

FILED IN OFFICE

IN THE SUPERIOR COURT OF CHATHAM COUNTY JUL 22 P 4: 5
STATE OF GEORGIA

Sarah [Signature]

STATE OF GEORGIA

v.

SPCR22-03364-J6

LEILANI MAREE SIMON

State's Notice of Intent to Introduce Certain Evidence and Motion for Pretrial Ruling on the Admissibility of Such Evidence

I. Introduction

A Chatham County grand jury has alleged that the Defendant murdered her twenty-month-old son and discarded his body in a dumpster in the early morning hours of October 5, 2022. Because this is such an unusual thing for a mother to do, it is an inherently extraordinary thing to allege. To prove beyond a reasonable doubt that this allegation is true, the State must be permitted to bring to bear all of the diverse evidence that tends in any way to support it. The dual purposes of this filing are (1) to notify the Defendant of the State's intent to introduce certain evidence and (2) to seek pretrial rulings from the Court so that the admissibility of this evidence is not litigated mid-trial. The State contends that all of the evidence described in this filing is necessary to provide the jury with a complete picture of all the relevant circumstances that led the Defendant to do what she is alleged to have done.

II. Legal Framework

a. Rule 404(b) Evidence

Under O.C.G.A. § 24-4-404(b) (Rule 404(b)), "[c]vidence of other crimes, wrongs, or acts . . . may be admissible for [non-character, non-propensity] purposes," some of which are listed in the Rule. The familiar three-part test for admissibility of Rule 404(b) evidence is as

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follows: (1) The evidence must be offered for a non-character purpose. (2) The danger of unfair prejudice must not substantially outweigh the probative value. (3) There must be sufficient proof that a jury could find by a preponderance of the evidence that the defendant committed the other act. *See, e.g., United States v. Edouard*, 485 F.3d 1324, 1344 (11th Cir. 2007).

“The rule is one of inclusion which allows extrinsic evidence unless it tends to prove *only* criminal propensity. The list [of non-character, non-propensity purposes] provided by the rule is not exhaustive and the range of relevancy outside the ban is almost infinite.” *United States v. Ellisor*, 522 F.3d 1255, 1267 (11th Cir. 2008) (cleaned up) (emphasis added). The Rule’s list of proper purposes includes intent, motive, which is “the reason that nudges the will and prods the mind to indulge the criminal intent,” *Brooks v. State*, 298 Ga. 722, 726 (2016) (internal citation and punctuation omitted), and prior difficulties, evidence of which is generally admissible to show the state of feeling between the parties. *See, e.g., Sconyers v. State*, 318 Ga. 855, 862–63 (2024). While consciousness of guilt is not listed in the Rule, Georgia courts have long recognized it as a proper non-character, non-propensity purpose. *See, e.g., Morrell v. State*, 313 Ga. 247, 255–56 (2022).

Georgia courts have also long recognized that temporal proximity and prosecutorial need are two of the most important factors bearing on the second prong’s balancing test. *See, e.g., Mitchell v. State*, 317 Ga. 107, 111 (2023). And while exclusion under the balancing test is always within the sound discretion of the trial court, it is “an extraordinary remedy which should be used only sparingly,” and “in close cases, balance . . . should be struck in favor of admissibility.” *State v. Jones*, 297 Ga. 156, 164 (2015) (internal citations and punctuation omitted).

“[T]he third prong . . . does not require, as a condition of admissibility, a preliminary finding by the trial court that the government has proved the other [act] by a preponderance of

the evidence. . . . Instead . . . other acts evidence may be admitted if the court concludes that the evidence is sufficient for the jury to find by a preponderance of the evidence that the other act was committed.” *Bradshaw v. State*, 296 Ga. 650, 656 n.4 (2015).

