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June 29, 2025

The Honorable Marc C. Lemieux, A.J.S.C.
Monmouth County Court House
71 Monument Park
Freehold, New Jersey 07728

Re: State of New Jersey v. Paul Caneiro
Indictment No. 19-02-0283; Case No. 18-4915
Motion In Limine to Admit Certain Evidence
Returnable: June 30, 2025

Dear Judge Lemieux:

Please accept this letter memorandum in lieu of a more formal brief in support of the State's Motion to Admit Certain Evidence. Particularly, the State seeks to offer two areas of evidence in its case-in-chief and respectfully requests a ruling in limine on same.

First, the State seeks to admit into evidence the fact that defendant (lawfully) owned and possessed a large amount of firearms, firearm related items and ammunition, as proof of defendant's 1) proficiency/marksmanship and 2) familiarity/knowledge of firearms. Second, the State seeks to admit into evidence the nature of defendant's relationship with Yisel Ristrepo, a witness for the State. As the State will explain below, both areas are admissible because they are relevant and their probative value is not substantially outweighed by the risk of undue prejudice.

Relevant evidence, as defined by N.J.R.E. 401, is evidence that has “a tendency in reason to prove or disprove any fact of consequence to the determination of the action.” State v. Williams, 190 N.J. 114, 122-23 (2007); State v. Bakka, 176 N.J. 533, 545 (2003). Determination of whether evidence is relevant centers on “the logical connection between the proffered evidence and a fact in issue, *i.e.* whether the thing sought to be established is more logical with the evidence than without it.” State v. Hutchins, 241 N.J. Super. 353, 358 (App. Div. 1990); State v. Koskovich, 168 N.J. 448, 480 (2001); State v. Darby, 174 N.J. 509, 519 (2002). In short, relevant evidence must have probative value – a “tendency . . . to establish the proposition that it is offered to prove.” Darby, 174 N.J. at 520; Hutchins, 241 N.J. Super. at 358. The test for relevance is broad and favors admissibility. State v. Deatore, 70 N.J. 100, 116 (1976). The “[e]vidence need not be dispositive or even strongly probative in order to clear the relevancy bar.’ The proponent need not demonstrate that the evidence . . . in and of itself, establish[es] or disprove[s] a fact of consequence[.]” State v. Cole, 229 N.J. 430, 447-448 (2017) (quoting State v. Buckley, 216 N.J. 249, 261 (2013)). Rather, “[o]nce a logical relevancy can be found to bridge the evidence offered and a consequential issue in the case, the evidence is admissible, unless exclusion is warranted under a specific evidence rule.” Cole N.J. at 448 (quoting State v. Burr, 195 N.J. 119, 127 (2008)).

N.J.R.E 403 authorizes exclusion of otherwise relevant evidence “if its probative value is substantially outweighed by the risk of . . . undue prejudice[.]” The burden rests with the party seeking exclusion of evidence to “convince the court that the factors favoring exclusion substantially outweigh the probative value of the contested evidence.” State v. Medina, 201 N.J. Super. 565, 580 (App. Div.), certif. denied, 102 N.J. 298 (1985); State v. Morton, 155 N.J. 383, 543 (1998), cert. denied, 532 U.S. 931 (2001) (quoting State v. Carter,

91 N.J. 86, 106 (1982)). “The mere possibility that evidence could be prejudicial does not justify its exclusion.” Morton, 155 N.J. at 453-454; State v. Bowens, 219 N.J. Super. 290, 296-97 (App. Div. 1987). Evidence should be excluded as unduly prejudicial only where “its probative value ‘is so significantly outweighed by [its] inherently inflammatory potential as to have a probable capacity to divert the minds of jurors from a reasonable and fair evaluation’ of the basic issues in the case.” Covell 157 N.J. at 568 (quoting State v. Thompson, 59 N.J. 396, 421 (1971)); State v. E.B., 348 N.J. Super. 336, 345 (App. Div.) certif. denied, 174 N.J. 192 (2002).

