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STATE OF NEW JERSEY,	:	SUPERIOR COURT OF NEW JERSEY
	:	MONMOUTH COUNTY COURT
Plaintiff,	:	LAW DIVISION - CRIMINAL
	:	
v.	:	INDICTMENT NO.: 19-02-283-I
	:	PROSECUTOR FILE NO.: 18-4915
PAUL CANEIRO,	:	
	:	NOTICE OF MOTION
Defendant.	:	TO PRECLUDE GRAPHIC
	:	ON-SCENE/ AUTOPSY PHOTOS

TO: AP Christopher Decker & AP Nicole Wallace
Monmouth County Prosecutor's Office
132 Jerseyville Avenue
Freehold, NJ 07728

PLEASE TAKE NOTICE that on a date set by the Court, or as soon thereafter as counsel may be heard, Monika Mastellone, Esq., attorney for Defendant, Paul Caneiro, shall move before the Honorable Marc C. Lemieux, A.J.S.C., at the Monmouth County Superior Courthouse, 71 Monument Street, Freehold, New Jersey, for an Order granting preclusion of graphic on-scene/ autopsy photographs. The defendant will rely upon oral argument and the attached brief in support of this Motion.

/s/ **Monika Mastellone**

Monika Mastellone, Esq.

Attorney for Defendant

Dated: August 7, 2025

LEGAL ARGUMENT

POINT I

DEFENDANT’S MOTION TO PRECLUDE AUTOPSY PHOTOS AT TRIAL SHOULD BE GRANTED PURSUANT TO N.J.R.E. 401 AND N.J.R.E. 403.

N.J.R.E. 401 and 403 together form the basis of the trial court’s gatekeeping powers to assure that misleading and unhelpful evidence is not placed before the jury. State v. Chen, 208 N.J. 307, 318-19 (2011). To be admitted at a criminal trial, any proposed evidence must be “relevant,” meaning it has “a tendency in reason to prove or disprove any fact of consequence to the determination of the action.” N.J.R.E. 401; see also N.J.R.E. 402 (“All relevant evidence is admissible” unless otherwise excluded by the rules of evidence). Even relevant evidence, however, may be inadmissible if its “probative value is substantially outweighed by the risk of[] [u]ndue prejudice, confusion of issues, or misleading the jury[.]” N.J.R.E. 403(a). Evidence is considered unduly prejudicial under N.J.R.E. 403(a) if “it would divert jurors from a reasonable and fair evaluation of the basic issue of guilt or innocence.” State v. Wilson, 135 N.J. 4, 20 (1994).

Here, the defense does not dispute the death of the four victims in this case. Nor does the defense dispute the causes of their deaths or the fact that they were indeed the victims of the offenses charged. Therefore, photographs of their bodies taken on scene or during the autopsy procedures are not relevant to any material issue in this case. In addition to not being relevant, they are also unduly prejudicial to the defense. While the State is entitled to prove its case, the State’s use of gruesome, graphic photographs of the deceased victims’ bodies, two of which were young children who were killed in an indisputably brutal fashion, will merely serve to impede the jury from rendering a fair and impartial verdict. Such photographs are not a

necessary part of the State's case and serve no purpose other than to inflame the jury and prejudice them against the accused. They therefore should be excluded at trial. See Bruton v. United States, 391 U.S. 123, 131 n.6 (1968) ("An important element of a fair trial is that a jury consider only relevant and competent evidence bearing on the issue of guilt or innocence.").

A. Defendant's Motion to Exclude Autopsy Photos at Trial Should be Granted Pursuant to N.J.R.E. 401 Because the Photos Are Not Relevant.

A preliminary question for the Court in any evidence inquiry is whether the evidence is relevant. All relevant evidence is admissible unless it is forbidden by a specific rule. N.J.R.E. 402. Relevant evidence is evidence which has "a tendency in reason to prove or disprove any fact of consequence to the determination of the action." N.J.R.E. 401; see also N.J.R.E. 402 ("All relevant evidence is admissible" unless otherwise excluded by the rules of evidence).

The New Jersey Supreme Court has set forth the principles governing admission into evidence of photographs. In order to be admissible, photographs must be "logically relevant" to an issue of the case. State v. Bey, 112 N.J. at 123, 182 (1988); State v. Johnson, 120 N.J. 263, 297 (1990). The prosecution may not, however, "use at will any and all pictures at a murder trial as long as they possess[] some relevancy." Johnson, 120 N.J. at 297 (quoting State v. Bucanis, 26 N.J. 45, 53 (1958)). However, "[w]hether evidence is admissible depends upon a composite of factors, and its relevance may on occasion be overbalanced by more weighty considerations militating for exclusion." Ibid (quoting Bucanis, 26 N.J. 45 at 52).

