

IN THE CIRCUIT COURT OF MAYCOMB COUNTY, ALABAMA

STATE OF ALABAMA,

*

*

v.

*

Case No. CC-00-0000

*

JOE CLIENT.

*

**MOTION FOR DISCLOSURE OF ANY ALLEGED PRIOR WRONGS,
CRIMES, OR ACTS THE STATE INTENDS TO INTRODUCE AT TRIAL**

Joe Client respectfully moves this Court to order the State to disclose any prior wrongs, crimes, or acts allegedly committed by Mr. Client that the State intends to introduce at trial. In support of this motion, Mr. Client submits the following:

1. Mr. Client has been charged with capital murder and the State is seeking the death penalty.

2. Alabama Rule of Evidence 404(b) requires that, when requested by the accused, the prosecution give reasonable notice in advance of trial about “the general nature of any [] evidence [of other crimes, wrong, or acts] it intends to introduce at trial.” See also Ala. R. Crim. P. 16.1; Brady v. Maryland, 373 U.S. 83, 87 (1963); Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989).

3. Evidence of prior bad acts or convictions is presumptively inadmissible because it lacks probative value and leads juries to believe that a defendant is more likely to have committed the alleged offense because he committed prior acts of misconduct. Even when evidence contains some probative value, the highly prejudicial nature of the evidence renders it inadmissible.

4. Federal and state law generally bar the state from introducing evidence of a defendant’s prior bad acts against him. See Old Chief v. United States, 519 U.S. 172, 181 (1997) (“Although . . . ‘propensity evidence’ is relevant, the risk that a jury will convict for crimes other than those charged — or that, uncertain of guilt, it will convict anyway because a bad person deserves punishment — creates a prejudicial effect that outweighs ordinary relevance.”) (citation omitted); Ex parte Drinkard, 777 So. 2d 295, 302 (Ala. 2000) (reversing capital conviction and death sentence because trial court admitted evidence of defendant’s alleged involvement in collateral burglary); Ex parte Woodall, 730 So. 2d 652, 665-66 (Ala. 1998) (reversing capital conviction and death sentence where trial court improperly admitted impeachment evidence of three prior uncharged acts of violence); Ala. R. Evid. 404(b) (“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.”); see also Ex parte

Billups, 86 So.3d 1079, 1084 (Ala. 2010) (explaining rule 404(b) is “a principle of *limited admissibility*”).

5. Moreover, because this is a capital case, there exists a greater need for reliability, necessitating a judgment based on the law and evidence rather than passion or conjecture. “The fundamental respect for humanity” underlying the Eighth Amendment’s prohibition against cruel and unusual punishment gives rise to a special need for reliability in determining whether the death penalty is appropriate. Johnson v. Mississippi, 486 U.S. 578, 584 (1988); see also Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989) (death penalty is “special circumstance” that justifies expansion of constitutional rights).

6. For these reasons, defense counsel must receive notice of the alleged prior wrongs, crimes, or acts the State intends to introduce at trial so that counsel has adequate time to investigate the allegations and present argument to enable this Court to make a reasoned determination regarding the admissibility of propensity evidence.

7. The failure of the prosecutor to disclose the information requested in this motion would violate Mr. Client’s rights to due process, a fair trial, and a reliable sentencing protected by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

For these reasons, Mr. Client respectfully moves this Court to order the State to provide advance notice of any prior acts, crimes, or wrongs allegedly committed by Mr. Client about which it intends to introduce evidence at trial.

Respectfully submitted,

/s/ Linda Lawyer
Linda Lawyer
123 Main Street
Maycomb, AL 54321
(334) 987-6543
lawyer@email.com

Counsel for Joe Client

[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/04/17]