IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

CRIMINAL DIVISION

STATE OF OHIO	**CASE NO. 2024CR03226**
Plaintiff,	**JUDGE DANKOF**
V	**MOTION IN LIMINE TO EXCLUDE 404(B) EVIDENCE**
JONATHAN LINK	
Defendant.	

Now comes Defendant, Jonathan Eric Link, by and through counsel, and respectfully moves this Court To Exclude The State From Using 404(B) Evidence. The reasons for this Motion are more fully set forth in the Memorandum in Support hereof.

Respectfully Submitted,

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MEMORANDUM IN SUPPORT

Defendant respectfully submits this Motion In Limine to preclude the State from using 404(B) evidence. The State's notice of intent to use 404(B) evidence seeks to introduce a series of speculative, ambiguous, and highly prejudicial incidents stretching weeks before and after the victim's disappearance and then labels this collection of unrelated behavior as evidence of "consciousness of guilt." None of the identified evidence satisfies the strict admissibility requirements of Evid. R. 404(B).

Evid. R. 404(B) provides that: Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. *State v. Gillispie,* 2012-Ohio-2942. The rational for refusing to permit this kind of evidence against a defendant is that "offering evidence of a person's character poses an inherent risk that the trier of fact will be distracted from the central issues in the case, and decide the case based upon the trier's attituded toward a person's character, rather than upon an objection evaluation of operative facts." *State v. Gillispie,* 2012-Ohio-2942 ¶ 12.

In *State v. Harman,* the Ohio Supreme Court held, "A hallmark of the American criminal justice system is the principle that proof that the accused committed a crime other than the one for which he is on trial is not admissible when its sole purpose is to show the accused's propensity or inclination to committed crime. *State v. Hartman,* 2020-Ohio-4440 ¶ 20; see also, *State v. Curry,* 43, Ohio St.2d. 66, 330 N.E.2d 720(1975). Courts have long struggled with differentiating between propensity and non-propensity-based evidence. For that reason, it is not enough for the proponent of the other act evidence simply to point to a purpose in the permitted list and assert that the other-act evidence is relevant to it. To apply this rule properly, courts must scrutinize the proponent's

logic to determine exactly how the evidence connects to a proper purpose without relying on any intermediate improper-character inferences. *State v. Hartman,* 2020-Ohio-4440.

In Evid.R. 404(B) cases, the inquiry is not whether the other-acts evidence is relevant to the ultimate determination of guilty. The other-act evidence must be probative of a purpose other than the person's character or propensity to behave in a certain way. *State v. Hartman,* 2020-Ohio-4440; see also Evid.R. 404(B). The analysis does not end here once a proponent has established a permissible non-propensity purpose for the admission of other-acts evidence. In every instance, the trial court must determine whether the proffered evidence, though admissible under Evid.R. 404(B) – is nevertheless more prejudicial than probative. *State v. Hartman,* 2020-Ohio-4440.

Additionally, under the Ohio Rules of Evidence, any evidence the State seeks to admit under a Rule 404 exception must still comply with Rule 405, which governs the methods by which character evidence may be introduced. Rule 405 strictly limits the State, on direct examination, to reputation or opinion testimony only; specific instances of conduct are not admissible unless character is an essential element of the charge, claim, or defense, which is not the case here.

Moreover, the State cannot introduce character evidence unless the Defendant does so first, and then the State may rebut same. Although the State provided a Rule 404(B) notice, the notice itself is deficient. Rule 404(B)(2) requires the State to articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports that purpose and then disclose more than the mere "general nature" of the act. The States 1.5-page notice fails to meet this standard. The State does not offer the reasoning supporting its admissibility beyond a vague reference to "consciousness of guilt," which is insufficient as a matter of law and does not satisfy the explicit requirements of Rule 404(B).

The State claims, "All of these facts also support his consciousness of his guilt in this matter. They further are relevant to show, motive, opportunity, intent, and lack of mistake, and the identity of the killer. To the extent that any of these acts constitutes 404(B) evidence." Under *Hartman,* it is "not enough for the proponent, of the other-act evidence simply to point to a purpose in the 'permitted' list and assert that the other-act evidence is relevant to it. *State v. Hartman,* 2020-Ohio-4440 ¶ 23.