Admissibility of Firearms, Firearm Related Items and Ammunition

9 handguns (including the handgun that was used to shoot and kill Keith and Jennifer), 16 long guns, multiple boxes and cans of assorted ammunition, including Fiocchi 9mm (the same type of ammunition that was used to shoot and kill Keith and Jennifer), a Ghost Gunner 2 CNC Machine (a milling machine that can be used to manufacture parts for a ghost gun), multiple gun parts, multiple shooting accessories (stocks, scopes, holsters) a Laserlyte laser trainer switch kit 9mm box and a Laserlyte laser target (LaserLyte laser trainer is a device used for dry-fire practice), and gun cleaning supplies, were seized from defendant’s house at the time of his arrest and during the ensuing investigation.

Additionally, a backpack was seized from the Porsche Cayenne, the car that defendant removed from his garage, sat in, and ultimately drove to the police station on November 20, 2018. Located inside the backpack were, among other items,¹ the following: a 9mm – Para Sig gun barrel (later identified as the barrel that was inside of the handgun at the time it was used to shoot and kill Keith and Jennifer), a gun suppressor, a Flir One Pro thermal camera,

¹ Numerous items indicative of defendant’s ownership were located inside the backpack, including defendant’s passport, laptop, key fobs, debit and credit cards, business cards, an expired driver’s license, etc.

and a Mantis X Firearms Training System (a device utilized to achieve shooting mastery). There will also be testimony elicited at trial from multiple witnesses who will testify that defendant had taken them to shooting range(s).²

Defendant's marksmanship and proficiency with firearms are factors relevant to this case for the following reasons. Six shots were fired at Keith outside his home in the dark of night. Five of those shots hit their intended target: Keith was shot five times. He sustained gunshot wounds to his back, neck, face and head. In addition to being stabbed, Jennifer Caneiro was shot once in the head inside of her home. [REDACTED] autopsy report reflects (in addition to being stabbed multiple times and left to inhale smoke), that he sustained a possible atypical gunshot wound to the right side of his chin. His body was located in the kitchen, not far from a discharged bullet located on the kitchen floor. In light of these facts, a jury can reasonably infer that the person who committed these shootings must have been at least somewhat of a skilled shooter. As such, defendant's proficiency in shooting and marksmanship are indeed relevant.

The proffered evidence the State seeks to admit at trial, outlined above, is probative of defendant's marksmanship and proficiency with firearms. Particularly the Laserlyte items found in defendant's home and the Mantis X Firearm Training System found in his backpack—items designed to enhance accuracy and sharpshooting skills—as well as testimony regarding defendant's visits to shooting ranges, are relevant to demonstrating proficiency and marksmanship. In addition, the large cache of firearms defendant possessed, in conjunction with the multiple shooting accessories (stocks, holsters, scopes) and large quantity of assorted ammunition, suggest that defendant didn't just collect or have an interest

² This information is not new. It is contained in the discovery that had been turned over in 2019.

in firearms, but also practiced shooting. The fact that defendant possessed the aforementioned items is probative of that inference.

Another fact relevant to this case is defendant's familiarity with, and overall knowledge of, firearms and firearm mechanics. Defendant was careful to remove the barrel from the handgun he used in Colts Neck and to replace it with a "clean" barrel. Thus, while the handgun defendant utilized was found in his home, the barrel through which the bullets were fired was located inside of the backpack that was seized from the trunk of the Porsche Cayenne. Given these facts, jury can reasonably infer that only somebody familiar with firearms, firearm parts and firearm mechanics would have had 1) the foresight to replace the barrel of the handgun, (i.e., the knowledge that ballistics match bullets to barrels), and 2) the practical knowledge of how to switch out the barrel. The fact that defendant possessed multiple firearms, multiple firearm parts, firearm cleaning supplies and a Ghost Gunner Machine is probative of such knowledge and familiarity.

