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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ISMAEL ALVAREZ,

Defendant and Appellant.

E054716

(Super.Ct.No. SWF1100629)

OPINION

APPEAL from the Superior Court of Riverside County. Michael B. Donner,
Judge. Affirmed.

Siri Shetty, under appointment by the Court of Appeal, for Defendant and
Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Julie L. Garland, Assistant Attorney General, and Theodore M. Cropley and
Peter Quon, Jr., Deputy Attorneys General, for Plaintiff and Respondent.

Following a jury trial, defendant Ismael Alvarez was convicted of committing oral copulation upon a child 10 years old or younger. (Pen. Code, § 288.7, subd. (b).) He was sentenced to state prison for 15 years to life. He appeals, contending the trial court erred in (1) allowing defendant's son to testify regarding defendant's demeanor when interviewed by sheriff's deputies; (2) allowing the interviewing deputy to testify about his interviewing techniques used on sexual assault suspects; (3) admitting Evidence Code section 1108 evidence; and (4) admitting the content of the victim's pretrial statements. He further contends the cumulative effect of these errors requires reversal. We disagree and affirm.

I. PROCEDURAL BACKGROUND AND FACTS

V. and E. are the parents of Jane Doe No. 1 (Jane 1). Defendant and his wife are Jane 1's grandparents. Defendant is E.'s father.

On Valentine's Day weekend 2011, V. and E. left their two minor sons and Jane 1, who was four years old, in the care of defendant and his wife at their home. During the following week, V. and E. noticed that Jane 1 was not sleeping normal hours and often awakened around 3:00 a.m.

A few weeks later, after briefly caring for Jane 1, Jane 1's maternal grandmother told V. that Jane 1 needed to talk to her. Jane 1 told V. and E. that defendant had "licked her chocha," or her vagina. Afterwards he told her, "good job," and "gave her five," and that he had taken his penis out and asked her to suck on it, which she did not do. The parents reported defendant's action to the police.

At trial, Jane 1 testified that while she was at defendant's ranch with her brothers, she had just gone to the bathroom when defendant came to her, pulled down her pants, and kissed her vagina. He told her to kiss his penis. She did not do it. Defendant told Jane 1 not to say anything.

On July 28, 2011, Jane 1's recorded interview of March 1, 2011, with Riverside County Sheriff's Deputy Raul Ocha was recorded and played for the jury. Jane 1 stated that defendant sucked her vagina, told her to be quiet, and told her to "suck his penis."

Defendant was arrested on March 14, 2011, and his later recorded interrogation by police was played for the jury. In that interrogation, defendant initially denied molesting Jane 1, but later admitted that he led her to his bedroom, where he "licked her vagina twice." He demonstrated what he did. During the interview, defendant drew a picture of Jane 1's vagina and pointed out the area that he licked. Defendant also wrote a letter to his son, E., apologizing "for kissing the girl," and claiming that he did not intend to molest or abuse her.

Two of defendant's nieces, Jane Doe No. 2 (Jane 2) and Jane Doe No. 3 (Jane 3) also testified. They claimed defendant had inappropriately touched them during family trips to Yosemite and Big Bear.

Defendant testified. He said that he never saw Jane 1 in the bathroom and never fixed her underwear. He explained that he made his video statement that he had licked her vagina because he was nervous and afraid, and the deputies intimidated him by telling him there was a lot of evidence against him. Defendant claimed the deputy lured him into confessing because he said that defendant's saliva was found on Jane 1, and that as

long as there was no penetration, defendant would be able to go home. Defendant explained that he licked the doll for the deputies to video record because “[he] was dumb” and nervous. He denied exposing his penis to Jane 1

On cross-examination, defendant admitted the deputy did not force him to say anything, did not yell at him or punch him, and when defendant wrote the apology letter, no deputy was in the room with him. When the deputy placed the molestation in the bathroom, defendant responded by making up that it had occurred in his bedroom.

