 676, 690 (1968); *Libai, The Protection of the Child Victim of a Sexual Offense in the Criminal Justice System*, 15 WAYNE L. REV. 977 (1969); Note, *Victimizing the Child Victim: Vermont Rule of Evidence 807 and Trauma in the Courtroom*, 11 VT. L. REV. 631 (1986).

46. *Catsam*, ___ Vt. at ___, 534 A.2d at 192.

47. The sixth amendment to the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him" U.S. CONST. amend. VI. Similarly, the Vermont Constitution provides "[t]hat in all prosecutions for criminal offenses, a person hath a right . . . to be confronted with the witnesses" VT. CONST. ch. I, art. 10. The Vermont Supreme Court has held that "the Vermont confrontation clause provides the same right as the confrontation clause of the Sixth Amendment to the federal Constitution." *State v. Sprague*, 144 Vt. 385, 390 n.2, 476 A.2d 128, 131 n.2 (1984).

48. *Catsam*, ___ Vt. at ___, 534 A.2d at 192; see also *Chambers v. Mississippi*, 410 U.S. 284 (1973); *Davis v. Alaska*, 415 U.S. 308 (1974); *State v. Paquette*, 146 Vt. 1, 497 A.2d 358 (1985).

49. *Catsam*, ___ Vt. at ___, 534 A.2d at 192.

50. *Id.* at ___, 534 A.2d at 192-93.

51. *Id.* at ___, 534 A.2d at 192 (quoting *Davis*, 415 U.S. at 315-16) (emphasis in original); see also *Delaware v. VanArdsdall*, 106 S.Ct. 1431 (1986); *Delaware v. Fensterer*, 474 U.S. 15 (1985); *State v. Paquette*, 146 Vt. 1, 497 A.2d 358 (1985).

was not unduly infringed: "Under these circumstances, we cannot conclude that the inability to cross-examine the complaining witness, *in addition to* the expert, denied defendant his right to confrontation."⁵²

Once the court held that the infringement of the defendant's right to confrontation was slight, very little was needed on the other side of the scale to outweigh it. The court cursorily concluded that the trial court did not abuse its discretion by excluding the evidence:

Consistent with the defendant's right to confrontation, the trial court could prohibit cross-examination of the complaining witness in order to protect the victim from "unwarranted and unreasonable cross-examination into these areas," as well as protect against "confusion of the issues" through "interrogation that is repetitive or only marginally relevant."⁵³

While thorough, the court's constitutional analysis provides little guidance for subsequent cases. The court's failure to articulate what constitutes an "opportunity to cross-examine" leaves trial courts with considerable discretion. Although the court has adopted a standard, its practical value has yet to be determined.

III. THE QUESTIONS YOU MAY ASK THE DEFENDANT

Last, the court considered whether, under Vermont Rule of Evidence 404(b),⁵⁴ the prosecution may ask the child-complainant about prior sexual relations that the defendant may have had with her.⁵⁵ While troubled by this type of evidence, the court allowed its admission.⁵⁶

52. *Catsam*, — Vt. at —, 534 A.2d at 193 (emphasis in original).

53. *Id.* (citations omitted).

54. Vt. R. EVID. 404(b). Vermont's Rule 404(b), which is identical to its federal counterpart, provides:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Id.; see FED. R. EVID. 404(b); see also *State v. Ryan*, 135 Vt. 491, 380 A.2d 525 (1977); E. CLEARY, *MCCORMICK ON EVIDENCE* § 190 (3d ed. 1984).

55. *Catsam*, — Vt. at —, 534 A.2d at 193-96.

56. *Id.* at —, 534 A.2d at 195-96.

The court held that, in this case, the trial court did not commit error in determining that the evidence "exhibits a common scheme or transaction that's continuous in nature of ongoing behavior," and is thus admissible under Rule 404(b).⁵⁷ However, the court warned that "admitting evidence of prior sexual acts to prove a plan comes perilously close to the prohibited practice of admitting evidence of the defendant's character to prove he acted in conformity therewith in committing the crime charged."⁵⁸ In order to protect the defendant, the court set out a minimum standard that must be satisfied before a trial court may allow admission of the evidence.⁵⁹

The court held that the evidence must, at least, raise "a clear inference of the existence of a plan from the prior acts."⁶⁰ The court delineated two important considerations: first, whether there exists a "similarity between the prior acts and the crime charged";⁶¹ second, whether the prior acts and the crime charged are proximate in time.⁶² Here, in a child molestation case, the court held that

[e]vidence that the defendant previously molested the victim, and threatened her with harm if she were to reveal the incident, gives rise to the legitimate inference that because of the manner in which the prior sexual acts were perpetrated, the prior acts and the charged crime were part of a concerted scheme or plan of molestation.⁶³

Because a "clear inference of the existence of a plan from the prior acts" was established, the court concluded that the evidence was "logically relevant."⁶⁴ Thus, as with relevant evidence generally, admissibility is then governed by, among other things, whether the evidence's probative value is substantially outweighed by its prejudicial effect.⁶⁵

57. *Id.* at ___, 534 A.2d at 193-94 (citing *Huddleston v. State*, 695 P.2d 8 (Okla. Crim. App. 1985)).