In the present case, the State seeks to admit testimony from a single coworker who claims that Mr. Link said he was "going to take the victim to Atalanta for the weekend." The States own filing acknowledges that the victim's vehicle was first discovered in Atlanta on August 28, 2001, nearly three weeks later. The evidence is not admissible under 404(B) because it is uncorroborated and untethered to the timeline of the actual transportation of the van. Under *Gillispie,* such speculative evidence that encourages juror to "fill in the gaps" is improper. *State v. Gillispie,* 2012-Ohio-2942. The State proposes to submit that Mr. Link purchased a new mattress and disposed of the old one. The recovered mattress allegedly contained the victim, Shannon Anderson's blood. The evidence's relevance depends entirely on propensity-based inference, forbidden under 404(B).

During questioning, Mr. Link was shown photographs of the blood splatter and stated, "It does not look good." This is neither inculpatory nor unusual. Individuals confronted with news of a loved one's violent death often reacts emotionally or ambiguously. This suggests a decision on an improper basis and is unfairly prejudicial. Under *Gillisipie,* unfair prejudice within its context means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, and emotional one. *State v. Gillispie,* 2012-Ohio-2942.

The State seeks to admit Mr. Link's suicide attempt as evidence of consciousness of guilt. However, they fail to acknowledge that at the time, Mr. Link had unexpectedly lost his mother,

learned his girlfriend was missing and then murdered, and was the center focus of a police investigation. Ohio courts consistently warn against equating emotional distress, mental instability or suicidal behavior with guilt, recognizing that such conduct is inherently ambiguous and often wholly unrelated to criminal wrongdoing. See, *State v. Gillispie,* 2012-Ohio-2942 (reversing where the State relied on speculative emotional conduct to imply guilt).

As the Defense already emphasized in its response to the Court's proposed jury instructions, evidence of Mr. Link's emotional suffering or suicidal attempt is extraordinarily prejudicial, wholly ambiguous, and equally consistent with innocence. Particularly because Mr. Link experienced significant trauma such as the sudden death of his mother, the disappearance and later death of his girlfriend then followed by intense police scrutiny. The probative value, if any is far outweighed by the substantial danger of unfair prejudice under Evid.R.403(A). Furthermore, the admission would improperly invite the jury to draw an impermissible inference of guilt from conduct that is unreliable and speculative.

The State intends to argue that the presence of police reports found in Mr. Link's attic shows concealment. Nothing about a defendant retaining or storing legal documents provided by prior counsel suggests guilt. In fact, when an individual becomes a suspect in an investigation, particularly one that proceeds to a grand jury, it is entirely ordinary and expected for that person to keep copies of discover materials and police reports supplied by their attorney. Defendants routinely retain such documents for reference, self-protection, and consultation with counsel. Storing these items in a basement, attic, or other household location is neither unusual nor suspicious. To characterize the mere possession of attorney-provided materials as evidence of concealment or wrongdoing would improperly penalize the exercise of the constitutional right to

counsel and invite the kind of speculate inference expressly prohibited by Ohio courts. *State v. Gillispie,* 2012-Ohio-2942.

For the reasons set forth above, Mr. Link respectfully requests that this Court exclude, in its entirety, all other acts evidence the State seeks to introduce in its notice of intent to use 404(B) evidence. Including the alleged Atlanta statement, mattress evidence, police interview statements, suicide attempt, and possession of police reports. These acts rely on prohibited propensity reasoning and pose an unacceptable risk of prejudice, confusion, and conjecture. Admission would improperly invite the jury to convict on emotion and speculation rather than reliable evidence.

WHEREFORE, Mr. Link respectfully asks this court to bar the introduction of all proposed 404(B) evidence at given in the State's notice at trial. In the alternative, should the Court decline to exclude such evidence pretrial. Mr. Link requests that the Court reserve ruling and address each item through timely objections as they arise at trial to ensure strict compliance with Evid. R. 404(B), Evid.R.403(A), and the protections articulated by the Ohio Supreme Court in *Hartman* and controlling Second District case law.

Respectfully Submitted,

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Certificate of Service

I hereby certify that on this 20th day of November 2025 this document was electronically filed via the Court's authorized electronic filing system which will send notifications of this filing to all parties.

/s/ Dennis A. Lieberman
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