

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO,

Plaintiff,

v.

D-101-CR-2023-00040

HANNAH GUTIERREZ-REED,

Defendant.

**MOTION IN LIMINE TO PROHIBIT USE OF OTHER ACTS EVIDENCE NOT
NOTICED PURSUANT TO RULE 11-404(B)(3)**

Defendant Hannah Gutierrez-Reed, by and through her counsel of record, Jason Bowles of Bowles Law Firm, and Todd J. Bullion of Bullion Law Office, respectfully moves this Court to enter an order exclude from evidence any other acts evidence that has not been noticed pursuant to Rule 11-404(B)(3). In support the following is offered:

Rule 11-404(B)(3) requires that written notice be given before trial that provides reasonable notice of other acts evidence the state will seek to admit into evidence:

(3) Notice in a criminal case. In a criminal case, the prosecution must

- (a) provide reasonable notice of any evidence of crimes, wrongs, or other acts that the prosecutor intends to offer at trial, so that the defendant has a fair opportunity to review it;
- (b) articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose; and
- (c) do so in writing before trial, or in any form during trial if the court, for good cause, excuses lack of pretrial notice.

Rule 11-404 - Character evidence; crimes or other acts, N.M. R. Evid. 11-404

As of January 16, 2024 the government has not provided any such notice of intent to use other acts evidence. Any other acts evidence that the state has not properly noticed should be excluded. The notice provided under this rule requires that the specific rationale supporting the other acts evidence being admitted into evidence be provided in writing. Rule 11-404(B)(3)(b). The purpose of this is to avoid pre-trial surprise and allow for focused motions practice on areas of disagreement as to the admissibility of this type of evidence. At present the Defense anticipates that the government may seek to utilize other acts evidence of a motorcycle evidence. A separate motion in limine has been filed on that issue. The Defense cannot anticipate each and every other act that the government may seek to introduce into evidence – and the Defense certainly cannot anticipate the grounds the government will offer for admission.

The State opposes this motion.

Conclusion

Wherefore, Defendant prays that the government be prohibited from introducing into evidence any other acts evidence that has not been noticed by the government pursuant to Rule 11-404(B)(3) prior to trial.

Respectfully submitted,

/s/ Jason Bowles

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was sent through the ESF system, which caused the following parties to be served by electronic means, as reflected on the Notice of Electronic Filing this 16th day of January, 2024, to the counsel listed below:

Kari Morrisey
Jason Lewis
Special Prosecutors
1st Judicial District Attorney's Office

/s/ Jason Bowles
Jason Bowles
Bowles Law Firm