58. *Id.* at ___, 534 A.2d at 194.

59. *Id.* at ___, 534 A.2d at 194-96.

60. *Id.* at ___, 534 A.2d at 194.

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. Vt. R. EVID. 403; *see also* *State v. Bevins*, 146 Vt. 129, 498 A.2d 1035 (1985); *State v. Picknell*, 142 Vt. 215, 454 A.2d 711 (1982).

Turning back to its probative value versus prejudicial effect analysis of prior sexual conduct of a complaining witness, the court viewed the probative value of the evidence as a function of the other evidence available to the prosecution.⁶⁶ The court firmly placed the "duty to demonstrate a need to introduce the evidence in its case in chief" upon the prosecution, and held that "[i]n cases where there is substantial evidence, aside from the victim's testimony, to support the state's burden of proof, the evidence of prior sexual contacts should be excluded as cumulative."⁶⁷ Here, where the very nature of the crime committed—a child sexual assault—restricted the amount of available evidence, the court found the evidence of prior sexual contacts to be highly probative:

In this case, as in many other child sexual assault cases, there was sparse direct evidence of the crime aside from the child-victim's testimony. There was no physical evidence; the only prosecution witness whose testimony related specifically to the incident in question was the mother, who testified to the general circumstances in the apartment on the evening when the charged incident took place. Under the circumstances, the evidence of prior acts was highly probative.⁶⁸

The court also found that whenever this type of evidence is used, its highly prejudicial nature requires that a limiting instruction be given to the jury.⁶⁹ The limited purpose of the evidence—to show a common plan or scheme—must be clearly set out in order to guarantee that "the defendant cannot be tried and convicted of any offense not charged in the information."⁷⁰ The court found that in this case the trial court adequately instructed the jury "with regard to the permissible areas of the evidence."⁷¹

Troubled by the potential admission of highly prejudicial evidence, and possibly because of this trepidation, the court set out detailed requirements for the admission of this type of evidence. The court acknowledged the practical evidentiary difficulties presented by the very nature of most child sexual abuse cases, but

66. *Catsam*, ___ Vt. at ___, 534 A.2d at 195.

67. *Id.*

68. *Id.*

69. *Id.*; see VT. R. EVID. 105 ("When evidence [that] is admissible . . . for one purpose but not admissible . . . for another purpose is admitted, the court, upon request, shall . . . instruct the jury accordingly.").

70. *Catsam*, ___ Vt. at ___, 534 A.2d at 195.

71. *Id.*

thoughtfully set out a mechanism to control the admission of evidence under Rule 404(b) in order to protect the defendant.⁷² However, the court may have left too much discretion with the individual trial judge. For example, it is probable that if the trial court had excluded the evidence offered in *Catsam*, the Vermont Supreme Court would have found no error in the exclusion. It remains to be seen whether the framework devised by the court will be of use to those who attempt to live under it.

CONCLUSION

In *Catsam*, the Vermont Supreme Court clarified several evidentiary standards for application in child sexual abuse cases. First, an expert may not be asked to comment on the general trustworthiness of child PTSD sufferers. However, profile evidence of child PTSD sufferers that falls short of such a comment on trustworthiness may be admissible. Second, an alternate cause of a child-complainant's PTSD may not be probed by cross-examination of the child-complainant if the information may be elicited from another source. While of limited precedential value due to the uniqueness of the facts presented, this part of the court's decision demonstrates concern for the psychological well-being of the child-complainant.

Last, the court set out a framework for the admission of past sexual conduct between the defendant and the child-complainant. Stressing both the similarity of the occurrences as well as their proximity in time, this framework would allow for the admission of such evidence in proper circumstances and with proper limiting instructions. Thus, while Peter Catsam obtained a reversal of his conviction for sexual assault, there is much in the decision that will prove helpful for the future prosecution of child sexual abuse cases in Vermont.

Robert W. Katims

72. *Id.* at ___, 534 A.2d at 194.

