

IN THE CIRCUIT COURT OF THE  
FOURTH JUDICIAL CIRCUIT, IN AND  
FOR DUVAL COUNTY, FLORIDA.

CASE NO.: 16 2015 CF 006602

DIVISION: CR-B

STATE OF FLORIDA

VS.

WILLIAM R. EBRON

MOTION TO EXCLUDE OTHER  
CRIMES, WRONGS OR ACTS EVIDENCE AND  
MOTION TO STRIKE ALL UNSPECIFIED CRIMES, WRONGS OR ACTS

Defendant, WILLIAM R. EBRON, by and through the undersigned attorney, the Public Defender for the Fourth Judicial Circuit of Florida, moves this Honorable Court to exclude from the trial of this cause alleged crimes, wrongs or acts evidence. Furthermore, Defendant moves to strike the State's Amended Notice insofar as it purports to provide notice of any unspecified crimes, wrongs or acts. As grounds, Defendant states:

1. On November 25<sup>th</sup>, 2015, the State filed its Notice of Other Crimes, Wrongs or Acts Evidence. Following this Court granting Defendant's Motion to Strike, the State filed another pleading entitled Notice of Other Crimes, Wrongs or Acts Evidence on December 7<sup>th</sup>, 2015. For clarity, the December 7<sup>th</sup> pleading will be referred to as the State's Amended Notice.
2. The State, pursuant to its Amended Notice, attempts to seek introduction of several months of alleged drug activity. The State provided a "representative sample" of these alleged incidents, identifying the controlled substance(s) involved and the time frame of the alleged drug activity. Defendant submits that the introduction of any unspecified crimes, wrongs or acts evidence would run afoul of Florida Statute

§90.404(2)(d)(1) and would constitute harmful error. See Scott v. State, 957 So.2d 43, 44 (Fla. 1<sup>st</sup> DCA 2007); Sabine v. State, 58 So.3d 943, 948 (Fla. 2<sup>nd</sup> DCA 2011)(holding that failing to provide notice as to the “dates, locations, or details” of the uncharged activity fails to satisfy the notice requirements of S. 90.404); Gardner v. State, 821 So.2d 1220, 1222 (Fla. 2<sup>nd</sup> DCA 2002)(reversing defendant’s conviction due to the State failing to provide proper notice of its intent to introduce evidence of uncharged offenses). To the extent that the State’s Amended Notice might be construed to provide notice to Defendant of other crimes, wrongs or acts not plead “with the particularity required of an indictment or information,” Defendant moves to strike those portions of the State’s Amended Notice.

3. Concerning those allegations identified in the State’s Amended notice, there is not clear and convincing evidence of the alleged other crimes, wrongs or acts. See McLean v. State, 934 So.2d 1248, 1256 (Fla. 2006)(holding that prior to the introduction of *Williams* rule evidence, the State must prove, by clear and convincing evidence, that the defendant committed the collateral acts).
4. The evidence of the other alleged acts is not relevant to prove a material fact in issue.
5. The sole purpose and effect of the admission of such acts is an attempt to demonstrate the bad character of the accused or to suggest to the jury criminal propensity. This fact is demonstrated by the State’s repeated claim that this alleged activity shows Defendant’s “pattern of conduct.”
6. Admission of evidence of these acts would promote confusion of the issues, thereby undermining the reliability of any verdict in this cause.
7. Admission of evidence of these acts would necessarily become a feature of the trial, given the duration and number of alleged acts cited by the State.
8. Admission of evidence of these acts is prohibited because any probative value is substantially outweighed by the danger of unfair prejudice. §90.403 Florida Statutes.

9. Admission of evidence of these acts would violate Defendant's right to due process of law guaranteed by Amendments Five and Fourteen, Constitution of the United States, Article 1, Section 9, Constitution of the State of Florida.

WHEREFORE, Defendant respectfully requests the Court to enter an order in accordance with the above request.

I HEREBY CERTIFY that a copy of the above and foregoing Motion to Exclude Other Crimes, Wrongs or Acts Evidence has been furnished to the Office of the State Attorney, by hand, this 11th day of December, 2015.

Respectfully submitted,

MATT SHIRK  
PUBLIC DEFENDER

BY: /S James J. Boyle  
James J. Boyle, #35412  
Assistant Public Defender

/jb