

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

ROCKINGHAM, SS.

SEPTEMBER, 2025

STATE OF NEW HAMPSHIRE

v.

GENO MARCONI

**218-2024-CR-1426**

OBJECTION RE: POTENTIAL 404(b) EVIDENCE

NOW COMES the defendant, Geno Marconi, by and through counsel, Richard E. Samdperil and Joseph E. Welsh, and hereby objects to the introduction of any alleged other crimes, wrongs or acts. In support of this motion, the following is stated:

1. Geno Marconi is charged with two felonies and four misdemeanors in connection to allegations that he provided a motor vehicle record to another person, and deleted a voicemail or voicemails from his phone.
2. On September 4, 2025, the State sent a letter to defense counsel advising that it intends to introduce evidence pursuant to New Hampshire Rule of Evidence 404(b).
3. The defendant objects to the introduction of any such evidence.
4. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. N.H.

R. Evid. 404(b) (1). The purpose of Rule 404(b) “is to ensure that an accused is tried on the merits of the crime charged and to prevent a conviction that is based upon propensity and character inferences drawn from evidence of other crimes or wrongs.” *State v. Moses*, 2025 N.H. 36, ¶ 11 (citations and quotation omitted).

5. In this matter, the State does not offer evidence of criminal convictions, as the defendant has none. Rather, the State seeks to introduce other extrinsic acts for some as yet unspecified purpose.

6. Evidence of other crimes, wrongs, or acts is admissible only if: (1) “it is relevant for a purpose other than proving the person's character or disposition”; (2) “there is clear proof, meaning that there is sufficient evidence to support a finding by the fact-finder that the 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.” N.H. R. Ev. 404(b)(2).

7. The State bears the burden of demonstrating the admissibility of bad acts. *See Moses* at ¶ 11. In offering evidence of other wrongs or acts under Rule 404(b), the State “must state the specific purpose for which the evidence is offered and must articulate the precise chain of reasoning by which the offered evidence will tend to prove or disprove an issue actually in dispute, without relying upon forbidden inferences of predisposition, character, or propensity.” *State v. Ayotte*, 146 N.H. 544, 547 (2001).

8. In its letter advising the defense of its intent to introduce 404(b) evidence, the State provides no reasons for why this evidence should be admitted. The defendant therefore objects to the introduction of any such evidence. Even if the State were to articulate some reason for the admissibility of such evidence, the defense objects

to any such evidence that does not meet the test for admissibility under Rule 404(b) as set forth by the language of the Rule and applicable caselaw.

WHEREFORE, the defendant, Geno Marconi, respectfully requests this Court note this objection, and issue an order precluding the State from introducing 404(b) evidence at the defendant's trial.

To the extent the State seeks to introduce any material that is subject to a protective order, the defendant requests this Court hold a separate, closed proceeding to address such evidence.

DATED: September 25, 2024.

Respectfully submitted,

/s/ Richard E. Samdperil

Richard E. Samdperil, N.H. Bar no. 11036  
and

/s/ Joseph E. Welsh

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### **CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Discovery has been forwarded this 25<sup>th</sup> day of September 2024, through the New Hampshire Judicial Branch electronic case filing system (e-file) with service to registered parties, attorneys Dan Alan Jimenez and Joe Michael Finchman of the New Hampshire Attorney General's office.

/s/ Richard E. Samdperil

Richard E. Samdperil