Here, as noted *supra*, the on-scene and autopsy photos are not probative of any material fact in the case. The essential question for the jury to determine is whether the defendant knowingly/ purposely caused the victims' deaths. N.J.S.A. 2C:11-3A(1)/(2). The defense does not dispute that the victims in this case were murdered or that they suffered horrific deaths caused by gunshots, stab wounds, and/or smoke inhalation. Thus, given that the defense

concedes these facts, the only issue left for the jury to decide is whether the accused, Mr. Caneiro, was the person who committed the murders.

As such, the graphic on-scene/ autopsy photos which the defense seeks to exclude from trial provide no insight into whether it was this particular defendant is responsible for the murders of Keith, Jennifer, [REDACTED] and [REDACTED] Caneiro. Indeed, the graphic photos serve no relevant purpose with respect to the State's proofs or its burden in this case; rather, the photos of 4 victims – two of which are children, one which was shot numerous times, three of which were stabbed repeatedly, and two of which were badly burned – serve only to inflame the passions of the jurors to the grave detriment of the defendant.

B. Defendant's Motion to Exclude Autopsy Photos at Trial Should be Granted Pursuant to N.J.R.E. 403 Because the Undue Prejudice of Their Admission Would Substantially Outweigh Their Probative Value.

Even if the Court finds the graphic photographs to be relevant, they remain inadmissible pursuant to N.J.R.E. 403, pursuant to which relevant evidence may be inadmissible if its “probative value is substantially outweighed by the risk of[] [u]ndue prejudice, confusion of issues, or misleading the jury[.]” In a broader sense, evidence is considered unduly prejudicial under N.J.R.E. 403(a) if “it would divert jurors from a reasonable and fair evaluation of the basic issue of guilt or innocence.” State v. Wilson, 135 N.J. 4, 20 (1994). Further, to qualify as unduly prejudicial, the probative value of the evidence must be “so significantly outweighed by its inherently inflammatory potential as to have a probable capacity to divert the minds of the jurors from a reasonable and fair evaluation of the issues.” State v. Cole, 229 N.J. 430, 448 (2017) (internal quotation marks omitted). The inquiry is therefore “whether the risk of undue prejudice was too high.” State v. Trinidad, 241 N.J. 425, 449 (2020) (emphasis in original). To this point, “evidence of an

inflammatory nature must be excluded under Evidence Rule 403 if probative, non-inflammatory evidence on the same point is available.” State v. Wilson, 135 N.J. 4, 20 (1994) (emphasis added).

In the more specific context of graphic photographs, our Supreme Court has explained:

It is true that ordinarily a trial court has the discretion to admit in evidence a photograph in spite of its inflammatory nature if it is sufficiently probative of some material fact and regardless of whether it constitutes cumulative evidence. State v. Myers, 7 N.J. 465 (1951); State v. Smith, supra, 32 N.J. at p. 525. But the fact that a photograph may have some probative force is not alone determinative of its admissibility. Its relevance to an issue in the case may be overbalanced by its prejudicial quality. In the present case, the photographs could only have been introduced to establish the cause of death. But there was ample testimony by the medical examiner and the pathologist as to the cause of death. Indeed, it was uncontested. There was no evidence in the case which required buttressing with these photographs of the victim's brain which we consider to be gruesome. We conclude that their relevance as evidence was substantially outweighed by their inflammatory nature and that if the state of proofs is the same at the retrial they should not be admitted in evidence. See State v. Bucanis, 26 N.J. 45, 53, 54 (1958), certiorari denied 357 U.S. 910 (1958).

State v. Walker, 33 N.J. 580, 596 (1960); see also Bucanis, supra, N.J. 45 at 53 (“[T]he fact that a photograph may have some probative force is not always completely determinative of its admissibility.”). Thus, there are cases, as here, where any purported logical relevance attached to such an exhibit will undoubtably be overwhelmed by its inherently prejudicial qualities.

Significantly, there is ample support for this conclusion in the case law. See State v. Rose, 112 N.J. 454, 536 (1988) (the bloodstained clothing worn by a murder victim when he was fatally shot should have been excluded on the grounds of undue prejudice); State v. Johnson 120 N.J. 263, 298 -299 (1990) (photographs of the scene of a multiple killing depicting the bodies of the victims to

show the pattern of blood stains, plus 42 slides depicting blood spatter exemplars should have been excluded on the grounds of undue prejudice.); State v. Jordan, 197 N.J. Super. 489, 497 – 498, 504 (App. Div. 1984) (autopsy photographs of the body of the decedent lying on his back, offered in a murder case where the fatal wound was a gunshot wound to the back should have been excluded on the grounds of undue prejudice).

