

DISTRICT COURT, HUERFANO COUNTY
STATE OF COLORADO
401 Main St. Suite 304
Walsenburg, CO 81089

DATE FILED: August 10, 2015 11:35 AM

THE PEOPLE OF THE STATE OF COLORADO

Plaintiff,

vs.

RALPH CANDELARIO

Defendant.

COURT USE ONLY

Case Number: 14CR106

Div.: D

ORDER DENYING THE PEOPLE'S MOTION TO INTRODUCE *RES GESTAE* EVIDENCE

THIS MATTER comes before the Court on the People's Motion to Introduce *Res Gestae* Evidence. The Court, having reviewed the pleadings, and after hearing on June 22, 2015, and otherwise being duly advised in the premises, hereby **FINDS AND ORDERS** the following:

FACTS AND PROCEDURAL HISTORY

Defendant has been charged with murder in the first degree, C.R.S. § 18-3-102(1)(a) (F1) (Count 1), and tampering with physical evidence, C.R.S. § 18-8-610(1)(a) (F6) (Count 2) after Defendant's wife was found dead in their home in Walsenburg. In this matter, Defendant contends that he and his wife were the victims of a home invasion during which his wife was killed and he was attacked and injured by two unknown intruders in the middle of the night. The People contend that Defendant murdered his wife and then staged their home to look like home invasion. The People filed a Motion to Introduce *Res Gestae* Evidence arguing that certain evidence is essential for the jury to understand the Defendant's motive for staging a home invasion. The Defendant opposes the requested relief. The Court held a motions hearing on June 22, 2015 and took the matter under advisement. The People subsequently filed an Offer of Proof. Defendant filed a response and objection to the People's Offer of Proof. The Court will address the parties' argument below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In their Motion, the People contend that the Defendant murdered his wife Pamela "Pam" Candelario in their home. The People further contend that, subsequently, Defendant attempted to

destroy evidence by washing throw rugs covered in Pam's blood, tampered with the crime scene by staging some items in the home and removing others, and then falsely reported to investigators that two strangers had assaulted him and murdered Pam in the course of a burglary. The People seek to admit certain evidence as res gestae to assist the jury in understanding why the Defendant would stage a home invasion. The People argue that 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 was dead. Specifically, in their Motion, the People seek to admit the following as res gestae evidence:

- 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."
- 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.
- 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.
- 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.
- 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 daughter's father, Gerry Palmer. The Defendant and Pam started dating.
- 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.

- 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.

The People contend that the above evidence is necessary to complete the story of the charged crimes for the jury. Specifically, the People contend that the evidence sought to be introduced is probative of motive. They argue that the Defendant knew that his church would never allow him to remarry if Pam's body was not found. He also knew that he would be shunned from his church if he had an intimate relationship with a woman unless he was married to her, and the People claim that Defendant did not want to be ousted from his church again. Therefore, the People argue that Defendant 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. They argue that it is impossible to set the scene for Defendant's decision to stage a burglary without admitting this evidence.

In response, the Defendant contends that the evidence regarding Dena Candelario is improper C.R.E. 404(b) evidence and not res gestae evidence. Defendant argues that the evidence the People seek to admit is only speculative. Further, Defendant argues that even if the proffered evidence is res gestae, it is inadmissible under C.R.E. 401, 402 and 403 because it is not relevant and highly prejudicial. Defendant argues that there is no actual evidence that Dena Candelario or her disappearance had anything to do with or animated any actions on the part of the Defendant. Defendant also contends that the People are attempting to insert the fact that Dena Candelario went missing to unfairly raise the suspicions of the jury as to the murder of Defendant's second wife. As such, Defendant would then be in the position to either remain silent or to present evidence that is unrelated to the actual case at bar to show that Defendant was not involved with the disappearance of Dena. Defendant also argues that he would also have to explain his religion and positions on remarriage, adultery, and murder. Further, at the hearing held on June 22, 2015, the defense indicated that they do not object to the evidence regarding Defendant's involvement and membership in the Jehovah's Witness church. However, the defense objected to the evidence regarding both Dena and Dana and any evidence regarding the Jehovah's Witness teachings on the grounds of relevance and improper 404(b) evidence.

Subsequently, in their Offer of Proof, the People revised and rephrased the evidence they seek to introduce. The People indicate that they will not seek to introduce any facts related to Dena Candelario other than those facts specifically listed in the Offer of Proof. The People indicate that there are many facts related to Dena that have been omitted, including any speculation by the Defendant's former girlfriend Dana Franklin that the Defendant might have murdered Dena Candelario. Instead, it appears that the People seek to reference the legal divorce Defendant obtained from Dena and that she abandoned him and the boys. They contend that they are not seeking to introduce evidence tending to suggest that the Defendant hurt Dena in any way. The People provide a list of potential witnesses who would provide this evidence, including an expert witness to testify about the practices of the Jehovah's Witness church. The

People argue that this is not 404(b) evidence and that it should only be subjected to the balancing test under C.R.E. 403. They contend that under C.R.E. 403, the probative value of all of this evidence pertaining to the Defendant's relationship with the Jehovah Witness Church, including the difficulties he faced in divorcing Dena according to Church guidelines, is not substantially outweighed by the danger of unfair prejudice or other evidentiary concerns. The People further contend that it is impossible to fully understand the Defendant's relationship with Pam and the Defendant's motives without this evidence.

