

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

IN THE COURT OF GENERAL SESSIONS)
FOURTEENTH JUDICIAL CIRCUIT)

STATE OF SOUTH CAROLINA)

Indictment Numbers: 2022-GS-15-00592)
2022-GS-15-00593)
2022-GS-15-00594)
2022-GS-15-00595)

v.)

RICHARD ALEXANDER)
MURDAUGH,)

ORDER GRANTING MOTION OF STATE TO)
ADMIT EVIDENCE OF OTHER CRIMES)

DEFENDANT.)

This matter is before the Court on the motion of the State to admit evidence pursuant to Rule 404(b) of the South Carolina Rules of Evidence (SCRE). The defendant is on trial for the murders of his wife and son that occurred on June 7, 2021. The trial of this case began on January 23, 2023. The State seeks to introduce evidence of other crimes, wrongs, or acts of Defendant to show motive and/or intent. The Court held an *in camera* hearing over the course of several days during the second and third week of the trial. After hearing the testimony of numerous witnesses and reviewing the exhibits submitted as well as considering the totality of the evidence presented thus far during the trial, the Court, as set forth herein, hereby grants the motion.

The Law

“Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith.” Rule 404(b), SCRE. An exception exists, however, when the evidence is offered to show “motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.” *Id.* Prior to allowing the admission of evidence of other crimes, wrongs, or acts, the Court must first determine that the evidence is relevant. Rule 401, SCRE, defines relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”

After determining relevance, the Court must determine if the evidence falls within an exception of Rule 404(b), SCRE. In determining if an exception exists, the “evidence must be logically relevant to the particular purpose or purposes for which it is sought to be introduced,” which requires the Court to analyze whether a logical nexus exists. *State v. Bell*, 302 S.C. 18, 27, 393 S.E.2d 364, 369 (1990). *See also, State v. Lyle*, 125 S.C. 406, 416, 118 S.E.2d 803, 807 (1923). Evidence is logically relevant when “it reasonably tends to prove a material fact in issue.” *State v. Lyle*, 125 S.C. 460, 118 S.E.2d 803, 807 (1923). The evidence of the other crimes must be proven by clear and convincing evidence and the Court is required to conduct a Rule 403, SCRE, analysis.

State’s Contentions

The defendant is accused of murdering his wife, Maggie Murdaugh and son, Paul Murdaugh on June 7, 2021. At the time of the murders, the defendant was a practicing attorney in private practice and a volunteer prosecutor for the State. According to the State, the nexus is supported by the unusual circumstances of the murders, that the defendant was the last person to see his wife and son alive, and the one who discovered their bodies in a relatively short period of time. During the *in camera* hearing, the State presented evidence of numerous financial crimes allegedly committed by the defendant. During the hearing, the State argued that the logical nexus between the alleged murders and the other crimes is that the looming exposure of financial crimes provides motive for the murders and is evidence of malice. On June 7, 2021, the defendant was confronted about \$792,000 missing from the law firm. Beyond the \$792,000, the State contends that millions of dollars misappropriated by Defendant would imminently be exposed.

Jeannie Seckinger, the bookkeeper for the law firm, testified to confronting Defendant on the day of the murders about the \$792,000 missing from a case he worked on with Attorney Chris Wilson. Seckinger previously questioned the defendant concerning the improper disbursement of

fees in the case of the Estate of Hershberger, wherein Defendant sought to put fees in the name of his wife to hide them from the boat case. Seckinger testified to the firm conducting a forensic audit, which documented millions of dollars in misappropriated funds that the law firm had to replace.

Defendant and his son, Paul, were sued following a fatal boat crash and Defendant had been served with a motion to compel his financial information. In addition to being confronted about missing fees on the day of the murders, Defendant was preparing for the motion to compel hearing set to convene in three days.

Additionally, Jan Malinowski, President and CEO of Palmetto State Bank, provided testimony and documentation that Defendant owed millions of dollars to Palmetto State Bank while often carrying a negative account balance. Michael Gunn, a consultant with Forge Consulting, LLC, testified that Defendant created a fake bank account using the name of his company. According to the testimony of Seckinger, this fake Forge account was used as a main depository for the misappropriated funds. Chris Wilson, an attorney and close friend of Defendant, testified to confronting Defendant about the \$792,000 that Defendant later confessed to having stolen along with a multitude of other financial crimes.

Michael Satterfield, who Defendant represented in a wrongful death lawsuit allegedly against himself involving the death of Satterfield's mother, Defendant's housekeeper, also testified. Satterfield testified that, around the time of the murders, Defendant denied receiving a settlement in the wrongful death lawsuit. Satterfield had heard reports to the contrary. Defendant later entered a confession of judgment in the sum of \$4,304,000 in the case. Carson Burney, a forensic financial analyst for the office of the State Attorney General, testified that he traced deposits in and out of Defendant's various bank accounts. Attorney Mark Tinsley, testified to suing

the defendant in the fatal boat crash case and the defendant sought to prevent disclosure of his financial information.

