

STATE OF LOUISIANA

NO. 25-K-98

VERSUS

FIFTH CIRCUIT

WINSTON BARTHOLOMEW

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Jalisa Walker
Deputy, Clerk of Court

March 13, 2025

Jalisa Walker
Deputy Clerk

IN RE STATE OF LOUISIANA

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE NANCY A. MILLER,
DIVISION "I", NUMBER 24-2925

Panel composed of Judges Fredericka Homberg Wicker,
Marc E. Johnson, and Timothy S. Marcel

WRIT DENIED; REQUEST FOR STAY DENIED

Relator, the State of Louisiana (“the State”), seeks review of the trial court’s March 7, 2025 ruling that denied the State’s notice of intent to introduce evidence under La. C.E. art. 404(B). Defendant, Winston Bartholomew, has been charged with the second degree murder of Gary Olver. Allegedly, the victim died after being beaten by Defendant on or about May 14, 2024. In its notice, the State sought to introduce evidence of a May 2009 incident involving Defendant, where he was alleged to have severely beaten the ex-husband of a woman with whom he was visiting. It argued that, given the similarities between Defendant’s instant crime and the May 2009 incident, the other crimes evidence tends to show that Defendant acted with the requisite criminal intent in 2009 as to the instant crime. The State also argued that the May 2009 incident shows Defendant’s lack of mistake and knowledge that the crimes were not accidents.

Generally, evidence of other crimes or bad acts committed by a criminal defendant is not admissible at trial. *State v. Curington*, 09-867 (La. App. 5 Cir. 10/26/10), 51 So.3d 764, 770, *writ denied*, 10-2612 (La. 4/8/11), 61 So.3d 684, citing La. C.E. art. 404(B)(1). However, when evidence of other crimes tends to prove a material issue and has independent relevance other than to show that the defendant is of bad character, it may be admitted by certain statutory and jurisprudential exceptions to this rule. *Id.* The probative value of the extraneous evidence must outweigh its prejudicial effect. *Id.* Absent an abuse of discretion, a trial court's ruling on the admissibility of evidence pursuant to La. C.E. art. 404(B)(1) will not be disturbed. *Id.*

In its denial, the trial court found the May 2009 incident to be "too remote in time to be sufficiently probative of the occurrence of the crime herein to warrant its admission." It reasoned that the May 2009 incident occurred approximately 15 years prior to the current incident, and there was no evidence of any intervening, similar bad act. The court further reasoned that any tendency the May 2009 incident may have to show intent, *modus operandi*, identity, or absence of mistake, is outweighed by the danger of unfair prejudice to Defendant. After review, on the showing made, we cannot find that the trial court abused its discretion in excluding evidence of the May 2009 incident at trial.

Accordingly, we deny the writ application. Additionally, we deny the State's request for stay of the trial.

Gretna, Louisiana, this 13th day of March, 2025.

MEJ
FHW
TSM

SUSAN M. CHEARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. WISEMAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **03/13/2025** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-K-98

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Nancy A. Miller (DISTRICT JUDGE)
Thomas J. Butler (Relator)

Miles Swanson (Respondent)
Darren A. Allemand (Relator)

MAILED

Honorable Paul D. Connick, Jr. (Relator)
District Attorney
Twenty-Fourth Judicial District
200 Derbigny Street
Gretna, LA 70053