In State v. Loftin, the defendant was on trial for the shooting death of the victim, who had been robbed and shot in the head while working at a gas station. 146 N.J. 295, 318 (1996). The handgun used to murder the victim was ultimately located in the defendant's car, evidence that was offered by the State at trial. Id. at 322. Additionally, the State elicited the fact that the defendant possessed numerous rounds of ammunition, various items for making one's own ammunition, and a blank application for a gun club in his home. Ibid. The State further offered into evidence the fact that defendant's wallet contained a Washington State permit to carry concealed weapons and a business card for Target World, an indoor shooting range. Id. at 384. The State also introduced into evidence the fact that police located two

magazines and a side-kick shoulder holster that allows one to conceal a weapon underneath a jacket in defendant's car. Ibid.

On appeal, the defendant contested the introduction of the arsenal of bullets and bullet making equipment located in his home. Ibid. However, the New Jersey Supreme Court found that "[s]uch evidence is significant to show that defendant intended to kill" the victim "when he shot him in the head, and that the shot was not the result of an accidental discharge caused by an inexperienced marksman." The Court noted: "a clear image emerges of a man possessing a wealth of knowledge of the workings of firearms and equally vast firsthand experience in firing them." Ibid. The same holds true in the present case.

The defense in Loftin argued that even if such evidence was probative, it should have been inadmissible under N.J.R.E 403 because "it implied that [the] defendant had bad character and a propensity to commit criminal acts, and its probative value was therefore substantially outweighed by the risk of prejudice." Id. at 385. In rejecting that argument, the Court noted that the State never argued that the defendant's possession of the ammunition was illegal or that the ammunition was indicative of propensity to be dangerous. Ibid. The Court found that the evidence "did not prejudice the defendant in an inflammatory way" and stated that if the evidence "prejudiced [the] defendant at all, it was only because it tended to prove a material element of the case against him." Ibid.

Like in Loftin, the defendant here cannot meet his burden of establishing that the probative value of the evidence is substantially outweighed by the risk of undue prejudice. Defendant's ownership/possession of the items which the State seeks to introduce is not criminal/illegal. Nor would the State argue that it is indicative of propensity. Thus, like in Loftin, even if the evidence here is "shrouded with unsavory implications[.]" that "is no

reason for exclusion when it is a significant part of the proof.’’ Ibid (quoting State v. Stevens, 115 N.J. 289, 308 (1989)). Consequently, the probative value of the evidence is not substantially outweighed by the risk of undue prejudice. N.J.R.E. 403.

The Nature of Defendant’s Relationship with Yisel Ristrepo

The State intends to call Yisel Ristrepo as a fact witness. Her testimony will include the following areas. She will testify as to the timing and content of her conversations with defendant in the days and hours leading up to the murders, the last of those communications taking place at approximately 11:00 p.m. on November 19, 2018, only a few hours prior to the murders, and six hours prior to the fire starting at defendant’s home. This information is clearly relevant as it contributes to the State’s timeline of events, and will include the substantive content of what defendant said to Ms. Ristrepo during those times.

Ms. Ristrepo will also testify about the fact that defendant had taken her to a shooting range and that he routinely worked on guns. This information is relevant for the reasons discussed in the previous section of this brief regarding defendant’s proficiency and familiarity with firearms.

Additionally, she will testify about the money defendant spent on her and her children during the timeframe of the indictment (Counts 13 and 14), including a monthly car payment fee of \$756, multiple vacations which included two trips to Columbia (May ’17 and January ‘18), paying for her daughter’s college application fees, and the fact that defendant was looking for a place for them to live during the summer of 2018. She will additionally testify that defendant advised her he was having financial issues with the IRS, and that around September of 2018 (two months before the murders) he started to use her American Express credit card. Notably, this is corroborative of other portions of the State’s evidence, referenced

in the State's June 13, 2025 brief, indicating that defendant struggled with debt and bills in the months leading up to the murders. This information is highly relevant insofar as it lends to the financial motive for the murders. Maintaining his relationship with Yisel would cost money. Moreover, her testimony corroborates the fact that defendant was having financial troubles in the months leading up to the murders.

