

Fifth Division  
September 25, 2020

No. 1-20-0374

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 16 CR 14533
	)	
WILLIE RANDOLPH,	)	
	)	Honorable Brian Flaherty,
Defendant-Appellee.	)	Judge, presiding.

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PRESIDING JUSTICE DELORT delivered the judgment of the court.  
Justices Hoffman and Rochford concurred in the judgment.

**ORDER**

¶ 1 *Held:* In this murder case, the circuit court did not abuse its discretion in refusing to admit proof of another crime. The prior crime was not sufficiently related to the charged crime to demonstrate *modus operandi* or the defendant's propensity to commit the offense, and the prejudice resulting from its admission would have outweighed its probative value.

¶ 2 The defendant, Willie Randolph, was charged with first degree murder in connection with the 1991 death of Cateresa Matthews. The State moved to admit evidence of another crime that Randolph allegedly committed. The circuit court denied the State's motion. We affirm.

¶ 3

### BACKGROUND

¶ 4 On December 8, 1991, the remains of Cateresa Matthews, a 14-year-old girl, were found in Dixmoor, Illinois. She had last been seen by a family member about two weeks earlier. Her body was found near the intersection of 143rd Street and Interstate 57, inside the fence line, west of the I-57 southbound lanes and approximately one block from Frank's Pizza restaurant. She was found lying on her back, naked from the chest down, with her legs spread, and her top pulled up over her bra. She died from penetrating skull and severe cerebral injuries caused by gunshot wounds to the head. Investigators took DNA swabs from her vagina and rectum.

¶ 5 Several defendants—known as the “Dixmoor Five”—were charged and convicted of Matthews's murder. Doubts about their guilt arose and in 2010, the circuit court ordered further DNA testing of the swabs. This testing began a course of events which eventually led to the exoneration of the Dixmoor Five. In 2016, after the test on the swabs showed a positive match to Randolph's DNA on file in the State's database, the State indicted him for the first degree murder of Matthews. The State charged Randolph with seven counts of first degree murder. Five of the counts were for first degree murder while committing a forcible felony: aggravated criminal sexual assault (Count 3), kidnapping (Count 4), aggravated kidnapping (Count 5), unlawful restraint (Count 6), and aggravated unlawful restraint (Count 7).

¶ 6 In preparation for Randolph's trial, the State moved to admit other crimes evidence. The State's motion alleged the following facts regarding the other crime:

“[C.B.] met Willie Randolph some time on or about June 20, 1979 when she was 15 years old. Randolph had just been released from IDOC for his rape conviction<sup>1</sup>. The second day after meeting Randolph, he brought [C.B.] to a viaduct in Dixmoor, IL near Frank’s Pizza. While at the viaduct, Randolph became aggressive with Ms. B[.] and attempted to have sexual intercourse with her. [C.B.] began to scream. Randolph pinned [C.B.] by placing one hand on her neck and one hand on her arm. Randolph applied pressure to [C.B.’s] neck until she began to lose consciousness at which time she stopped fighting Randolph. Randolph then proceeded to sexually assault [C.B.] at the viaduct. Randolph prepared and planned to take [C.B.] to the viaduct by Frank’s Pizza on several occasions where there was sexual conduct. Each time Randolph would bring a blanket and engage in sexual intercourse with [C.B.]. After the first sexual assault by Randolph [C.B.] stopped fighting off Randolph’s sexual advances so she wouldn’t get hurt. [C.B.] never filed a complaint against Randolph for rape. Ultimately, [C.B.] prematurely gave birth to Randolph’s son in July 1980.”

Randolph was never charged with any offense regarding the assault on C.B.

¶ 7 In opposition, Randolph argued—among other things—that the DNA test showed merely that Randolph had sex with Matthews sometime within 72 hours of her death. Following briefing and argument, the circuit court denied the motion to admit evidence of the C.B. allegations against Randolph in this case. The court briefly commented that the fact that both incidents occurred outside was not probative, as “most sexual assaults occur outside”. The court also

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<sup>1</sup> (Note by the court): It appears that the 1979 assault of C.B. occurred a few days after Randolph was released from prison for a prior offense, and the 1991 assault on Matthews occurred four to five months after he was released from prison a different time.

pointed out that there was no evidence presented “that there was ever a sexual assault involved in the murder of this young woman” and “I don’t even think I need to [apply the balancing test] because I don’t think the State has even gotten to the point where I need to do the balancing.”

¶ 8 The State moved to reconsider the court’s denial of its motion to admit prior crimes. On reconsideration, the State did not present any additional or new evidence. The court denied the motion to reconsider. The State filed a certificate of impairment pursuant to Illinois Supreme Court Rule 604(a)(1) (eff. July 1, 2017). This appeal follows.

¶ 9 ANALYSIS

¶ 10 Illinois Rule of Evidence 404(b) (eff. Jan. 1, 2011) states:

“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 \*\*\*. Such evidence may also be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.”