Findings

The Court has considered all of the contentions of the State and finds that this evidence is relevant as it tends to support the contention of the State that Defendant sought to divert attention from the looming exposure of theft, fraud, and deceit that he committed against his clients, friends, family, law firm, and business associates. Additionally, Defendant introduced motive as an issue when he stated to law enforcement that he believed the murders were connected to the boat case. For those reasons, the Court finds a logical nexus exists between the alleged other crimes, wrongs, and acts, and the murders.

Since the evidence of other crimes, wrongs, or acts is not the subject of convictions, the allegations must be proven by clear and convincing evidence. Clear and convincing evidence is such evidence that leaves the fact finder with a firm belief of the facts to be proven. *See Satcher v. Satcher*, 351 S.C. 477, 483, 570 S.E.2d 535, 538 (Ct. App. 2022). The State alleges four schemes employed by the Defendant to steal money from and deceive his clients, friends, family, law firm, and business associates. The State presented compelling testimony from the following witnesses: Jeannie Seckinger, Michael Gunn, Attorney Chris Wilson, Jan Malinowski, Michael Satterfield, Carson Burney, and Attorney Mark Tinsley. Based on the overwhelming amount of evidence submitted for the purposes of this hearing, the Court finds that the State has established the above by clear and convincing evidence.

Rule 403, SCRE, Analysis

If the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, then, although relevant, it may be excluded. Rule 403, SCRE. This Court finds that the probative value is not substantially outweighed by the danger of unfair prejudice. Considering the

totality of what has been presented and since the identity of the perpetrator is disputed, the Court finds that the State is entitled to have the jury consider whether the apparent desperation of Defendant resulted in the commission of the crimes alleged.

While motive is not a necessary element of the crime of murder, the State must prove malice and evidence of motive may be used to prove it. Additionally, the identity of the perpetrator is a critical element that must be proven beyond a reasonable doubt and evidence of motive may be used to meet that burden. The evidence of the other crimes is admissible for non-propensity purposes and does not suggest to the jury that Defendant has a tendency to commit murder.

The Court specifically finds that evidence of these other crimes will not lure the jury into declaring guilt on a ground different than the specific charges of murder, thus it is non-propensity evidence. Therefore, this non-propensity evidence of other crimes is admissible under Rule 404(b) and Rule 403.

Res Gestae

The State alleges that on June 7, 2021, Defendant was under immense pressure after being confronted about missing fees, the upcoming hearing on the motion to compel his financial information, his dire financial straits, and the looming exposure of years of criminal activity, led to the murder of his wife and son.

Our Courts have held that where evidence of other crimes is “an integral part of the crime” for which the defendant is charged or it is “needed to aid the fact finder in understanding the context with which the crime occurred,” then that evidence is admissible under the theory of *res gestae*. *State v. King*, 334 S.C. 504, 512, 514 S.E.2d 578, 582 (1999). The Court finds that the activities and conduct of the Defendant on or about June 7, 2021, is admissible under *res gestae*. This evidence “furnishes part of the context of the alleged crime...is necessary to the full

presentation of the case...and is so intimately connected with and explanatory of the crime charged under the theory of the State” that proof of it is essential to complete the story. *Id. See also State v. Adams*, 322 S.C. 114, 470 S.E.2d 366 (1996). Our courts have further declared that where the full presentation of the evidence is admissible, “there is no reason to fragmentize the event under inquiry by suppressing parts of the *res gestae*.” *Id.*

Where the Court properly admits evidence as part of *res gestae*, a 404(b) or *Lyle* analysis is not reached. *See State v. McGee*, 408 S.C. 278, 290, 758 S.E.2d 730, 736, n. 5 (Ct. App. 2014).

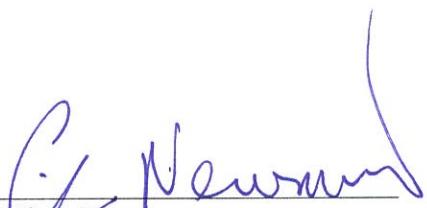
However, as to finding the admissibility of evidence within the *res gestae*, the Court has conducted a Rule 404(b) or *Lyle* analysis, even if not needed.

Conclusion

The State’s motion to admit evidence of other crimes should be granted. Based on the reasons set forth above, having considered the State’s contentions, and having considered the arguments of Defense Counsel, the Court finds that evidence of other crimes as requested by the State is admissible.

Therefore, for all the reasons stated, the motion of the State is GRANTED. A limiting instruction will be given to the jury upon request of Defendant.

AND IT IS SO ORDERED.


Clifton Newman
Presiding Judge

February 6, 2023
Walterboro, South Carolina