

DISTRICT COURT, HUERFANO COUNTY STATE OF COLORADO 401 MAIN STREET, SUITE 304 WALSENBURG, COLORADO 81089	DATE FILED: April 16, 2015
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,  vs  <b>RALPH LEROY CANDELARIO</b> , Defendant	COURT USE ONLY
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<b>PEOPLE'S MOTION TO INTRODUCE <i>RES GESTAE</i> EVIDENCE</b>	

COMES NOW, Frank E. Ruybalid, District Attorney for the 3rd Judicial District, by and through his duly appointed special deputies, and respectfully files this Motion to Introduce *Res Gestae* Evidence:

1. The defendant is charged with Murder in the First Degree, pursuant to section 18-3-102, C.R.S., and Tampering With Physical Evidence, section 18-8-610(1)(a), C.R.S.
2. The matter is currently set for motions hearing on May 18 and June 22, 2015, and for jury trial beginning on July 27, 2015.
3. This case arises from allegations that, on or about January 15, 2014, the defendant murdered his wife Pamela "Pam" Candelario (formerly Palmer) in their home in Walsenburg, Colorado. The defendant then attempted to destroy evidence by washing throw rugs covered in Pam's blood. He further tampered with the crime scene by staging some items in the home and removing others. Then, the defendant falsely reported to investigators that two strangers had assaulted him and murdered Pam in the course of a robbery.

4. The People intend to introduce certain evidence as *res gestae*. The People assert that the *res gestae* evidence is essential for the jury to understand the defendant's motive for staging the burglary.
5. There is no legal requirement that the People provide notice to the defendant of the intent to introduce *res gestae* evidence. However, the People are requesting a preliminary ruling on the admissibility of this evidence to prevent unnecessary delays during jury trial, because the evidence entails some of the defendant's prior acts of infidelity.
6. The *res gestae* evidence described below is essential for the jury to understand why the defendant would stage a home invasion. Common sense dictates that it would have been much easier for him to just destroy all the evidence at the crime scene. This is especially true where, as here, the defendant has plenty of time to dispose of victim's remains and clean up the crime scene. He had plenty of time because, at the time of Pam's murder, everyone in the community believed she was leaving for Oregon and not returning until around March 1, 2014. Moreover, several people were also aware that Pam was considering leaving the defendant. The defendant could have disposed of Pam's remains and told everyone that she left him and did not tell him where she was going.
7. However, the defendant had a clear motive to try to cover up his crime in such a manner that everyone would know that Pam was not merely missing but, in fact, dead. The *res gestae* evidence described below is essential for the People to explain that motive to the jury.

#### Res Gestae Evidence

8. The defendant is a Jehovah's Witness. His faith is an integral part of the story of Pam Candelario's murder. According to that faith, a person cannot remarry unless his spouse (1) committed adultery or (2) died. A divorce prefaced on the other spouse's acts of adultery is called a "scriptural divorce."
9. In the late 1980s, the defendant met his first wife Dena. The couple married and had two sons: Joel and Aaron. They lived together in Gardner, Colorado, but after separating in January 2004, Dena moved to Pueblo and the defendant moved to Walsenburg. Sometime in 2004, the defendant reconnected with his former girlfriend, Dana Franklin.
10. In August 2004, Dena Candelario went missing. Still, despite his inability to serve Dena divorce papers, the defendant ultimately received a non-contested legal divorce in Walsenburg. In December 2004, Dana moved from Grand Junction to Walsenburg. She moved intending to marry the defendant. The defendant purchased a home in Walsenburg where the couple would live once they were allowed to marry in the Jehovah's Witness church.
11. Despite their intentions to marry, the defendant and Dana were engaged for some 6 years because the defendant's situation with Dena had not yet resolved to the approval of the Church. Even though Dena remained missing, the Church did not consider her dead. Also, even though the defendant had a legal divorce from Dena, he did not have a

scriptural divorce for purposes of remarriage in the Church. Therefore, the defendant was barred from remarrying in the Church.

12. In 2010, while still engaged to Dana, the defendant met Pam. Pam was also a member of the Jehovah's Witness church, and her daughter Shannon was dating the defendant's son Aaron. At that time, Pam was still married to her daughters' father, Gerry Palmer. The defendant and Pam started dating.
13. Eventually, in 2011, Pam and Dana found out about one another. Dana ended her engagement to the defendant. However, Pam promised to stand by the defendant and even assist him in the trouble this was going to cause in the Jehovah's Witness church. Furthermore, Pam convinced Gerry (who is not a Jehovah's Witness) to initiate their divorce so that she would be allowed to remarry in the Church.
14. However, Dana disclosed to the elders of the Jehovah's Witness church that the defendant had been in a relationship with two women at the same time. The Church shunned the defendant. He and Pam were not allowed to marry in the Church, and instead married at a county courthouse. For two years, the defendant and Pam worked very hard to regain acceptance in the Walsenburg Jehovah's Witness church. About a year before Pam's death, the couple was allowed to return to the congregation in Walsenburg.
15. The evidence described above is necessary to complete the story of the crime for the jury. This evidence is classic *res gestae* evidence insofar as it is literally impossible to set the scene for his decision to stage a burglary without admitting it.

