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MONMOUTH COUNTY PROSECUTOR

June 20, 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 to Exclude Select Statements Allegedly Made by Defendant
Returnable: June 20, 2025

Dear Judge Lemieux:

Please accept this letter in response to the above-captioned motion, by way of which defendant seeks an Order precluding select statements that were previously ruled admissible by this Court at a prior 104(c) hearing.

A N.J.R.E. 104(c) hearing must be conducted outside the jury's presence to determine the admissibility of a defendant's statement. See State v. Scott, 398 N.J. Super. 142, 153 (App. Div. 2006); State v. Gore, 205 N.J. 363, 382 (2011). N.J.R.E. 803(b)(1) is an exception to the general prohibition against the admission of hearsay contained in N.J.R.E. 802, rendering not excludable "[a] statement offered against a party which is ... the party's own statement." See also State v. Covell, 157 N.J. 554, 572 (1999); State v. Sheppard, 437 N.J. Super. 171 (App. Div. 2014); State v. Beckler, 366 N.J. Super. 16, 26 (App. Div.), certif.

denied, 180 N.J. 151 (2004). "A statement admitted under N.J.R.E. 803(b)(1) does not have to be contrary to the party's interest when made." Covell, 157 N.J. at 572; cf. N.J.R.E. 803(c)(25).

Other than meeting the requirements of the N.J.R.E. 803(b), few additional limitations are placed upon the admissibility of statements by a party-opponent where the party-opponent is the defendant in a criminal case. Covell, 157 N.J. at 572, 574; see also N.J.R.E. 401. "Generally, as long as there are no Bruton[1], Miranda[2], privilege or voluntariness problems, and subject to N.J.R.E. 104(c), the State may introduce at a criminal trial any relevant statement made by a defendant," "so long as the statement's probative value is not substantially outweighed by its prejudicial effect on the defendant under N.J.R.E. 403(a)." Ibid.; Sheppard, 437 N.J. Super. at 190-91.

In the present matter, a 104(c) hearing was already conducted, after which this Court ruled all of defendant's out-of-court statements to be admissible. Nevertheless, defendant asks this Court to bar the jury from hearing two of those statements, now claiming that said statements are unreliable, not relevant and too prejudicial to survive a N.J.R.E. 403 analysis. Defendant's argument is meritless.

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

[1] Bruton v. United States, 391 U.S. 123 (1968).
[2] Miranda v. Arizona, 384 U.S. 436 (1966).

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 (a) undue prejudice, confusion of issues, or misleading the jury, or (b) undue delay, waste of time, or needless presentation of cumulative evidence." The burden rests with the party seeking exclusion of evidence to "convince[e] 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 453-54; 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 of 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).

The two statements defendant seeks to exclude are both relevant. Defendant's statement—that he has no enemies—is highly probative given that he maintains his innocence. Taken at face value, defendant's own words tend to negate the possibility that some third party set his house on fire since he "has no enemies."

Defendant's statement to Detective Brady, "That door is making me nervous[,]" (t[3]:207-17 to 207-18) is likewise relevant. Detective Brady testified that defendant made the aforementioned statement when his Porsche Macan was being searched. (T:207-14 to 207-18). Detective Brady explained that defendant was referring to the garage door. "There was a black burn mark near the bottom corner of the door next to a gas can. We were opening and closing that door looking, you know, putting some pieces together and investigating. And that's when he made that comment." (T:207-20 to 207-25). Defendant's statement is relevant because it could permit an inference that he was attempting to distract officers from the task at hand: performing a search of the Macan—the very car, the State will argue, that defendant drove to and from the Colts Neck murder scene; the very car, the State will argue, in which defendant transported the bloody, black latex gloves that were ultimately found in his basement; gloves, the State will argue, that contained both his and Sophia's DNA. To be

[3] "T" refers to the transcript of the April 8, 2025 N.J.R.E. 104c hearing. Both parties, as well as the Court, have copies of same.

sure, a small piece of a black latex glove was, in fact, located on the rear passenger floor of the Macan. Thus, a reasonable inference could be drawn that defendant made the statement in an effort to distract from the search of the Macan. As such, the aforementioned statements are relevant.

