

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, S.S.
216-2022-CR-03011

SUPERIOR COURT
NORTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

ALEXANDRA ECKERSLEY

**OBJECTION TO DEFENDANT’S MOTION
TO EXCLUDE EVIDENCE OF THE DEFENDANT’S CHARACTER**

NOW COMES, the State of New Hampshire by and through the Hillsborough County Attorney’s Office, Shawn P. Sweeney, with this objection to the “defendant’s motion in limine to exclude improper character evidence” in the above captioned matter and states as follows:

FACTS

1. The defendant is charged with Reckless Conduct, Falsifying Physical Evidence, Second Degree Assault and Endangering the Welfare of a Child arising from false statements the defendant made to rescuers attempting to find a baby the defendant left in the woods where the ambient temperature was approximately 18 degrees Fahrenheit.
2. Over the State’s objections, the Court has ordered that Dr. Pelaprat will be allowed to testify, not to “whether the defendant acted with the required intent on the night in question”, but “to the defendant’s mental state and mental health conditions rather than her ability to form a specific kind of intent”. Hillsborough County Superior Court Order (Messer, P.J.), *State v. Alexandra Eckersley*, 216-2022-CR-03011 (05/17/2024).
3. The Court’s order goes on to describe diagnoses that Dr. Pelaprat either determined or adopted from her review of many years of mental health records, police reports, audio/video recording from the night of the crimes, and her interactions with defense counsel, the defendant’s parents, and the defendant. *Id.*

4. The State has consulted with Kathleen Czarneck, Psychiatric Nurse Practitioner, APRN, PMHNP-C, FNP-C, a board-certified nurse practitioner and family nurse practitioner who specializes in depression, anxiety, ADHD, PMDD, PPD, PTSD, OCD, eating disorder, sleep issues, and bipolar disorders, to review the reports and conclusions of Dr. Pelaprat. Ms. Czarneck has reached very different conclusions based on her review of the same materials.
5. Accordingly, the State seeks to admit rebuttal evidence from Kathleen Czarneck's testimony at trial.

ARGUMENT

6. The evidence the State seeks to admit is admissible because it is (1) proper character evidence, (2) relevant, and (3) not substantially more prejudicial than probative in a Rule 403 analysis.

Character Evidence

7. In the instant case, the defendant has made clear her intent to offer pertinent traits of her character as part of her defense. Evidence to rebut such representations is admissible, even if it was offered for the purpose of proving that the defendant acted consistently with those prior behaviors. See N.H. R. Evid. 404(a)(1). The jury cannot "understand the defendant's complex mental health history and how it could have impacted the defendant's actions on the night in question" without knowing the complexities that are not consistent with Dr. Pelaprat's opinions. Hillsborough County Superior Court Order (Messer, P.J.), *State v. Alexandra Eckersley*, 216-2022-CR-03011, (05/17/2024).
8. The defendant's motion asks the Court to allow the defendant to delve into the defendant's history back to the age of 2, while prohibiting the State from offering any evidence from the defendant's history against Dr. Pelaprat's representations regarding the defendant's mental state. Evidence of other acts may be admissible for the purpose of proving that the defendant's false statements to rescuers were no mistake or accident. N.H. R. Evid. 404(b)(1).

Relevance

9. “Evidence is relevant if it has any tendency to make a fact [of consequence] more or less probable than it would be without the evidence.” N.H. R. Evid. 401. The evidence must also be relevant for a purpose other than proving character. See N.H. R. Evid. 404(b)(2)(A).

10. The State agrees with the defense position that the proffered testimony regarding the defendant’s history back to the age of 2 is not relevant to any fact at issue at trial. However, “[a]t trial, the defense will offer the testimony of Dr. Mathilde Pelaprat.” Defendant’s Motion in Limine to Exclude Improper Character Evidence, Par. 2, *State v. Alexandra Eckersley*, 216-2022-CR-03011 (6/25/24).

11. If, at trial, the defense elicits testimony as to the defendant’s mental state or mental health conditions, this will open the door for the State to elicit evidence that rebuts the defense’s assertions which would then be facts of consequence. These facts of consequence would support the State’s contention that the defendant did not accidentally give false statements. Accordingly, the State must be allowed to offer relevant evidence that rebuts the defense’s contentions.

403 Analysis

12. “The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of... unfair prejudice.” N.H. R. Evid. 403.

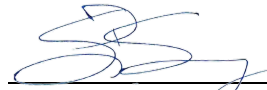
13. Should the defense offer evidence of the defendant’s pertinent character traits, the State’s rebuttal to those traits is at worst just as prejudicial to the defendant as probative so long as the State addresses only those traits and the jury receives a limiting instruction as to the purpose of the character evidence. Because the State only seeks to rebut evidence the defense introduced, the scales are weighed far from the prejudicial effect substantially outweighing the probative value.

14. Furthermore, the defendant's mental state at the time of the offenses is the only fact that is not video/audio recorded and/or medically documented. The State has no other possible method of proving this necessary element. Because of the necessity of the evidence, it is highly probative. Accordingly, the State should be allowed to offer evidence to rebut the defendant's character evidence.

Wherefore, the State respectfully requests that this honorable Court,

- A. Deny defendant's motion to exclude and,
- B. Such other relief as the Court deems just and equitable.


Respectfully Submitted,
State of New Hampshire,



Shawn P. Sweeney, Esq. #14940
Hillsborough County Attorney's Office
300 Chestnut Street
Manchester NH 03101
(603) 627-5605

CERTIFICATION

This motion has been uploaded and filed this date in accordance with eFile & Serve rules.



Shawn P. Sweeney