Defendant admitted that when the deputies accused him of molesting Jane 2 and Jane 3, he had no problem denying that accusation.

II. TESTIMONY OF DEFENDANT’S SON REGARDING HIS OBSERVATION OF DEFENDANT’S Demeanor DURING THE INTERVIEW

Defendant challenges the admission of his son E.’s observation that he (defendant) was calm and relaxed when he answered the investigator’s questions about the underlying sex crime. He contends that admission of this testimony violated Evidence Code section 800 which prohibits lay opinion testimony, and it prejudiced him because, but for his son’s testimony, the jury would have accepted defendant’s defense that the deputies coerced his admission. Alternatively, defendant argues that if defense counsel’s failure to object to this testimony as impermissible lay opinion amounts to forfeiture of this issue on appeal, then he is entitled to reversal of his conviction on the ground of ineffective assistance of counsel.

A. Further Background Information

E. (Jane 1's father) testified that when Jane 1 first told him defendant had licked her vagina, he doubted the truth of her statement. In response, the prosecution asked E. what, if anything, convinced him that Jane 1 was telling the truth.¹ E. replied that it was defendant's video interview that convinced him the deputies were not forcing defendant to say anything. Defense counsel's objection on the ground E.'s observation amounted to speculation was overruled, and E.'s testimony was admitted.

B. Standard of Review

A lay witness may offer opinion testimony that is rationally based on the witness's perception and "[h]elpful to a clear understanding of his testimony." (Evid. Code, § 800, subd. (b).) "A lay witness is occasionally permitted to express an ultimate opinion based on his perception, but only where 'helpful to a clear understanding of his testimony' [citation], i.e., where the concrete observations on which the opinion is based cannot

¹ The following exchange occurred:

"Q: Okay. When you spoke with [Jane 1], did you believe her?

"A: I had a doubt. I did. I mean, because he's my father. But—and then, again, she's my daughter. I did have a doubt till I saw the video.

"Q: What video is that?

"A: The video. The evidence of him. My dad's interview.

"Q: Okay. The confession video?

"A: The confession, yeah.

"Q: And what was it about that?

"A: Just the demonstration that he did.

"Q: Did it appear to you in the video that he was being forced to say anything?

"A: No.

"[DEFENSE COUNSEL]: Objection. Speculation.

"THE COURT: Asking him what he observed. Overruled.

"Q (BY [THE PROSECUTOR]): And your answer was no?

"A: No."

otherwise be conveyed. [Citations.]” (*People v. Melton* (1988) 44 Cal.3d 713, 744.) Lay opinion testimony about the veracity of another witness is inadmissible because, with limited exceptions, the fact finder, not the witnesses, must draw the ultimate inferences from the evidence. (*Ibid.*; *People v. Zambrano* (2004) 124 Cal.App.4th 228, 239.)

We review a trial court’s decision to admit or exclude lay opinion testimony for an abuse of discretion. (*People v. Thompson* (2010) 49 Cal.4th 79, 128-130.) “It is fundamental that a trial judge has wide discretion to admit or reject opinion evidence, and that a court of appeal has no power to interfere with the ruling unless there is an obvious and pronounced abuse of discretion” (*People v. Clark* (1970) 6 Cal.App.3d 658, 664.)

C. Analysis

Here, our review of the trial court’s decision to admit E.’s testimony regarding defendant’s demeanor during his interview is hindered by a lack of an objection on the ground raised on appeal. As the People point out, the instant appellate claim is forfeited due to counsel’s failure to object on the ground of improper lay opinion. (*People v. Houston* (2012) 54 Cal.4th 1186, 1223, as modified Sept. 19, 2012, 2012 Cal. Lexis 8787.) However, because defendant claims such failure amounts to ineffective assistance of counsel, we address the merits of the issue.