Defendant has not met his burden of proving that the probative value of the statements "is substantially outweighed by the risk of . . . undue prejudice, confusion of issues, or misleading the jury[.]" N.J.R.E. 403. Defendant complains that the aforementioned statements are susceptible to confusing the jury because they were made out of context and that no follow up questions were asked. Db7-8. Defendant claims that the only way for those statements to be clarified would be for him to "take the stand at trial to explain evidence that has been admitted out of context." Db8. Defendant further characterizes the statements as unreliable due to the circumstances surrounding their documentation and the fact that they were not recorded. Db6. Defendant's argument is without merit.

That defendant chose to voluntarily make the aforementioned statements in the manner he did, i.e., not "in connection, relation, or response to any questions posed by the interviewers" db7, doesn't make the statements not relevant and/or not reliable. Nor does it make the statements susceptible to "confus[ion]" or mislead[ing] the jury." Db7. The standard to satisfy relevance is relatively low, as discussed above. The State outlined its theory of relevance with regard to the statements. Notwithstanding, the jury will be free to give whatever weight it chooses to the purported statements and will be instructed accordingly. That defendant was not asked to clarify his statements is fodder for cross examination. The same is true with regard to the circumstances surrounding the documentation (or purported lack thereof) of the statements. In short, the meaning of the

statements, and the decision as to whether they were made at all, are factors that go to the weight of the evidence, not admissibility.

Defendant contends that the admission of the aforementioned statements would leave him with only two choices: "let the jury erroneously conclude the relevance of the statements as speculated by the State" or "take the stand to explain." Db9. This argument is fallacious. It presumes that if defendant does not testify, the jury will automatically adopt the State's theory of relevance with respect to the statements; and, conversely, if defendant does testify, the jury will automatically believe whatever defendant has to say about the statements. That is simply not true. Defense counsel will have the opportunity to cross examine the State's witnesses and make a closing argument. Defendant will be free to testify if he so chooses. However, if he opts to exercise his 5th amendment right, the jury will be instructed that they cannot consider that in any way. Further, the jury will be instructed as to the State's burden of proof, that the burden never shifts, and that defendant is presumed innocent throughout the course of the trial. In the end, the jury will be free to give whatever weight it chooses to the statements, if any. Thus, the notion that the jury will be left with no choice but to accept the State's theory of relevance with regard to the statements if defendant does not testify is

wholly inaccurate.[4] Accordingly, the probative value of the statements is not substantially outweighed by the risk of undue prejudice, confusion of issues, or misleading the jury.[5]

CONCLUSION

For the foregoing reasons and authorities cited herein, the State respectfully requests defendant's motion be Denied.

Respectfully submitted,

RAYMOND S. SANTIAGO
MONMOUTH COUNTY PROSECUTOR

s/Nicole Wallace
By: Nicole Wallace
Assistant Prosecutor

c: Monika Mastellone, Esq.

[4] Applying this faulty logic to other evidential areas underscores just how flawed defendant's argument is. For example, the jury is going to hear and see evidence from the State that includes a photograph taken from video surveillance of defendant standing in his basement at 1:30 a.m. near his workbench (the area where one of the murder weapons was later located), just before the basement surveillance cameras suddenly stop working, and a half hour before a car is seen leaving the area of 27 Tilton. The State will argue the obvious inferences to be drawn from that evidence. Applying defendant's logic, this evidence should be precluded because presentation of same would "cause the defendant to face an unduly unfair choice: either let the jury erroneously conclude the relevance of the statements as speculated by the State or take the stand to explain", db9, the fortuitous circumstances in which defendant found himself at 1:30 a.m. on November 20, 2018. Thus, taken to its logical conclusion, defendant's argument would exclude almost every piece of evidence the State would introduce.

[5] With regard to Point II of defendant's brief, the State intends on including the "Statements of Defendant" / Hampton jury charge, subject to potential modifications, when it submits its pre-trial memo on June 30th.