

# ***THE STATE OF NEW HAMPSHIRE***

**COÖS, SS.**

**SUPERIOR COURT**

No. 214-2019-CR-00007

State of New Hampshire

v.

Jeffrey Woodburn

## **ORDER**

The defendant has filed a Motion to Allow Introduction of Alleged Victim's Prior Attempts to Block or Restrain Defendant From Distancing Himself From Conflict seeking to introduce at trial "evidence that the alleged victim physically interfered with his attempts to avoid conflict." (Index #144 ¶ 2.) The defendant argues that his "prior attempts to avoid conflict and the alleged victim's behavior with regard to those attempts are certainly admissible and relevant to his mental state at the time of the alleged offense." (*Id.* ¶ 3.) The State objects. (Index #145.) It observes that the defendant "makes no attempt to . . . specifically identify" or "explain the circumstances" of the "prior instances" about which he seeks to introduce evidence and that the defendant's motion "fails to identify not only the specific instances of conduct he wishes to introduce, but also any specific legal grounds justifying his request." (*Id.* ¶¶ 4, 5.) The State contends that it "is unable to properly formulate a response" to "[s]uch a vague, conclusory, and generalized request for evidence to be admitted" and that such a request "should not be allowed." (*Id.* ¶ 5.) The State further maintains that there are additional "grounds upon which [the] court should deny the defendant's motion," which it sets forth in a separate motion and incorporates by reference. (*Id.* ¶ 6.)

The separate motion to which the State refers is the State's *Motion in Limine* to Exclude 404(b) Evidence as to the Victim, and to Admit 404(b) Evidence as to the Defendant (Index #142), to which the defendant has not filed an Objection, although the Court construes the defendant's Motion to Allow (Index #144) as a generalized objection. The State maintains that the "defendant's vague, amorphous allegations regarding these purported" alleged acts of aggression by the alleged victim toward the defendant "fail to establish not only that any of the acts occurred prior to December 15, 2017," the date of the alleged offenses, "let alone at all, but also any logical connection between those acts and his state of mind at the time of the charged offenses." (State's MIL ¶¶ 7, 10–15.) The State further argues that the evidence of the alleged victim's "alleged other acts" also fails to satisfy "the other two prongs of the 404(B) analysis as well." (*Id.* ¶ 16.) It asserts that there is "no clear proof that any of the alleged other acts occurred given the nebulous nature of the defendant's allegations and a lack of corroboration (*id.*) and that "whatever negligible probative value E.J.'s alleged other acts may have is substantially outweighed by the danger of unfair prejudice." (*Id.* ¶ 17.) The State contends that "[n]ot only would E.J. be improperly attacked with what amounts to mere propensity evidence, but further she would be unfairly placed in the position of having to repeatedly answer to vague allegations regarding acts she purportedly committed on unspecified occasions over six years ago, which may not have happened in the way alleged or at all" and that "such evidence is likely to lead to several mini trials within the trial, overall confusion of the issues, and misleading the jury." (*Id.*)

Having considered the parties' pleadings and arguments, the applicable law, and the New Hampshire Supreme Court's mandate on remand, State v. Woodburn, 175 N.H.


\_\_\_\_\_, \_\_\_\_\_ (decided March 23, 2023) (slip op. at 9), the Court denies the defendant's Motion to Allow and grants the State's Motion to Exclude for the reasons articulated by the State. Among other things, the defendant has not identified any of the alleged victim's prior acts as to which he seeks to introduce evidence or the approximate date(s) on which he alleges they occurred and he has not shown, to any extent whatsoever, that any such "prior acts of aggression by the complainant sought to be admitted by the defendant are logically connected to the defendant's state of mind at the time of the charged offenses such that they may be admitted for a non-propensity purpose." State v Woodburn, 175 N.H. at \_\_\_\_\_ (slip op. at 9); see State v. Dukette, 145 N.H. 226, 230 (2000); State v. Bassett, 139 N.H. 493, 500–02 (1995).

In its Motion in Limine the State also seeks to admit evidence of other alleged acts of the defendant, to wit: the defendant's act "of kicking off E.J.'s dryer door on August 10, 2017," and his act "of kicking in E.J.'s front door on December 24, 2017." (State's MIL ¶ 7.) The Court reserves for trial ruling on these requests.

So Ordered.

Date: \_\_\_\_\_

9/14/23

  
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Hon. Peter H. Bornstein  
Presiding Justice

Clerk's Notice of Decision  
Document Sent to Parties  
on 09/14/2023