Contrary to defendant’s assertion, E. did not provide an opinion about the veracity of defendant’s statements made during the interview. Although E.’s interpretation of defendant’s demeanor during the interview which convinced E. to believe Jane 1 might have implied that E. thought defendant was telling the truth during the interview, E. did

not actually offer an opinion on this ultimate issue of fact. E.'s testimony went to his observation of defendant's demeanor and tone in order to assess whether defendant's answers were being coerced by the deputies. E. had a close relationship with defendant because they used to work together on weekends and defendant was E.'s father. The long and close father-son relationship provided E. the time to personally observe defendant's demeanor and behavior under various circumstances, such as when defendant was calm, stressed, under duress, or being controlled. Thus, E.'s testimony regarding his observation of defendant's demeanor during the interview would have helped the jury understand why E. went from doubting Jane 1 to believing her.

Even if we assume the trial court erred in admitting E.'s lay opinion, we conclude the error was harmless. (*People v. Watson* (1956) 46 Cal.2d 818, 836.) Given the record before this court, it was not reasonably probably that a result more favorable to defendant would have been reached had this evidence not been admitted. The evidence against defendant was strong. Jane 1 never recanted her story of what defendant did to her. While defendant recanted his confession, the jury viewed the interview video and observed his demeanor when questioned by the deputy. Although defendant did not hesitate to deny the claim that he molested Jane 2 and Jane 3, he clearly admitted the crime against Jane 1. Defendant also took the stand and testified. This allowed the jurors the opportunity to observe his verbal and physical responses to both the prosecutor's and defense counsel's questions regarding his admissions. He did not claim the deputies threatened him into confessing; rather, he claimed they intimidated and tricked him, that

he was “dumb” or “being a dummy.” Moreover, when he wrote the apology letter to E., there was no one in the room telling him what to words to use.

In light of the evidence, regardless of E.’s testimony, the jury was provided an adequate basis upon which to determine whether defendant’s admissions during the interview were the result of the deputies’ trickery. In fact, the jurors were instructed they were not required to accept the opinions of any of the witnesses and could give them whatever weight they believed was appropriate. Absent a showing to the contrary, we presume the jury followed the trial court’s instructions. (*People v. Waidla* (2000) 22 Cal.4th 690, 725.)

Because we conclude that any error in admitting E.’s opinion was harmless, we need not reach defendant’s claim of ineffective assistance of counsel.

III. DEPUTY DEANNE’S TESTIMONY THAT CHILD MOLESTERS FREQUENTLY LIE TO INVESTIGATING DEPUTIES

Defendant challenges the admission of Investigator Ryan Deanne’s opinion that most sexual assault suspects falsely deny culpability when first confronted with their crimes. He argues that (1) “the truthfulness of other sexual assault suspects was utterly irrelevant to any issue in the case”; (2) the trial court should have sustained the foundation objection on the ground that there was “no evidence established that Investigator Deanne was an expert on judging credibility, or on the truthfulness of sexual assault suspects”; and (3) “the record does not show that the [officer] was particularly accurate in his assessment of the truthfulness of people he interviewed.”

A. Further Background Information

Investigator Deanne testified about the investigative techniques he used in this case when he interrogated defendant. He explained that such techniques are necessary, because suspects in child molestation cases do not readily admit guilt because “[t]hey don’t want to tell you that they molested a child.” Over defense counsel’s objection on foundation grounds, the deputy was allowed to testify that based on his experience² with sexual assault investigations, suspects do not “usually come straightforward and say that they did, in fact, sexually assault[] a child.” Defense counsel’s subsequent objection and motion to strike the testimony were overruled and denied.³

² Earlier in his testimony, the deputy set forth his law enforcement training and experience in doing investigations involving child victims.

³ The following exchange occurred:

“A. . . . We use many tools, many techniques in interviewing people to elicit the truth. A lot of times people, especially when they are being accused of a crime, they lie to you especially on child molestation cases. They don’t want to tell you that they molested a child.

“[DEFENSE COUNSEL]: Objection. Foundation.