#### Legal Authority

16. A trial court has substantial discretion in deciding questions concerning the admissibility of evidence. *People v. Quintana*, 882 P.2d 1366, 1371 (Colo.1994). Therefore, absent an abuse of discretion the evidentiary rulings of a trial court will be affirmed. *Id.* An evidentiary ruling will not be reversed unless it is manifestly arbitrary, unreasonable, or unfair.
17. The rules of evidence strongly favor the admissibility of relevant evidence. C.R.E. 403; *People v. Gibbens*, 905 P.2d 604 (Colo. 1995). The rules evince a strong preference that the jury hear all relevant evidence and determine what weight should be given to all its parts. *People v. Chase*, 2013 COA 27. In most circumstances, it is the province of the jury, not the court, to weigh evidence.
18. However, there is a clear exception: the rules disfavor the admissibility of evidence pursuant to C.R.E. 404(b). *Garner*, 806 P.2d at 372. This evidence entails "other acts" "wholly independent from the offense charged." *Quintana*, 882 P.2d at 1373. Such evidence is inadmissible to prove that a defendant committed the instant offense by establishing that he was acting in conformance with bad character, but it may be admissible for other purposes. C.R.E 404(b).

19. In a sense, C.R.E. 404(b) is a “shield” meant to protect defendants from an unfair trial. The reasoning behind the disfavor for C.R.E. 404(b) evidence is three-fold: First, there is a concern that the jury will convict a defendant as a means of punishment for past deeds. Second, there is a possibility that the jury will overvalue the character evidence in assessing the guilt for the crime charged. Third, it is unfair to require a defendant to defend not only against the crime charged, but to disprove the prior acts and defend his character. *People v. Kaufman*, 202 P.3d 542, 552 (Colo. 2009). Because of the disfavor for admitting other acts pursuant to C.R.E. 404(b), Colorado courts have imposed some special procedures for the admission of such evidence, as laid out in *People v. Garner*, 806 P.2d 366 (Colo. 1991).<sup>1</sup>
20. However, defendants may not use C.R.E. 404(b) as both a shield and a sword. In other words, while C.R.E. 404(b) does protect defendants from defending against other acts “wholly independent” from the crime charged, it does not empower them to prevent the prosecution from telling the complete story of a crime. It would be patently unjust if a defendant could thwart the People from providing the jury with a complete understanding of the events surrounding the crime charged as long as he commits other crimes in the time leading up to or succeeding the crime. It would be equally absurd for the court to limit the People’s ability to tell a complete story by precluding evidence part and parcel of the crime charged on grounds that it encompasses bad acts.
21. Accordingly, evidence of other acts that are “part and parcel” of the criminal episode is admissible as *res gestae*. *People v. Quintana*, 882 P.2d 1366 (Colo.1994). The doctrine of *res gestae* is well-established in Colorado law. The crux of the doctrine is that contextual or explanatory evidence, or evidence that provides a coherent narrative for the charged crime, is admissible if it passes a C.R.E. 403 analysis. The Colorado Supreme Court has succinctly articulated of the doctrine of *res gestae* as follows:

Criminal occurrences do not always take place on a sterile stage; and where . . . the events leading up to the crime are part of the scenario which explains the setting in which it occurred, no error is committed by permitting the jury to view the criminal episode in the context in which it happened.

*People v. Czermerynski*, 786 P.2d 1100, 1109 (Colo. 1994). The Supreme Court has also described the *res gestae* doctrine in the following way:

Such evidence is generally linked in time and circumstance with the charged crime, *or* forms an integral part of an account of the crime, *or* is necessary to complete the story of the crime for a jury. *Res gestae* evidence includes circumstances, facts and declarations which arise from the

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<sup>1</sup> The trial court must (1) determine by a preponderance of the evidence that the other crime occurred and that the defendant committed it, (2) determine whether the evidence meets the test from *People v. Spoto*, 795 P.2d 1314 (Colo. 1990), (3) provide limiting instructions, and (4) refer to the other crime as a “transaction,” “act,” or “conduct,” and not as an “offense” or “crime.”

main event and serve to illustrate its character. It also includes evidence that is closely related in both time and nature to the charged offense.

