

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

MERRIMACK COUNTY SUPERIOR COURT

STATE OF NEW HAMPSHIRE

V.

Eric Sweeney

217-2023-CR-721

Defense Response to State's Motion in Limine Regarding Defendant's Behavioral Issues

NOW COMES the defendant, Eric Sweeney, by and through counsel, Lauren E. Prusiner, Esq., and respectfully requests this Honorable Court deny the State's "Motion in Limine: Defendant's Behavioral Issues (Guilt Phase). In support of this motion, he sets forth the following:

1. The State filed a motion to to admit certain alleged behaviors by Eric Sweeney. These behaviors are defined by the State as follows:

[T]he defendant would not follow house rules, including secreting food in his room and using tools without permission, and would lie to Sean and Kassandra. These house rules violations resulted in Kassandra and Sean Sweeney punishing the defendant, yelling at him, and calling the police to talk to him.
2. It is unclear whether the State seeks to admit behaviors other than "secreting food in his room and using tools without permission." The defense does not object to admission of these particular facts. The broader statement of "would not follow house rules" is objectionable because it is vague and overbroad. Without specific examples, the defense cannot adequately respond to such a statement. They also allege that he "would lie to Sean and Kassandra," but do not give specific examples of this. A bald statement that he generally lied amounts to impermissible general character evidence under New Hampshire Rule of Evidence 404 (a), particularly if the State is offering it to say that Eric was generally a liar, and therefore his statements to police should also be perceived as lies.
3. By introducing the vague allegations that Eric "would lie to Sean and Kassandra" and "would not follow house rules," the State is seeking to introduce evidence that Eric did not follow rules and was generally untrustworthy, in an attempt to make the jury believe that he was more likely to commit the charged crimes.

4. The State also presents a 404(b) analysis. As stated above, we do not object to the specific examples that Eric would hide food in his room and use tools without permission. We do object to general statements that Eric was a liar and that he did not follow house rules.
5. It is difficult to analyze these statements under 404(b) because they are not specific enough to engage in a 404(b) analysis. As stated above, they fit better under 404(a). However, we are compelled to note that the State's 404(b) analysis is flawed.
6. Under the 3 prong test for admissibility under Rule 404(b), the Court must find that "(1) the evidence is relevant for a purpose other than character or disposition; (2) that there is clear proof that the defendant committed the prior act; and (3) that the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice to the defendant." State v. Roy, 167 N.H. 276, 287 (2015).
7. The State alleges that "clear proof is a non-issue," claiming that the requirement only necessitates the State present evidence that the defendant, and not some other person, committed the other act at issue. However, the cases they cite in support of that proposition have fact patterns where an act clearly occurred, and the only matter at issue was the identity of the perpetrator. In State v. Howe, 159 N.H. 366 (2009), the evidence was pornographic images downloaded from a computer at the home where the defendant had briefly resided. There was no doubt in that case that the images existed. The only issue was whether there was sufficient evidence to show it was the defendant, and not the homeowners, who had downloaded the images. Similarly, in State v. Michaud, 135 N.H. 723 (1992), the State sought to introduce evidence that the defendant had previously fractured a baby's leg. There was no dispute as to whether the leg was fractured; there was radiological evidence of the fracture. The issue was whether the State had sufficient evidence to show that the defendant was responsible.
8. Considering the vagueness of the State's allegations here, that he "did not follow house rules" and generally lied to his guardians, it is difficult to say how they can prove that the allegations have a factual basis. The State claims that Eric spoke about these issues in his interview. During his interrogation, Eric does admit that he used tools without permission and took his brother's car. He does not say generally that he did not follow any house rules, or that he routinely lied to his guardians.
9. The State argues that these general statements regarding lies and house rules are relevant to show motive, saying that they show Eric "harbored anger and hostility against the Sweeneys, which could give rise to violent actions against members of the household." There is an

unsubstantiated jump between lying and violations of house rules to the statement that Eric "harbored anger and hostility against the Sweeneys." This is a leap unsupported by evidence. Discovery indicates that Eric was grounded and that the police came and spoke to him about the incident with the tools. It does not indicate that he showed any anger toward the Sweeneys or that he made any associated threats of violence. Grounding a teenager is a normal punishment that does not constitute a motive for homicide.

10. Allowing the State to proffer the vague and unsubstantiated evidence that Eric "did not follow house rules" and routinely lied to his guardians is not relevant to the charges and would be more prejudicial than probative. It should be excluded.

Respectfully submitted,

 /s/Lauren Prusiner _____
Lauren E. Prusiner
N.H. Bar #19582
N.H. Public Defender
142 Portsmouth Ave, P.O. Box 679
Stratham, NH 03885
(603) 778-0526

CERTIFICATE OF SERVICE:

I hereby certify that a copy of this Defense Response to State's Motion in Limine Regarding Defendant's Behavioral Issues has been forwarded to the Office of the Attorney General on this 31st day of July, 2025.

 /s/Lauren Prusiner _____
Lauren E. Prusiner