“Q (BY [THE PROSECUTOR]) Is that based on your experience?

“THE COURT: Hold on. I need a little foundation for that. I’ll sustain it.

“Q (BY [THE PROSECUTOR]) Was this the first sexual assault you’ve been a part of?

“A. No sir.

“Q. Based on your experience with doing sexual assault investigations, do suspects usually come straightforward and say that they did, in fact, sexually assault[] a child?

“A. No, they don’t.

“[DEFENSE COUNSEL]: Same objection. Motion to strike.

“THE COURT: Overruled.

“You can cross-examine on that point.”

B. Standard of Review

As previously noted, a lay witness may offer opinion testimony that is rationally based on the witness's perception and "[h]elpful to a clear understanding of his testimony." (Evid. Code, § 800, subd. (b).) In *People v. Farnam* (2002) 28 Cal.4th 107, our Supreme Court concluded it was within a trial court's discretion to allow a correctional officer to testify the defendant stood "'in a posture like he was going to start fighting'" and was being "'very defiant.'" (*Id.* at p. 153.) According to our Supreme Court, such perceptions are within common experience and certainly within the common experience of the correctional officer who offered testimony. (*Ibid.*) Courts have also admitted lay opinion testimony on such evidentiary issues as whether a defendant was under the influence of alcohol or drugs (*People v. Williams* (1988) 44 Cal.3d 883, 914-915); whether someone appeared to understand a conversation (*People v. Medina* (1990) 51 Cal.3d 870, 886-887); and whether it appeared the defendant was the person directing another in a drug transaction (*People v. Hinton* (2006) 37 Cal.4th 839, 889).

We review a trial court's decision to admit or exclude lay opinion testimony for an abuse of discretion. (*People v. Thompson, supra*, 49 Cal.4th at pp. 128-130.)

C. Analysis

Relying on *People v. Sergill* (1982) 138 Cal.App.3d 34 (*Sergill*), defendant argues that Deputy Deanne's experience of interviewing more than one sexual assault suspect "did not qualify him as an expert in judgment the truthfulness of all individuals accused of committing sexual offenses." In *Sergill*, also a child sexual abuse case, reversible error was found because the trial court allowed two investigating police officers to testify

at trial about opinions they formed as to whether the child was being truthful about the allegations when they interviewed her. (*Id.* at pp. 37-38.) During trial, the defendant testified in his own defense and denied the allegations. (*Id.* at p. 37.) Defense counsel called the investigating officers to testify about discrepancies between the child's report to police and her trial testimony. (*Id.* at p. 38.) On cross-examination, the prosecutor asked the investigating officers whether they had formed opinions as to whether the child's allegations were true. (*Ibid.*) In overruling defendant's objection, the trial court stated as follows: "Number one, a witness is entitled to give his opinion on the questions that the jury is entitled to determine. Number two, this officer has had approximately seven years of experience, and has written, as I recall his testimony, something in the nature of a thousand or more reports, which indicates that he has had experience in taking witnesses' testimony, and I think [in] the course of that he would be normally expected to judge whether a person, in his opinion, is telling the truth or not. I think that he's qualified to render his opinion in that regard.'" (*Ibid.*) Thereafter, both officers testified they were convinced the child was being truthful and explained the reasons for their beliefs. One of the officers stated he had interviewed many children, and, as a result, could usually determine with a high degree of certainty whether their allegations were true. (*Ibid.*)

In reaching its conclusion there was reversible error as a result of the testimony, the *Sergill* court opined the officers' opinions were inadmissible for several reasons. First, the testimony did not qualify as reputation evidence, because the officers did not know the child and therefore could not testify as to her reputation for being truthful.

