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IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

STATE OF OHIO	*	CASE NO: CR23-2718 and 24-1626
	*	
Plaintiff,	*	Judge Lindsay Navarre
	*	
vs.	*	**NOTICE OF INTENT TO INTRODUCE EVIDENCE PURSUANT TO 404(B)**
	*	
LAWRENCE CREADY	*	Mark Hanusz (103870)
	*	Assistant Prosecuting Attorney
Defendant.	*	Lucas County Prosecutor's Office
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Now comes the State of Ohio, by and through undersigned Assistant Prosecuting Attorney, and hereby provides notice to the Defendant and this Honorable Court of its intention to introduce evidence of other crimes, wrongs, or acts pursuant to Ohio Evid. R. 404(B) at the trial of the above-captioned matter. This evidence is not being offered to show the Defendant's propensity to commit crimes but rather to prove his intent, plan, and absence of mistake or accident, which are central to the charges in this case.

Legal Standard under Ohio Rule of Evidence 404(B)

Evid. R. 404(B) prohibits the use of evidence of other crimes, wrongs, or acts solely to prove a person's character in order to show action in conformity therewith. However, the rule allows for

the admission of such evidence for other purposes, including proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

In evaluating the admissibility of 404(B) evidence, courts apply a three-part test. The first step is to consider whether the other acts evidence is relevant to making any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. Evid.R. 401. The next step is to consider whether evidence of the other crimes, wrongs, or acts is presented to prove the character of the accused in order to show activity in conformity therewith or whether the other acts evidence is presented for a legitimate purpose, such as those stated in Evid.R. 404(B). The third step is to consider whether the probative value of the other acts evidence is substantially outweighed by the danger of unfair prejudice. *State v. Williams*, 2012-Ohio-5695, ¶ 20.

Application to the Present Case

The Defendant, Lawrence Cready, is charged with Theft by Deception (R.C. 2913.02(A)(3)) involving victim Jon Treloar. The State anticipates that evidence will show Cready accepted substantial payments from Mr. Treloar under the false pretense of installing a pool, which he never intended to complete. Despite receiving over $43,000, no pool was ever ordered or installed, no preparatory work was done, and no refund was ever issued. This pattern of deceptive behavior is crucial to establishing the Defendant's intent at the time he accepted payment, as required by *State v. Messer,* 2017-Ohio-1223.

Testimony from MK as Evidence of Intent and Absence of Mistake

In addition to the charges involving Mr. Treloar, the State seeks to introduce evidence of a nearly identical scheme perpetrated by the Defendant against another victim, MK. This similar conduct demonstrates a consistent pattern of deception and fraudulent intent by the Defendant.

The testimony of MK is directly relevant to proving the Defendant's intent, plan, and absence of mistake in the current charges involving Mr. Treloar. This evidence is not offered to show the Defendant's bad character but rather to establish that Cready, when accepting payment from both victims, had no intention of fulfilling his contractual obligations as required under *Messer*. The Defendant's repeated conduct in these two transactions evidences a deliberate plan to defraud both victims, which is key to proving criminal intent in this case.

Probative Value Versus Prejudicial Effect

Furthermore, the probative value of MK's testimony substantially outweighs any potential prejudice under Evid. R. 403. The testimony from MK is highly probative because it provides clear evidence of Cready's intent, a central issue in the case. "As the importance of the factual dispute for which the evidence is offered to the resolution of the case increases, the probative value of the evidence also increases and the risk of unfair prejudice decreases." *State v. Hartman*, 2020-Ohio-4440 ¶ 31. Given that the Defendant's intent is the central issue in this case, the testimony from MK is necessary to help the jury fully understand Cready's actions and the fraudulent nature of his behavior toward both victims.

Additionally, Ohio courts have held that evidence of other crimes or wrongs is admissible when it shares common features with the charged crime and is related in time and circumstance, as seen in *State v. Frazier*, 2004-Ohio-1121. Here, the Defendant's behavior toward MK mirrors his actions toward Jon Treloar, with both cases involving the Defendant's acceptance of large payments for services he never intended to complete, with both occurring in the same timeframe of March until September 2023. The estimate provided by Defendant for Mr. Treloar was number 2160 for the amount of $73,299 and for MK it was number 2161 for $74,350. This shared *modus operandi* between the two cases further supports the admissibility of MK's testimony under Evid. R. 404(B).

Rebuttal Evidence if Defendant Testifies

Should the Defendant testify and attempt to offer an alternative explanation for his failure to complete the work or issue refunds, the State should also be permitted to call MK to rebut any claim that his conduct was the result of mistake, misunderstanding, or any other non-criminal rationale. Evidence of the Defendant's similar conduct toward MK would effectively rebut such claims and demonstrate that his failure to perform was intentional, not accidental.

Conclusion

For the reasons stated above, the State respectfully requests that the Court admit the testimony from MK under Ohio Rule of Evidence 404(B) to show a pattern of criminal behavior by the Defendant. This evidence is relevant to establishing the Defendant's intent, plan, and absence of

mistake or accident, and its probative value substantially outweighs any potential danger of unfair prejudice. The testimony will provide the jury with a more complete understanding of the Defendant's actions and intent in the case involving Jon Treloar.

Respectfully submitted,

Mark Hanusz (103870)
Assistant Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Notice was served on Kurt Bruderly, counsel for the defendant, via email to kurt@lawkwb.com on September 28, 2024.

Mark Hanusz (103870)
Assistant Prosecuting Attorney