In response, Defendant renewed his objections to this evidence. In sum, the Defendant maintains that there is an inevitable presumption by the jury, whether argued by the prosecution or not, that Defendant had something to do with Dena's disappearance and therefore the prejudicial nature of this evidence, and the additional time and evidence it would entail, should render it inadmissible under either C.R.E. 404(b) or C.R.E. 401, 402 and 403. The Court agrees with Defendant.

The rules of evidence strongly favor the admissibility of relevant evidence unless otherwise directed by constitution, statute, or rule. *People v. Kaufman*, 202 P.3d 542, 552 (Colo. 2009). This principle is "tempered by a desire to prevent unfair prejudice that would substantially outweigh the probative value of the evidence at trial." *Id.* (*citing* C.R.E. 403). C.R.E. 404(b) prohibits the introduction of "other crimes, wrongs or acts" introduced to prove the defendant's character and conformity therewith. Evidence is designated as "other act" evidence if it "involves a separate and distinct episode wholly independent from the offense charged." *People v. Quintana*, 882 P.2d 1366, 1372 (Colo. 1994).

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 Defendant guilty 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 or explain his personality. *Kaufman*, 202 P.3d at 552. 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. See *People v. Garner*, 806 P.2d 366, 373-74 (Colo. 1991); *People v. Spoto*, 795 P.2d 1314, 1218 (Colo. 1990). Before admitting the proffered evidence, a trial court must find (1) that it relates to a material fact; (2) that it is logically relevant; (3) that its logical relevance is independent of the intermediate inference, prohibited by C.R.E. 404(b), that the defendant has a bad character, which would then be employed to suggest the probability that the defendant committed the crime charged; and (4) that the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice. *Garner*, 806 P.2d at 373 (*quoting Spoto*, 795 P.2d at 1318). In addition, the court must determine by a preponderance of the evidence that, in light of all of the evidence before it, the other act did occur and the defendant did commit the act. *Id.*

However, Colorado has recognized a theory for the admissibility of other acts evidence outside of Rule 404(b) called res gestae. Res gestae "is a theory of relevance which recognizes that certain evidence is relevant because of its unique relationship to the charged crime." *People v. Thomeczek*, 284 P.3d 110, 114 (Colo. App. 2011). It includes incidental matters necessary to explain the charged crime, and provides the fact-finder with a full and complete understanding of

the events surrounding the crime and the context in which the charged crime occurred. *Id.* (citing *People v. Rollins*, 892 P.2d 866, 872-73 (Colo. 1995) and *People v. Lucas*, 992 P.2d 619, 624 (Colo. App. 1999)). “Generally, res gestae evidence is linked in time and circumstances to the charged crime, it forms an integral and natural part of the crime, or it is necessary to complete the story of the crime for the jury.” *People v. Skufca*, 176 P.3d 83, 86 (Colo. 2008). The Colorado Supreme Court has stated that evidence of events that are “inextricably intertwined” with the charged crime constitute admissible res gestae evidence. *Quintana*, 882 P.2d at 1372. To be admissible, res gestae evidence needs to be relevant, its relevance must not be outweighed by the danger of unfair prejudice, and the procedural requirements of C.R.E. 404(b) do not apply. *Thomeczek*, 284 P.3d at 114.

Applying the authority set forth above, the Court **FINDS** that the proffered evidence would be improper C.R.E. 404(b) evidence and should therefore be excluded. The Court **FINDS** that this evidence is not related to a material fact, nor is it logically relevant. The Court also **FINDS** that any probative value of this evidence would be substantially outweighed by the danger of unfair prejudice to the Defendant.

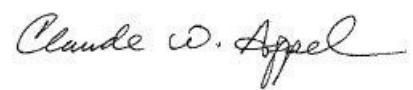
Alternatively, the Court **FINDS** that the proffered evidence is not res gestae evidence. The Court disagrees with the People that this evidence is needed to provide the jury with a full and complete understanding of the events surrounding the crime and the context in which the charged crimes occurred or that it is necessary to complete the story of this crime for the jury. The Court **FINDS** that the proffered evidence is not necessary to explain the charges in the case. The prosecution will be able to tell the story regarding the charged crimes and their theory that the Defendant murdered his wife and staged the crime scene to look like a home invasion without the proffered evidence. Further, the Court **FINDS** that the proffered evidence is not inextricably intertwined with the charged crimes, is not linked in time or circumstances to the crimes charged, and does not form an integral and natural part of the crimes. The Court also **FINDS** that the proffered evidence is not relevant and **FINDS** that any probative value would be substantially outweighed by the danger of unfair prejudice. The Court also notes that this evidence would result in “the side show taking over the circus.” Therefore, the Court concludes that the proffered evidence not res gestae and is inadmissible.

Lastly, the Court notes that the Defendant has not objected to the proffered evidence regarding Defendant’s involvement and membership in the Jehovah’s Witness church. Therefore, the Court does not address that portion of the proffered evidence in this Order.

IT IS ORDERED that the People’s Motion to Introduce *Res Gestae* Evidence is **DENIED** as set forth above.

Dated this 10th day of August, 2015.

BY THE COURT:



Claude W. Appel, District Judge