However, if a gruesome photograph is going to be admitted at trial, such admission should only happen when “the trial judge, after a clear and precise statement from the prosecutor as to its probative value, concludes that the other evidence as a whole does not adequately demonstrate the facts sought to be proved by the photograph.” State v. Polk, 164 N.J. Super. 457, 464 (App. Div. 1977).

Additionally, it is indisputable that the Due Process Clause requires “a jury capable and willing to decide the case solely on the evidence before it, and a trial judge ever watchful to prevent prejudicial occurrences and to determine the effect of such occurrences when they happen.” Smith v. Phillips, 455 U.S. 209, 217 (1982); see also Ross v. Oklahoma, 487 U.S. 81, 85 (1988) (central to concept of fundamental fairness is notion that “defendant on trial for his life [has] the right to an impartial jury”). In fact, our Supreme Court has recognized that, “[b]ecause of the indelible impressions that are likely to result from videotaped and other filmed evidence, such evidence must be subject to careful scrutiny.” Id. at 20-21. Moreover, in State v. Thompson, our Supreme Court explained, “[i]t has long been the rule in this State that admissibility of photographs of the victim of a crime rests in the discretion of the trial court, and the exercise of its discretion will not be reversed in the absence of a palpable abuse thereof.” 59 N.J. 396, 420 (1971). Such abuse exists where the logical relevance will unquestionably be over-whelmed by the inherently prejudicial nature of the particular picture.” Thompson, supra, 59 N.J. at 420-21.

Here, any probative value which may be attached to these undeniably photographs is outweighed by their potential to confuse, distract, mislead, and inflame the passions of the jury. To be sure, research confirms that mock jurors who are shown gruesome photographs of injuries are more likely to vote to convict than those who only hear testimony about those same injuries. Jessica M. Salerno and Hannah J. Phalen, The Impact of Gruesome Photographs on Mock Jurors' Emotional Responses And Decision Making in a Civil Case, 69 DePaul L. Rev. 633, 640 (Winter 2020) (describing studies involving criminal and civil cases). Accordingly, as discussed, given the particularly gruesome nature of the deaths that occurred in this case, combined with the fact that two of the victims are young children, there is a heightened need to protect against unnecessary and undue prejudice.

Importantly, also relevant to the Court's analysis in an R. 403 balancing test is considering whether less inflammatory evidence or stipulations exist. See, e.g. State v. L.P., 325 N.J. Super. 369, 377-78 (App. Div. 2002) (citing State v. Thompson, 59 N.J. 396, 419-21 (1971)). As recognized in State v. Polk, 164 N.J. Super. 457, 464-65 (App. Div. 1977), aff'd o.b., 78 N.J. 539 (1978), inflammatory photographs should not be admitted when alternative evidence without such potentially emotional impact is available. See also State v. Moore, 122 N.J. 420, 468-69 (1991) (no need to admit gruesome photo to prove a factor that was clearly proven otherwise). Even photographs that establish the cause of death will be unnecessary where, as here, the cause of death is uncontested. Id. at 468; State v. Walker, 33 N.J. 580, 596 (1960).

Here, there is significant competent non-inflammatory evidence available to set forth the same point. There are multiple witnesses who observed the bodies on scene as well as during the autopsy. Both responding officers, firefighters, and the medical examiners will testify to these facts at trial. Thus, should the prosecution wish to elicit a description of the injuries and condition of the deceased, this can be accomplished through witness testimony. Additionally,

the causes and manners of death will certainly be admitted by the medical examiners. Because there are substantial sources of competent non-inflammatory evidence on the same point, the graphic on-scene and autopsy photos must be excluded. State v. Wilson, 135 N.J. 4, 20 (1994).

While the State is entitled to prove its case, the State's use of gruesome photographs of the deceased victims' bodies demonstrating the horrifying condition in which they were found, will surely serve to impede the jury from rendering a fair and impartial verdict. Such photos are not a necessary part of the State's case and there are substantial other sources of non-inflammatory evidence. Thus, the photos would serve no purpose other than to inflame the passions of the jury and stir sympathy for the victims. If this occurs, the defendant will be denied his right to due process and a fundamentally fair trial under the United States Constitution. The graphic photographs therefore must be excluded from trial.

CONCLUSION

For the foregoing reasons and legal authorities cited herein, the defendant respectfully requests that his Motion to Preclude and/or Sanitize Graphic Photographs be granted.

Respectfully Submitted,

/s/ Monika Mastellone
Monika Mastellone, Esq.
Attorney ID No. 122942014

CC: AP Christopher Decker; AP Nicole Wallace