b. Intrinsic Evidence

The limitations and prohibition on “other acts” evidence set out in OCGA § 24–4–404 (b) do not apply to “intrinsic evidence.” See *United States v. Edouard*, 485 F.3d 1324, 1344 (11th Cir. 2007); *Brewner v. State*, 302 Ga. 6, n.3 (2017). This Court and the Eleventh Circuit have both set out factors defining this type of evidence: Evidence is admissible as intrinsic evidence when it is “(1) an uncharged offense arising from the same transaction or series of transactions as the charged offense; (2) necessary to ‘complete the story of the crime’; or (3) ‘inextricably intertwined with the evidence regarding the charged offense.’” *Brewner*, 302 Ga. at 14, n.3 (quoting *Brooks v. State*, 298 Ga. 722, 726, n.11 (2), 783 S.E.2d 895 (2016)); accord *Edouard*, 485 F.3d at 1344. Intrinsic evidence must also satisfy Rule 403. *Id.*

In applying these factors, the Eleventh Circuit has noted that evidence “pertaining to the chain of events explaining the context, motive, and set-up of the crime is properly admitted if [it is] linked in time and circumstances with the charged crime, or forms an integral and natural part of an account of the crime, or is necessary to complete the story of the crime for the jury.” *Edouard*, 485 F.3d at 1344. The court went on to explain that evidence of other acts is “inextricably intertwined” with the evidence regarding the charged offense if it forms an “integral and natural part of the witness’s accounts of the circumstances surrounding the offenses for which the defendant was indicted.” *Id.* (punctuation and citation omitted). And this sort of intrinsic evidence remains admissible “even if it incidentally places [the defendant’s] character at issue.”

Williams v. State, 302 Ga. 474, 485–86 (2017).

III. The Evidence at Issue in this Filing

a. Evidence of the Defendant’s antipathy towards Quinton’s father and, by extension, towards Quinton.

The State expects the evidence on this topic to be substantially as follows: The Defendant’s tumultuous romantic relationship with Quinton’s father, Henry “Bubba” Moss, Jr.,

dissolved before the Defendant even knew that she had become pregnant. This left the Defendant to endure her pregnancy with Quinton alone, without the benefit of his father's companionship. After Quinton's birth, Mr. Moss continued to have virtually no presence or role in Quinton's life. Due to the nature of the Defendant's relationship with Mr. Moss, the Defendant harbored resentment towards Mr. Moss and by extension towards Quinton.

On this topic, the State expects at least one witness to testify that the Defendant revealed to her that she never bonded with Quinton to the same degree that she bonded with her other two children. Insofar as evidence of this utterance is even construed as an other act in the first place, the State contends that it is (1) admissible as intrinsic evidence and (2) alternatively admissible under Rule 404(b) as evidence of motive, intent, state of mind, and prior difficulties.

Relatedly, the State intends to introduce evidence that in 2020, when they were still romantically involved, the Defendant and Mr. Moss were arrested in Burke County for burglary in connection with the theft of various items from a mobile home, an offense for which the Defendant was eventually convicted of the lesser charge of criminal trespass. In one of her interviews with law enforcement during the investigation of Quinton's disappearance, the Defendant brought this episode up *sua sponte* and characterized it as Mr. Moss' having gotten her into trouble. It was evident from the fact of her raising this episode and from the manner in which she described it that it continued to be a source of resentment and ill-feeling. The State contends that this evidence is (1) admissible as intrinsic evidence and (2) alternatively admissible under Rule 404(b) as evidence of motive, intent, and state of mind.

b. Evidence of the Defendant's neglect and abuse of Quinton

Various neighbors described recent incidents in which Quinton and his siblings were observed wandering the neighborhood unsupervised after having left their house unnoticed as a result of the Defendant's parental neglect.

Additionally, Quinton's babysitter and her daughter both disclosed to law enforcement that the Defendant would leave Quinton and his siblings in their cribs for abnormally long periods of time during the day, that they had observed bruises on Quinton, and that Quinton sometimes seemed not to want to go home with the Defendant.

Further, the babysitter's daughter disclosed that she once observed the Defendant strike Quinton in the face, leaving a mark.

