

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2022-KK-01322

VS.

RODERICK HACKETT

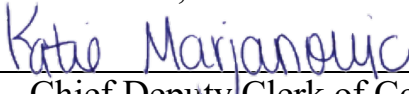
IN RE: Roderick Hackett - Applicant Defendant; Applying For Supervisory Writ,
Parish of Jefferson, 24th Judicial District Court Number(s) 19-4706, Court of
Appeal, Fifth Circuit, Number(s) 22-K-277;

December 06, 2022

Writ application granted. See per curiam.

WJC
JLW
JDH
SJC
JTG
JBM
PDG

Supreme Court of Louisiana
December 06, 2022



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2022-KK-01322

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VS.

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On Supervisory Writ to the 24th Judicial District Court, Parish of Jefferson

PER CURIAM

Louisiana Code of Evidence article 404(B)(1) provides:

Except as provided in Article 412, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.

Pursuant to this article, the general rule is that evidence of other crimes or bad acts committed by a criminal defendant is not admissible at trial. The legislature provided for two exceptions: (1) when the evidence tends to prove one of the enumerated purposes; or (2) when the evidence forms part of the *res gestae* of the charged offense. These exceptions are not without limits. The State must establish independent relevance apart from showing defendant's general criminal character. *State v. Garcia*, 09-1578 (La. 11/16/12). Further, the evidence must tend to prove a material fact genuinely at issue. *State v. Lee*, 05-2098, p. 44 (La. 1/16/08), 976 So.2d 109, 139. Additionally, the State must prove the defendant committed the other acts. *Id.* Lastly, the probative value of the extraneous crimes evidence must outweigh its prejudicial effect. La. Code Evid. art. 403; *State v. Hatcher*, 372 So.2d 1024, 1033 (La. 1979).

Here, to prove intent, the State seeks to introduce evidence regarding overdoses of third parties that allegedly occurred as a result of the defendant's prior distribution of heroin in 2016. While this falls within the scope of the enumerated purposes of article 404(B)(1), the State does not show how overdoses are relevant to proving intent in the instant charge of possession with intent to distribute. The defendant is not charged with murder, manslaughter, or any other crime of bodily injury; thus, the overdose evidence does not tend to prove a material fact genuinely at issue. Nor does the State prove that the defendant's act of distribution in 2016 *caused* the overdoses. Thus, the requirement that the State prove the defendant committed the other act (of overdosing a third party) is not met. Last, the probative value of evidence showing the defendant's distribution led to two people overdosing is substantially outweighed by the danger of unfair prejudice. Thus, the first exception of admitting evidence for the enumerated purpose of intent fails.

Next, as evidenced by its argument at the motion in limine hearing, the State contends the overdose evidence is admissible as *res gestae* evidence. In order to qualify as such, the evidence must constitute "an integral part of the act or transaction *that is the subject of the present proceeding.*" La. Code Evid. art. 404(B)(1) (emphasis added). This court has approved the admission of other crimes evidence when it is related and intertwined with the *charged* offense to such an extent that the State could not have accurately presented its case without reference to it. *State v. Boyd*, 359 So.2d 931, 942 (La.1978). The purpose behind the *res gestae* exception is to allow the State to "complete the story of the *crime on trial* by proving its immediate context of happenings near in time and place." *State v. Brewington*, 601 So. 2d 656, 657 (La. 1992) (emphasis added).

The State's inclusion of the overdoses as relevant to the narrative surrounding the controlled buy in 2016, which led to the 2016 arrest, is *res gestae* as to the 2016 charge. It is not *res gestae* as to the 2019 charge, which *is the subject of the present*

proceeding. Overdose evidence that gives context to the 2016 offense, which led to the defendant's 2016 arrest and conviction, is not necessary to complete the State's story of the crime on trial—the 2019 offense. There is no dispute the defendant committed the 2016 offense. He pled guilty to attempt to distribute heroin and was convicted. The defendant does not object to the admissibility of the 2016 conviction as it is relevant to show intent. However, the overdose evidence surrounding that 2016 conviction has no independent relevance to prove intent, nor does it constitute an integral part of the 2019 transaction or act. The State fails to show that an exception to the general rule of exclusion of other crimes or bad acts would apply with respect to the overdoses allegedly related to the previous convictions. While the evidence of the prior conviction is admissible, any evidence related to the overdoses must be excluded. Accordingly, we reverse the lower courts' ruling on the motion in limine, finding no evidence of the 2016 overdoses is admissible.