¶ 11 The Illinois Supreme Court has summarized the standards for admissibility of other-crimes evidence as follows:

“Evidence of crimes for which a defendant is not on trial is inadmissible if relevant merely to establish his propensity to commit crime. [Citations.] Such evidence overpersuades the jury, which might convict the defendant only because it feels he is a bad person deserving punishment. [Citations.] Evidence of the commission of other crimes is admissible, however, when such evidence is relevant to prove *modus operandi*, intent, identity, motive, or absence of mistake. [Citations.] In fact, this court has held that evidence of other crimes committed by the defendant may be admitted if relevant to

establish any material question other than the propensity to commit a crime. [Citations.] When such evidence is offered, the trial judge must weigh the relevance of the evidence to establish the purpose for which it is offered against the prejudicial effect the introduction of such evidence may have upon the defendant.” *People v. Pikes*, 2013 IL 115171, ¶ 13 (quoting *People v. Thingvold*, 145 Ill. 2d 441, 452 (1991)).

The concern regarding admission of evidence of other crimes “is not that such evidence is lacking in probative value, but that it may overpersuade the jury, which might convict the accused because it believes he or she is a bad person.” *Id.* ¶ 16 (citing *People v. Richardson*, 123 Ill. 2d 322, 339 (1988)).

¶ 12 We review a trial court’s decision to admit other-crimes evidence for “a clear abuse of discretion”. *People v. Wilson*, 214 Ill. 2d 127, 136 (2005). An abuse of discretion occurs if the trial court’s determination is arbitrary, fanciful, or unreasonable, or if no reasonable person would take the view adopted by the trial court. *People v. Illgen*, 145 Ill. 2d 353, 364 (1991).

¶ 13 Here, the State bases its argument for reversal largely around the doctrine of *modus operandi*, which is “an inference that a distinctive pattern of criminal activity earmarks the crimes as the work of a particular individual or group.” *People v. Robinson*, 167 Ill. 2d 53, 65 (1995). The similarity between the crimes must be “strong and persuasive.” *Id.* (quoting *People v. Tate*, 87 Ill. 2d 134 (1981)). While there must be a persuasive showing of similarity to establish *modus operandi*, “the test is not one of exact, rigorous identity \*\*\* and some dissimilarity will always exist between independent crimes.” *Id.* (quoting *People v. Phillips*, 127 Ill. 2d 499, 520-21 (1989) and *People v. Taylor*, 101 Ill. 2d 508, 521 (1984)). “The existence of some differences between the prior offense and the current charge does not defeat admissibility

because no two independent crimes are identical.” *People v. Donoho*, 204 Ill. 2d 159, 185 (2003), citing *Illgen*, 145 Ill. 2d at 373.

¶ 14 The State notes that while the C. B. incident involved a sexual assault, and this is a murder case, one of the counts against Randolph is for felony murder based on the aggravated sexual criminal assault of Matthews. The State points out that the victims were of similar ages and that Matthews’s state of undress also demonstrates that she was a victim of sexual assault. The State concludes that “The only real difference between these crimes was that he let the first victim live.”

¶ 15 Randolph counters that the two events in question took place 12 years apart and bear significant differences. Notably, he points out that the State fails to cite a single case in its brief where a court’s decision to deny admission of other crimes evidence was overturned on appeal.

¶ 16 While we agree with the State that the two crimes bear some similarities, we also agree with Randolph that there are substantial dissimilarities. In particular, the two crimes were committed over twelve years apart: 1979 and 1991. The State has not cited any authority where a court has allowed admission of prior crimes evidence when the two incidents were so far removed in time. While Matthews’s body was found on an embankment near the intersection of I-57 and 143rd Street, C.B. was not assaulted in an embankment, but rather in a viaduct, which might be nearby because both locations are described as being “near” Frank’s Pizza. C.B. and Randolph knew each other; Matthews was apparently a stranger. C.B. was choked, while Matthews was killed by a gunshot to the head. C.B. was the victim of a series of assaults over a period of time, and there is no evidence of any prior relationship between Matthews and Randolph.

¶ 17 Our supreme court has directed that, because admission of prior crimes evidence may overpersuade a jury, we must balance admission of the evidence against the possibility that it may prejudice the defendant. In light of the above-described differences between the two incidents, particularly the span of 12 years between them, we cannot say that the circuit court's decision to refuse admission of prior crimes evidence here was arbitrary, fanciful, or unreasonable.

¶ 18 Because we have found that the circuit court did not abuse its discretion with respect to its original order denying the State's motion to admit prior crimes, it necessarily follows that the court did not err in denying the State's motion for reconsideration.

¶ 19 **CONCLUSION**

¶ 20 For these reasons, we cannot find that the circuit court abused its discretion in refusing to evidence of the assault on C.B. as prior crimes evidence in this case. We affirm the order denying the State's motion and the order denying reconsideration.

¶ 21 Affirmed.