(*Sergill, supra*, 138 Cal.App.3d at p. 39.) Second, the officers’ experience interviewing reporters of crimes numerous times during their careers did not qualify them as experts in judging truthfulness, and in any case, the veracity of those who report crimes is not a proper subject for expert testimony. (*Ibid.*) Third, the testimony was not admissible as lay opinion under Evidence Code section 800, subdivision (b). (*Sergill, supra*, at p. 40.) Finally, the officers’ opinions about the victim’s veracity were not relevant because they did not fall within the list of factors bearing on credibility listed in Evidence Code section 780. (*Sergill, supra*, at p. 40.) Finding error, the *Sergill* court considered “whether it is reasonably probable that a result more favorable to appellant would have been reached had this evidence not been admitted. (*People v. Watson*[, *supra*,] 46 Cal.2d [at p.] 836)” (*Sergill, supra*, at p. 41.) The appellate court concluded the error in allowing the testimony was prejudicial under *People v. Watson* because the child victim’s credibility was the “critical question,” and there were other doubts about the evidence as a whole. (*Sergill, supra*, at p. 41.)

In our view, the facts and circumstances of *Sergill* are distinguishable from those at issue here. Unlike *Sergill*, in this case, the investigator was not opining about defendant’s credibility, nor was his opinion made directly to the jury to convince the jurors of the defendant’s, or any other sexual assault suspect’s, credibility. Rather, Investigator Deanne’s testimony at issue focused only on the reason why he employed different interview techniques, such as asking for hair to do a DNA analysis, when interrogating people suspected of molesting children. This was perfectly permissible under *Sergill*.

For the above reason, we conclude the trial court did not abuse its discretion in permitting Investigator Deanne to testify regarding what interview techniques he uses in sexual assault cases and why.

IV. PRIOR OFFENSE EVIDENCE

Defendant challenges the admission of Jane 2's and Jane 3's testimonies that he inappropriately touched them when they were under 10 years old on the grounds that the alleged prior offenses occurred 10 to 15 years previously, in the presence of several family members, who never noted any inappropriate touching, and as to Jane 3, under circumstances suggesting the touching was ambiguous and unintentional.

A. Procedural History

Prior to trial, the prosecution moved to admit Jane 2's and Jane 3's testimonies as to propensity evidence against defendant. (Evid. Code, §§ 352, 1108.) Defendant objected.

At the hearing, Jane 2 testified that when she was eight or nine years old, approximately 14 or 15 years prior to defendant's trial, she was a passenger in a van with defendant and other family members en route to Yosemite National Park. She was sitting next to defendant when he moved his hand up her leg to the top of her pants, put his finger between her pants and underwear, and touched her vagina over her underwear. He kept his finger there for about 15 seconds. Jane 2 told her mother two years after the incident, when her sister, Jane 3, reported that defendant had sexually touched her.

Jane 3 testified that 10 years prior to defendant's trial, when she was seven years old, she was vacationing in Big Bear with her family, including defendant. She recalled him being slightly drunk and tickling her vagina over her pants while they and other family members were in a rental home. The next morning, Jane 3 told her mother what defendant had done. Jane 2's and Jane 3's mother did not tell the girls' father or the police. Rather, she reported these incidents after defendant was arrested for his crimes against Jane 1. The mother was afraid to report what defendant had done because she had seen defendant become violent when he drank alcohol, and she was afraid that he would kill her husband, who worked with defendant.

At the conclusion of the pretrial hearing, the court found Jane 2's and Jane 3's testimonies to be more probative than prejudicial and granted the prosecution's motion to admit the evidence at trial. The court found their testimonies to be relevant, given defendant's proposed defense that he had never touched any of the girls and had been tricked into admitting he had licked Jane 1's vagina. Recognizing that defendant's alleged acts involving Jane 2 and Jane 3 were 10 to 15 years old, the court found they were not too remote to be more prejudicial than probative. The court discounted the fact that there were no witnesses, despite the alleged acts occurring in a crowded van and an occupied family room.

At trial, both Jane 2's and Jane 3's testimonies were similar to their pre-trial testimonies. Defendant denied molesting either of the girls.