*People v. Quintana*, 882 P.2d 1366, 1373 (Colo. 1994) (emphasis added). The Supreme Court also held that evidence of events that are “inextricably intertwined” with the charged crime constitute admissible *res gestae* evidence. *Id.* at 1372.

22. While *res gestae* evidence certainly includes those occurrences which are relatively contemporaneous with the events comprising the charged crimes, the doctrine also permits the admission of evidence of precursor or antecedent events which frame, define, or explain the charged criminal episode. *Williams v. People*, 724 P.2d 1279, 1283-84 (Colo. 1986).
23. *Res gestae* evidence is admissible regardless of the application of C.R.E. 404(b) and the *Spoto* test, even if that evidence consists of prior crimes, wrongs, or acts. *People v. Crespi*, 155 P.3d 570, 576 (Colo. 2006). In fact, even evidence that would otherwise be inadmissible under C.R.E. 404(b) may still be admitted if it is part of the *res gestae* of the charged crime. *People v. Rollins*, 892 P.2d 866, 873 (Colo. 1995).
24. Therefore, the test for admission of *res gestae* evidence is not *Spoto*, but relevancy pursuant to C.R.E. 402 and 403. *Id.* Moreover, evidence which is part of the *res gestae* of the crime is “not subject to the procedural requirements imposed by C.R.E. 404(b).” *Crespi*, 155 P.3d at 576. The court in *Garner* held that those procedural requirements were appropriate because of the disfavor for C.R.E. 404(b) evidence. *Garner*, 806 P.2d at 372. That holding simply does not apply to *res gestae* evidence because its admissibility is strongly favored pursuant to C.R.E. 403.
25. Evidence is admissible under C.R.E. 403 if its probative value is not substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.
26. The probative value of evidence is weighed by considering the marginal or incremental probative value relative to other evidence in the case, the logical force of the evidence, and the prosecution’s need for the evidence in light of other available evidence. *People v. Brown*, 2014 COA 130M, ¶ 26. Evidence is not “unfairly prejudicial” simply because it damages the defendant’s case. *Masters v. People*, 58 P.3d 979, 1001 (Colo. 2002). “Unfair prejudice” refers to an undue tendency to suggest that the jury render a decision on an improper basis, commonly but not necessarily an emotional one, such as sympathy, hatred, contempt, retribution, or horror. *Id.*
27. It is well-established that, even when motive is not an element of a crime, evidence of motive is admissible as one means of proving the ultimate facts necessary to establish the commission of a crime. *People v. Rath*, 44 P.3d 1033, 1040 (Colo. 2011).
28. Here, the evidence sought to be introduced is probative of motive. The defendant knew from first-hand experience that the Church would never allow him to remarry if Pam’s

body was not found. He also knew that he would be shunned from the Church if he had an intimate relationship with a woman unless he was married to her. After having just regained his standing in the Church, he did not want to be ousted yet again. Therefore, he attempted to cover up his crime in a manner that did not involve disposing of Pam's body. Instead, he attempted to stage the crime scene so that he could both cover up his crime and leave Pam's body so that the community would accept her death. Thus, the *res gestae* evidence establishes a clear motive to stage evidence of a home invasion.

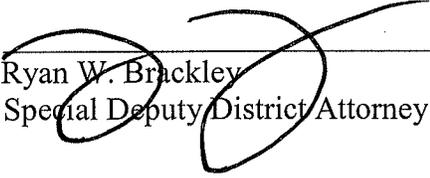
29. The probative value of the evidence is not substantially outweighed by the danger of unfair prejudice. The evidence establishing the defendant's motive for staging a burglary necessarily entails disclosure of the fact that the defendant was having premarital relations with both Dana and Pam at the same time. However, the jury is not likely to become so inflamed by evidence that the defendant's relationships with these women overlapped that it would be willing to convict him of First Degree Murder on that basis alone. Additionally, the evidence also reveals that the victim was unfaithful to her husband Gerry Palmer when she became romantically involved with the defendant. Therefore, the evidence does not create undue sympathy for the victim because it reveals comparable bad behavior on her part as well.

30. Overall, the evidence presented is absolutely necessary to present a complete the story of the crime for a jury, and the probative value is not substantially outweighed by the danger of unfair prejudice.

WHEREFORE, the People respectfully move to introduce *res gestae* evidence at jury trial.

DATED this 16 day of April, 2015.

Respectfully Submitted:  
FRANK E. RUYBALID  
DISTRICT ATTORNEY

  
Ryan W. Brackley  
Special Deputy District Attorney

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of this motion to:

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→ Efiled via ICCES

/s/ Michelle Wells

Dated: 4.17.15