

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

People of the Virgin Islands,

Plaintiff,

v.

Ronald Hatcher,

Defendant.

Criminal No. SX-14-CR-131

Charge(s):

Murder in the Second Degree;
Reckless Endangerment in the First
Degree; and Carrying or Using a
Dangerous Weapon During the
Commission of a Crime of Violence

Appearances:

PATRICIA QUINLAND, ESQ.

R. OLIVER DAVID, ESQ.

Assistant Attorney General

U.S. Virgin Islands Department of Justice

6040 Castle Coakley

Christiansted, St. Croix 00820

For Plaintiff

YOHANA MANNING, ESQ.

Manning Legal Services, P.C.

53A Company St., 2nd Fl.

Christiansted, St. Croix 00820

For Defendant

MEMORANDUM OPINION

Facts:

Mr. Ronald Hatcher has been charged in an Information with one (1) count of Murder in the Second Degree, one (1) count of Reckless Endangerment and one (1) count of Carrying or Using a Dangerous Weapon During the Commission of a Crime of Violence, in relation to the shooting death of Jose Rivera Berrios.

In advancing his defense, Hatcher has alleged that Rivera Berrios had committed acts of violence evidencing his hostility towards authority. Specifically, Hatcher alleges that

1. On April 9, 2009, at or around 2:15 a.m. the complaining witness Jose Rivera Berrios (“hereinafter Berrios”) destroyed a window at the federal courthouse. He was processed and released. As a condition of his release, Berrios was to stay a certain distance away from the Federal Building. Despite this order, on April 11, 2009, Berrios returned to the federal building and continued to destroy property.
2. On January 11, 2013, at or around 11:15 a.m. the complaining witness was present in the Steeple Building, otherwise referred to as the local headquarters of the National Park Service. Defendant was on the second floor and threatened to “kill us all” according to the secretary there. A physical encounter ensued between the park ranger and Berrios.

Hatcher seeks to introduce these two instances of the violent conduct of Rivera Berrios into evidence to substantiate his claim of a reasonable fear of imminent injury on the occasion for which the Information charges him with criminal offenses.

Procedural Posture:

Defendant Ronald Hatcher (hereinafter “Defendant”) filed a motion on February 2, 2018 requesting that this Court permit the introduction of evidence of prior acts of the decedent. The Defendant contends that the prior incidents of the decedent’s conduct are offered for the purpose of showing the Defendant’s state of mind and thereby the reasonableness of the Defendant’s use of force.

The Legal Standard:

Virgin Islands Rules of Evidence Rule 404(b) states substantially as follows:

- (1) ***Prohibited Uses.*** Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.
- (2) ***Permitted Uses; Notice in a Criminal Case.*** Evidence of a crime, wrong, or other act may be admissible for other purposes, such as addressing issues, if actually contested in the case, concerning motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident – provided that the probative value of such proof, supported by specific facts and circumstances, substantially outweighs its prejudicial effect. On request by a defendant in a criminal case, the prosecutor must:
 - (A) provide reasonable notice of the general nature of any such evidence that the prosecutor intends to offer at trial; and
 - (B) do so before trial – or during trial if the court, for good cause, excuses lack of pretrial notice.

Since the Virgin Islands Rules of Evidence mirrors the Federal Rules of Evidence, the precedence in federal courts provides persuasive authority for the admission of evidence in the Superior Court of the Virgin Islands. Rule 404(b)(2) allows the admission of evidence of crimes, wrongs, or other acts for non-propensity purposes, “such as providing motive, opportunity, intent, preparations, plan, knowledge, identity, absence of mistake or lack of accident”. *Tyson v. People of the Virgin Islands*, 59 V.I. 391, 422 (V.I. 2013) citing Fed. R. Evid. 404(b)(2); *Christopher v. People*, 57 V.I. 500, 508 (V.I. 2010).

Discussion:

The Defendant has impressed upon this Court that the evidence of the decedent's prior acts are not being offered as evidence of the decedent's character or to show that the decedent acted in conformity with such character in relation to the circumstances of this case. Instead, the Defendant argues the evidence is offered for a non-propensity purpose, that is, to show the Defendant's state of mind.

The Supreme Court of the Virgin Islands has adopted the position of the Federal Courts in holding that Fed. R. Evid. 404(b) does not bar the admission of evidence of a witness' prior acts when the prior acts are offered from the defendant's personal knowledge to prove the necessary state of mind for self defense. *Christopher v. People of the Virgin Islands, supra*. Moreover, the United States Court of Appeals for the Eight Circuit has held that although specific acts evidence is not admissible to prove a victim acted in conformity with his character under Fed. R. Evid. 405(b), such evidence may be admissible under Fed. R. Evid. 404(b) to prove defendant's state of mind. Evidence of specific instances of a victim's prior violent conduct for purposes of proving a defendant's state of mind, however, is only admissible to the extent a defendant establishes knowledge of such prior violent conduct at the time of the conduct underlying the offense charged. *United States v. Gregg*, 451 F. 3d 930, 935 (8th Cir. 2006).

The Defendant relies on *United States v. Gregg, supra*, but has not provided any factual evidence showing the Defendant's knowledge of the decedent's prior violent conduct.

In the absence of evidence that Mr. Hatcher knew of the prior violent conduct of the decedent, the motion to admit evidence of such conduct under Fed. R. Evid. 404(b) is **DENIED** without prejudice.

Conclusion:

For the reasons stated above, Defendant's motion filed February 2, 2018 is **DENIED** without prejudice and all other motions respecting the admission of prior acts of the decedent are **DEEMED WITHDRAWN**.

It is so **ORDERED** this 19 day of March, 2018.



JOMO MEADE

Judge

Superior Court of the Virgin Islands

A T T E S T:
Estrella H. George
Clerk of the Court

By:


Court Clerk EH

Dated:

3/19/18