

THE STATE OF NEW HAMPSHIRE  
HILLSBOROUGH COUNTY SUPERIOR COURT – NORTHERN DISTRICT

HILLSBOROUGH, SS.

JULY TERM 2024

STATE OF NEW HAMPSHIRE

V.

ALEXANDRA ECKERSLEY

216-2022-CR-3011

**DEFENDANT’S MOTION IN LIMINE TO EXCLUDE IMPROPER CHARACTER  
EVIDENCE**

NOW COMES Alexandra Eckersley, by and through counsel, Kimberly Kossick and Jordan A. Strand and requests this Court prohibit the State from offering irrelevant and improper character evidence at trial. Ms. Eckersley makes this request pursuant to her rights to due process, to present all proofs favorable, to compulsory process, and to effective assistance of counsel as afforded to her by Part 1, Article 15 of the New Hampshire Constitution and the 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments of the Federal Constitution. Furthermore, the Defense makes this request pursuant New Hampshire Rules of Evidence 401, 403, and 404

In support of the motion, the following is stated:

**FACTS**

1. The State has accused Ms. Eckersley [hereinafter Allie] of reckless conduct, falsifying physical evidence, second-degree assault and endangering the welfare of a child. These accusations stem from Allie unexpectedly giving birth in a tent in the woods in the late night of December 25, 2022.
2. At trial, the defense will offer the testimony of Dr. Mathilde Pelapat.



6. This Motion is redacted as it references information obtained from confidential medical records that should not come in at trial and therefore should remain under seal.

**ARGUMENT**

7. This Court has broad discretion when determining what evidence is relevant. *N.H. R. Evid. 401*; *State v. Mazzaglia*, 169 N.H. 489, 492 (2016); *State v. Milton*, 169 N.H. 431, 435 (2016). However, the evidence the defense seeks to exclude has no relevance to the charges in this matter.

8. Even if the Court found that the evidence had some relevance it should be excluded because the probative value is substantially outweighed by the danger of unfair prejudice. *See N.H. R. Evid. 403*.

9. Additionally, “evidence of a person’s character or a trait of character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion.” N.H. Rule of Evidence 404(a). General character evidence of the accused is specifically excluded.

10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. Testimony or other evidence regarding alleged misconduct is inadmissible pursuant to New Hampshire Rule of Evidence 404(b), which provides that evidence of other crimes, wrongs or acts is not admissible to prove the character of a person to show that she acted in conformity therewith. Rule 404(b) does provide that such evidence may be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.
13. To admit 404(b) evidence the proponent must show: (1) the evidence is relevant for a purpose other than proving the defendant's character or disposition; (2) there is sufficient evidence to support a finding by the fact-finder that other crimes, wrongs, or acts occurred and that the person committed them; and (3) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice to the defendant.
14. If the State contends that this testimony is admissible under Rule 404(b), it "must state the specific purpose for which the evidence is offered and must state the precise chain of reasoning by which the offered evidence will tend to prove or disprove an actual issue in dispute, without relying upon forbidden inferences of predisposition, character or propensity." *State v. McGlew*, 139 N.H. 505, 509–10 (1995).
15. "Evidence of prior bad acts is inherently prejudicial and carries substantial weight with the jury." *State v. Michaud*, 135 N.H. 723, 728 (1992).
16. Any testimony regarding prior bad acts should be excluded as evidence regarding those allegations would have "an undue tendency to induce a decision against the defendant on [an] improper basis . . . ." See *State v. Cochran*, 132 N.H. 670, 672 (1990) (citations omitted).

17. [REDACTED]

[REDACTED]

18. [REDACTED]

[REDACTED]

19. Allowing the State to offer testimony regarding these specific instances of conduct would have “an undue tendency to induce a decision against the defendant on [an] improper basis . . . .” *See Cochran*, 132 N.H. at 672 (citations omitted).

WHEREFORE, the defense requests that this Honorable Court:

- (A) Prohibit the State from admitting irrelevant and improper character evidence at Trial; and
- (B) Hold a hearing on this Motion if necessary; and
- (C) Issue findings of facts and rulings of law if this Motion is denied; and
- (D) Grant other relief deemed equitable and just.

Date: July 5, 2024

Respectfully submitted,

/s/ Jordan A. Strand  
Jordan A. Strand #272303  
New Hampshire Public Defender  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion has been sent via the Court's e-filing system this 5<sup>th</sup> day of July 2024 to Assistant County Attorney Shawn Sweeney and Alexander Gatzoulis with the Hillsborough County Attorney's Office – North.

/s/ Jordan A. Strand

Jordan A. Strand, Esq.