B. Standard of Review

Evidence Code section 1108 allows the admission of evidence of a defendant's commission of another sexual offense subject to the weighing process of Evidence Code section 352. Under that weighing process, the court considers, among other factors, "(1) whether the propensity evidence has probative value, e. g., whether the uncharged conduct is similar enough to the charged behavior to tend to show the defendant did in fact commit the charged offense; (2) whether the propensity evidence is stronger and more inflammatory than evidence of the defendant's charged acts; (3) whether the uncharged conduct is remote or stale; (4) whether the propensity evidence is likely to confuse or distract the jurors from their main inquiry, e.g., whether the jury might be tempted to punish the defendant for his uncharged, unpunished conduct; and (5) whether admission of the propensity evidence will require an undue consumption of time. [Citation.]" (*People v. Nguyen* (2010) 184 Cal.App.4th 1096, 1117.) We review the trial court's ruling to admit evidence pursuant to an Evidence Code section 352 analysis under the deferential abuse of discretion standard. (*People v. Jenkins* (2000) 22 Cal.4th 900, 1008.)

C. Analysis

Applying the above standard, we conclude the trial court did not abuse its discretion in admitting defendant's prior uncharged offenses. Although they occurred roughly 10 to 15 years prior to defendant's current offense, case law has allowed the admission of prior offenses committed more than 15 years prior. (*People v. Branch* (2001) 91 Cal.App.4th 274, 284 [30 years before]; *People v. Pierce* (2002) 104

Cal.App.4th 893, 900 [23 years before]; *People v. Soto* (1998) 64 Cal.App.4th 966, 977-978, 991-992 [30 years before and 21 to 22 years before]; *People v. Waples* (2000) 79 Cal.App.4th 1389, 1393, 1395 [18 to 25 years before] [Fourth Dist., Div. Two].) The uncharged offenses are sufficiently similar to the current offense. (Evid. Code, § 1108, subs. (d)(1)(A)-(F); *People v. Miramontes* (2010) 189 Cal.App.4th 1085, 1099 [if the prior crimes and charged crimes are the type of sexual offenses enumerated in Evid. Code, § 1108, subdivision (d)(1)(A)-(F), the prior crimes are considered sufficiently similar and are admissible].) The prior uncharged offenses evidence was not any more inflammatory than the act committed against Jane 1, and minimal time was spent proving them, less than 20 pages of the reporter's transcript. Although defendant contends that "his commission of those prior offenses was uncertain," the trial court listened to and observed both Jane 2 and Jane 3, along with their mother, as they testified. Finding all of them to be credible witnesses, the trial court concluded by preponderance of the evidence that defendant had intentionally molested both girls. (*People v. Falsetta* (1999) 21 Cal.4th 903, 917.)

Defendant also contends that the admission of the evidence violated due process. However, "[propensity] evidence will only *sometimes* violate the constitutional right to a fair trial, if it is of no relevance, or if its potential for prejudice far outweighs what little relevance it might have." (*United States v. LeMay* (9th Cir. 2001) 260 F.3d 1018, 1027; see also *People v. Wilson* (2008) 44 Cal.4th 758, 797 [noting analogical value of the due process analysis in *LeMay*].) As we have already held, the evidence here was more probative than prejudicial. Moreover, the jury was instructed that it had the authority to

disregard the propensity evidence if it found the prosecution had not met its burden of proving the prior offenses by a preponderance of the evidence. (CALCRIM No. 375 [Evidence of Uncharged Offense]) The jurors were further instructed that even if they found that defendant had committed the prior offenses, they may only use such evidence to determine defendant's credibility, and that the evidence may not be used as proof of defendant's guilt in the instant case. Again, absent a showing to the contrary, we presume the jury followed the trial court's instructions. (*People v. Waidla, supra*, 22 Cal.4th at p. 725.)