In State v. McGuire, the defendant was convicted of murdering her husband. 419 N.J. Super. 88, 103 (App. Div. 2011). The State elicited testimony from the defendant's paramour concerning his extramarital relationship with the defendant in order to "establish the nature of the extramarital relationship as relevant to defendant's motive to kill her husband. Id. at 140. On appeal, the defendant argued that the testimony should not have been admitted as it was too inflammatory. Ibid. The Appellate Division upheld the testimony, noting that "In criminal prosecutions, whenever the motive or the intent of the accused is important and material, a somewhat wider range of evidence is permitted in showing such motive or intent than is allowed in the support of other issues." Id. at 140 (quoting State v. Rogers, 19 N.J. 218 (1955)). The Appellate Division also noted the limited, proper use of the evidence by the State as well as the fact that the trial court provided a limiting instruction to the jury, reinforcing "the limited purpose of any testimony about problems in defendant's marriage." Id. at 140-141.

The same should hold true for the case at bar. A limiting instruction as to the nature of Ms. Ristrepo's relationship with defendant is the remedy for the aforementioned testimony. There is no way to logically sanitize the nature of their relationship, nor should it be sanitized. The fact that Ms. Ristrepo and defendant were in a romantic relationship not only gives context to her testimony, but it sheds light on defendant's financial motive as

discussed above. Furthermore, it makes defendant's arson of his "family" home less unfathomable. Notably, defendant and his wife, Susan, had been estranged and sleeping in separate bedrooms for some time. Susan slept in the master bedroom while defendant slept in a spare bedroom. Interestingly, the area where the main fire was set happened to be directly beneath the master bedroom which Susan had been asleep in.

Although the Appellate Division in McGuire upheld the admission of "the nature of the extramarital relationship as relevant to defendant's motive," without referencing 404b at all, the State submits that even if this Court should analyze the evidence through the lens of 404b, the Cofield³ factors would nonetheless warrant its admission.

N.J.R.E. 404b authorizes admission of "evidence of other crimes, wrongs, or acts" as proof of motive . . . when such matters are relevant to a material issue in dispute." See also State v. Rose, 206 N.J. 141, 158-159 (2011). In Cofield, the Court set forth four factors to be established by the offering party as prerequisites for the admission of such "other crimes" evidence:

1. The evidence of the other crime must be admissible as relevant to a material issue; 2. It must be similar in kind and reasonably close in time to the offense charged; 3. The evidence of the other crime must be clear and convincing; and 4. The probative value of the evidence must not be outweighed by its apparent prejudice.

127 N.J. at 338.

The first Cofield factor requires the "proffered evidence . . . be 'relevant to a material issue genuinely in dispute.'" Gillispie, 208 N.J. 59, 86 (2011) (quoting State v. Darby, 174 N.J. 509, 519 (2002)). Relevant evidence is evidence that has "a tendency in reason to prove or disprove any fact of consequence to the determination of the action." N.J.R.E. 401; Rose,

³ State v. Cofield, 127 N.J. 328 (1992).

206 N.J. at 160. The “special” relevance of motive evidence is well recognized. *State v. Calleia*, 206 N.J. 274, 293 (2011). Unlike other evidence of a defendant’s guilt, motive evidence has the “unique capacity to provide a jury with an overarching narrative, permitting inferences for why a defendant might have engaged in the alleged criminal conduct.” *Ibid*; see also *State v. Castagna*, 400 N.J. Super. 164, 179 (App. Div. 2008) (preclusion of motive evidence would hinder a prosecuting in a manner “equivalent” to a “production of *MacBeth* without the witches”). As such, “[a] wider range of evidence may be admissible to prove motive as long as there is a logical connection between the alleged motive and the other-crimes evidence.” *Castagna*, 400 N.J. Super. at 178; *State v. Covell*, 157 N.J. 554, 565 (1999); *Calleia*, 206 N.J. at 293. This is true even if the events relative to motive “occurred previous to the commission of the offense.” *Castagna*, 400 N.J. Super. at 178 (quoting *State v. Rogers*, 19 N.J. 218, 228 (1955)); *State v. Long*, 173 N.J. 138, 162 (2002).