The State contends that evidence of the foregoing incidents and observations is (1) admissible as intrinsic evidence and (2) alternatively admissible under Rule 404(b) as evidence of prior difficulties, motive, intent, and state of mind.

c. Evidence of acute personal stressors in the lead-up to Quinton's disappearance

In addition to the background information described to this point regarding the Defendant's history with Quinton's father and her feelings and behavior towards Quinton himself, the State is aware of several acute personal stressors in the Defendant's life in the time leading up to Quinton's murder that, in the State's view, will help to inform the jury's understanding of her personal circumstances and state of mind on the night in question. Put plainly, collectively this evidence will show that, as a result of a confluence of factors, she was in the throes of a downward emotional spiral.

i. Tension between the Defendant and her mother

The Defendant is alleged to have murdered Quinton on October 5, 2022. In the weeks leading up to this date, the Defendant was experiencing the personal stressor of extreme tension with her mother.

Less than a month before, on September 7, 2022, Chatham County Police responded to a verbal and physical altercation between the Defendant and her mother at their residence. The

altercation stemmed from an argument over the state of the household. During this police response, the Defendant's mother raised the prospect of evicting her. The next day, the Defendant's mother filed for eviction, and on September 16, 2022, the Defendant and her boyfriend, Daniel Youngkin, were served with a dispossessory warrant. *See* MGCV22-10900. From this point forward, the question of where they would live and how they would afford housing became a significant personal stressor for the Defendant.

Doubly so because around the same time that the Defendant's mother was moving toward eviction, she had also secured a child support order obligating the Defendant to pay her for caring for the Defendant's children. *See* SPCS22-00118 (showing a default order for child support entered on September 28, 2022).

The State contends that, insofar as these circumstances even amount to other acts in the first place, they are (1) admissible as intrinsic evidence and (2) alternatively admissible under Rule 404(b) to show motive, intent, and state of mind on the night in question.

ii. Related financial stressor

Relatedly, the State intends to show that the financial strain caused by the tension between the Defendant and her mother was made all the more acute by the fact that on May 3, 2022 the Defendant had entered into a deferred prosecution agreement in a North Carolina case (involving her theft of merchandise from a gas station at which she had worked briefly in 2021) that obligated her to pay \$426.96 in court costs.

The State contends that evidence of this financial obligation is (1) admissible as intrinsic evidence and (2) alternatively admissible under Rule 404(b) to show motive, intent, and state of mind on the night in question.

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

iv. Habitual drug use

The Defendant's drug use on the night in question is clearly admissible; in fact, it is part and parcel of a false statement charge in the indictment. The State intends to introduce evidence that, beyond drug abuse on the night in question alone, during the same general time frame as the stressors described above, the Defendant was routinely abusing illegal drugs on a daily basis.

The State contends that evidence of the Defendant's habitual drug abuse during this time period is (1) admissible as intrinsic evidence and (2) alternatively admissible under Rule 404(b) to show motive, intent, and state of mind on the night in question.

d. Consciousness of guilt

In the interim between Quinton's disappearance on October 5, 2022 and law enforcement's discovering his remains in a landfill on November 18, 2022, the Defendant continually insisted to law enforcement and to the media that she believed he had been abducted and that she held out hope that he was alive and would be returned to her unharmed.

The State intends to introduce evidence that on October 20, 2022, the Defendant was observed at an establishment on Tybee Island taking shots of alcohol and generally enjoying herself—partying, essentially—during the very time that she was characterizing Quinton's disappearance as an abduction and ostensibly hoping for his rescue.

Insofar as this episode amounts to an other act in the first place, the State contends that it is (1) admissible as intrinsic evidence and (2) alternatively admissible under Rule 404(b) to show consciousness of guilt and to show that her various statements about what she purportedly believed had happened to Quinton were false.

IV. Conclusion

As stated above, the State contends that all of the evidence described in this filing is necessary to provide the jury with a complete picture of all the relevant circumstances that led her to do what she is alleged to have done and is admissible as either intrinsic evidence or Rule 404(b) evidence. The State respectfully requests of the Defendant that she respond to this filing by stating what, if any, of the evidence described in this filing she objects to being introduced.

The State respectfully requests of the Court that it hold a hearing on the admissibility of the evidence detailed in this filing and issue an order delineating the ground rules for trial.

This 22nd day of July, 2024.

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CERTIFICATE OF SERVICE

I have this day caused Martin Gregory Hilliard and Robert Persse, Counsel for the Defendant, to be served with the foregoing motion by email and by e-filing.

This 22nd day of July, 2024.

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