Accordingly, the trial court did not abuse its discretion in admitting the evidence of defendant's prior uncharged offenses against Jane 2 and Jane 3

V. ADMISSION OF JANE 1'S PRETRIAL STATEMENTS

Finally, defendant challenges the admission of Jane 1's statements to her family and Deputy Ochoa about the molestation. He contends that although the prosecution offered the evidence for the nonhearsay purpose under the fresh complaint doctrine, the jury also heard about details of the crime which Jane 1 offered when making her statements. Defendant argues that such evidence was inadmissible hearsay that bolstered Jane 1's credibility.

A. Further Background Information

Prior to trial, the prosecution moved to admit Jane 1's statements to her maternal grandmother, parents, and Deputy Ochoa about the molestation under the fresh complaint doctrine. The motion was granted. At trial, when Jane 1's mother recited the content of Jane 1's disclosure, defense counsel lodged a hearsay objection. The prosecutor cited the

in limine ruling and the trial court overruled the objection. The prosecutor then elicited the content of Jane 1's disclosures to her mother, father, and both grandmothers.

B. Standard of Review

Under the fresh-complaint doctrine, a victim's out-of-court statements disclosing an alleged sexual assault may be admitted for the limited nonhearsay purpose of showing that a complaint was made. (*People v. Brown* (1994) 8 Cal.4th 746, 756.) However, "evidence of the victim's report or disclosure of the alleged offense should be limited to the fact of the making of the complaint and other circumstances material to this limited purpose." (*Id.* at p. 763.) We apply an abuse of discretion standard of review to the trial court's decision to admit evidence over a hearsay objection. (*People v. Alvarez* (1996) 14 Cal.4th 155, 203.)

C. Analysis

Assuming, without deciding, that the trial court erred in admitting the substance of Jane 1's pretrial statements to her grandmothers and her parents, we must determine whether the error was harmless. Because this case does not involve any federal constitutional error, we analyze state law error "under the test articulated in *People v. Watson* [citation] to "evaluate whether 'it is reasonably probable that a result more favorable to [defendant] would have been reached in the absence of the error.'"" [Citation.] We conclude the assumed error was harmless under this test." (*People v. Loy* (2011) 52 Cal.4th 46, 67.)

Jane 1's pretrial statements were not the exclusive evidence offered by the prosecution. Jane 1 testified about how defendant had molested her and she was cross-examined about the event. As the People note, "[t]he uncorroborated testimony of a single witness is sufficient to sustain a conviction, unless the testimony is physically impossible or inherently improbable." [Citation.] (*People v. Riazati* (2011) 195 Cal.App.4th 514, 532.) However, Jane 1's testimony was corroborated. The evidence placed defendant at the house and at the time of the molestation. During the week after the molestation, Jane 1's parents noticed that Jane 1 was not sleeping normal hours. During his interview, defendant admitted that he had sexually molested Jane 1. He demonstrated on a doll how he had licked her vagina. He also used a picture of a vagina to show the area that he licked twice. Thus, even if the admission of the contents of Jane 1's statements was error, it was harmless.

VI. CUMMULATIVE ERROR DOCTRINE

Finally, defendant contends the cumulative effect of the trial court's errors resulted in a fundamentally unfair trial. "Under the cumulative error doctrine, the reviewing court must 'review each allegation and assess the cumulative effect of any errors to see if it is reasonably probable the jury would have reached a result more favorable to defendant in their absence.' [Citation.] When the cumulative effect of errors deprives the defendant of a fair trial and due process, reversal is required. [Citation.] (*People v. Williams* (2009) 170 Cal.App.4th 587, 646 [Fourth Dist. Div. Two].)

In this case, any errors that we have found or may have assumed for purposes of argument, were harmless under any standard, whether considered individually or

collectively. (See *People v. Rogers* (2006) 39 Cal.4th 826, 911.) As discussed above, the evidence against defendant was strong.

VII. DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

HOLLENHORST

Acting P. J.

We concur:

MCKINSTER

J.

CODRINGTON

J.