The materiality of motive evidence is also long and well recognized. “[M]otive is a material issue in dispute where the defendant asserts innocence.” *Castagna*, 400 N.J. Super at 178; see also, e.g., *Rose*, 206 N.J. at 163, 165 (“although defendant did not expressly place the issue in dispute, his motive was material, and vitally so, because it was the string that tied the State’s entire case together. Without knowing that defendant was in prison on charges that he attempted to murder [the victim] at the time that [the victim] was killed, the jury would have been left without a crucial piece of evidence: why defendant wanted [the victim] killed”).

Here, defendant asserts his innocence. Thus, his motive—both for the murders and the arson to his own house—are material issues in dispute. *Castagna*, 400 N.J. Super at 178; *Rose*, 206 N.J. at 163. For the reasons outlined above, the nature of defendant’s relationship

with Ms. Ristrepo is highly relevant to motive. To be clear, the State has no intention of belaboring the nature of the relationship or arguing propensity. However, the reality is that there is no way to separate or sanitize her relationship to the defendant. Like in McGuire, the State's proper use of the evidence as well as a limiting instruction is the cure for any prejudice.

The second Cofield factor is not universally required. Rose, 206 N.J. at 160; Gillispie, 208 N.J. at 88-89. Instead, satisfaction of the similarity requirement is "limited to cases that replicate the circumstances in Cofield." Rose, 206 N.J. Super. at 160. In fact, "when motive is the object of the proffered evidence, similarity is not a requirement for admissibility." Castagna, 400 N.J. Super. at 179; State v. Collier, 136 N.J. Super. 181, 194 (App. Div.), aff'd, 162 N.J. 27 (1999).

The temporality requirement of the second factor does not require absolute contemporaneousness. To the contrary, "[o]ur courts have found the 'reasonably close in time' aspect to be satisfied" even where there has been a substantial passage of time. Castagna, 400 N.J. Super. at 179 (10 months); State v. Krivcska, 341 N.J. Super. 1, 41 (App. Div.), certif. denied, 170 N.J. 206 (2001), cert. denied, 535 U.S. 1012 (2002) (two years). The significance of the passage of time becomes even less important where "the evidence is proffered as an interrelated series of events . . . leading to defendant's criminal acts." Castagna, 400 N.J. Super. at 179.

Here, since motive is the object of the proffered evidence, the similarity requirement of factor two is inapplicable. Castagna, 400 N.J. Super. at 179; Collier, 136 N.J. Super. at 194. The temporality requirement is clearly satisfied because defendant was engaging in the

proffered conduct (being in a romantic relationship with Ms. Ristrepo) at the time of the crimes. As such, factor two is satisfied.

The third Cofield factor requires “the prosecution . . . establish that the act of uncharged misconduct which it seeks to introduce into evidence actually happened by ‘clear and convincing’ evidence.” Rose, 236 N.J. at 160 (quoting Cofield, 127 N.J. at 338); State v. Hernandez, 170 N.J. 106, 126-128 (2001) (finding “brutally honest” testimony of cooperating codefendant met clearer and convincing prong, even in the face of his admitted hostility to defendant, admission he would lie under oath, and his testimony was pursuant to a favorable plea agreement with the State).

Here, defendant’s years-long affair with Ms. Ristrepo was no secret. His family knew about it, Ms. Ristrepo spoke to investigators about it, and there is a plethora of evidence of same contained in the electronic devices of both defendant and Ms. Ristrepo, not to mention calls to Ms. Ristrepo from MCCI. Therefore, factor three is satisfied.

The fourth and final Cofield factor requires “the party seeking to admit other-crimes evidence . . . establish[] that the probative value of the other-crimes evidence is not outweighed by its apparent prejudice.” Castagna, 400 N.J. Super. at 175; see also N.J.R.E. 403. It is acknowledged that other crimes evidence has a prejudicial capacity “in that way that all highly probative evidence is prejudicial: because it tends to prove a material issue in dispute.” Rose, 206 at 164. Thus, “[t]he mere possibility that evidence could be prejudicial does not justify its exclusion.” Long, 173 N.J. at 164 (quoting State v. Morton, 155 N.J. 383, 453-454 (1998), cert. denied, 532 U.S. 931 (2001)). “‘That evidence is shrouded with unsavory implications is no reason for exclusion when it is a significant part of the proof. The unwholesome aspects, authored by defendant himself . . . , if the evidence is believed,

[is admissible if] inextricably entwined with the material facts.” Long, 173 N.J. at 164-165 (quoting State v. West, 29 N.J. 327, 335 (1959)).

The “determinative question” to be analyzed by the trial court is, therefore, whether the “evidence was unfairly prejudicial, that is whether it created a significant likelihood that the jury would convict defendant on the basis of the uncharged misconduct because he was a bad person, and not on the basis of the actual evidence adduced against him.” Rose, 206 N.J. at 164 (emphasis original); Gillispie, 208 N.J. at 90. To answer this question, “the trial court must engage in a careful and pragmatic evaluation of the evidence to determine whether the probative worth of the evidence is outweighed by its potential for undue prejudice.” Gillispie, 208 N.J. at 89-90 (quoting State v. Barden, 195 N.J. 375, 389 (2008)).

While the fourth Cofield factor “impos[es] a stringent standard for the admission of other-crime evidence, our courts have not frequently excluded highly prejudicial evidence under the fourth prong.” Long, 173 N.J. at 162. This is especially true where the other crimes evidence bears relevance to motive; “greater leeway is given when the evidence is proffered on the issue of motive, and there must be a ‘very strong’ showing of prejudice to exclude evidence of a defendant’s motive.” Castagna, 400 N.J. Super. at 180; Long, 173 N.J. at 164; Covell, 157 N.J. at 570; see also, Calleia, 206 N.J. at 294 (“[t]ime and again, courts have admitted motive evidence when it did no more than raise an inference of why a defendant may have engaged in criminal conduct, and even in the face of a certain degree of potential prejudice stemming from the evidence”).

This “broad allowance for motive evidence permits jurors, in their role as fact-finders and judges of credibility, to reject a given explanation for conduct as inconsistent with their understanding of human nature, or to accept a motive as a rational premise that could lead a

defendant to criminality.” Calleia, 206 N.J. at 294. As such, “[w]here the prosecution has a theory of motive that rests [even] on circumstantial evidence, that evidence should not be excluded merely because it has some capacity to inflame a juror’s sensibilities; to hold otherwise would preclude a jury from inferring a defendant’s ‘secret design or purpose.’” Ibid. (quoting State v. Rogers, 19 N.J. 218, 228 (1955)).

The probative value of the nature of defendant’s relationship with Ms. Ristrepo is not outweighed by its apparent prejudice. Castagna, 400 N.J. Super. at 175. As indicated above, any potential prejudice that would arise from the jury learning of the nature of the relationship would be cured by the proper use of the evidence as well as a liming instruction.

Based on the foregoing, the State submits that regardless of which analysis is applied—401/403 or 404b—the evidence the State seeks to offer is admissible.

CONCLUSION

For the foregoing reasons and authorities cited herein, the State respectfully requests its motion be Granted.

Respectfully submitted,

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