

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	3:24cr115HTW-LGI
	)	
JEFFERY WALKER,	)	
	)	
Defendant.	)	

**UNITED STATES' NOTICE AND MOTION TO INTRODUCE OTHER ACTS
EVIDENCE UNDER FEDERAL RULE OF EVIDENCE 404(b)**

The United States of America, by and through the undersigned counsel, respectfully provides notice of its intent to introduce other acts evidence at trial. Specifically, the United States intends to offer evidence of the defendant's uncharged willful assault of an individual during a traffic stop that occurred approximately one year after the offense charged in the Indictment in this case. This evidence is admissible under Federal Rule of Evidence 404(b) for several non-propensity purposes—including to show the defendant's intent, motive, and lack of mistake or accident—that are central to proving, as charged in the Indictment, that the defendant acted willfully when he assaulted E.S. Accordingly, the United States moves the Court for a pretrial order admitting evidence of the uncharged act.

BACKGROUND

A. As charged in the Indictment, the defendant willfully assaulted E.S. in violation of E.S.'s constitutional rights on July 27, 2022.

On December 10, 2024, a federal grand jury sitting in Jackson, Mississippi, returned a one-count Indictment charging Jeffery Walker, a former Police Officer with the Mississippi State

Capitol Police (MSCP), with violating 18 U.S.C. § 242, for willfully depriving E.S. of his constitutional rights under color of law. ECF No. 3. Specifically, the Indictment alleges that the defendant assaulted E.S., who was handcuffed and not resisting, by slamming E.S.'s head onto the hood of E.S.'s car and kicking E.S. in the head and face area. The Indictment further alleges that the offense involved the use of a dangerous weapon and resulted in bodily injury to E.S. *Id.*

The Section 242 charge arises out of the defendant's assault of E.S. on July 27, 2022. On that day, the defendant, a member of the MSCP FLEX unit, attempted to conduct a traffic stop of E.S. in Jackson, Mississippi. When E.S. failed to stop and continued to drive slowly, the defendant used his vehicle to cut E.S. off, which caused the defendant to crash his vehicle into a tree. E.S.'s car rolled to a stop in the grass behind the defendant's car. Jackson Police Department (JPD) officers, who had joined the low-speed pursuit, then opened the driver's side door of E.S.'s vehicle, ordered E.S. to the ground, and handcuffed him without incident. The JPD officers then picked E.S. up from the ground and handed him over to the defendant. The defendant grabbed the handcuffed E.S. by the back of his neck and began walking him toward the front of E.S.'s car. The defendant then slammed E.S.'s head against the hood of E.S.'s car, put E.S. on the ground, and kicked E.S. several times in the head and face area.

B. The defendant's subsequent willful assault of B.C. is relevant under Rule 404(b).

On June 14, 2023, less than one year after the assault of E.S., the defendant willfully assaulted another individual, B.C., during a traffic stop. The defendant and other MSCP FLEX officers conducted a traffic stop of B.C. after they observed him giving something to a homeless man at a gas station—the officers suspected B.C. of conducting a hand-to-hand drug deal, even though they had not observed the exchange of any drugs. Upon being pulled over, B.C. objected to the lawfulness of the stop. The defendant and at least one other officer then removed B.C.

from his vehicle. B.C. continued to object to the lawfulness of the stop. In response to B.C.'s objections, the defendant aggressively asked B.C. "who he was talking to." B.C. responded that he was talking to the defendant. The defendant then walked quickly and aggressively to B.C. and forcefully headbutted B.C. in the mouth, causing one of B.C.'s teeth to shift. In addition to B.C.'s shifted tooth, the impact caused a busted lip and bleeding on the inside of B.C.'s mouth. B.C. later required dental work. The defendant headbutted B.C. even though B.C. was not physically aggressive and did not pose a threat to anyone.

ARGUMENT

The Court should admit at trial the evidence of the defendant's assault on B.C. on June 14, 2023. The incident is highly relevant to establishing the defendant's motive, intent, absence of mistake, and lack of accident—permissible purposes under Federal Rule of Evidence 404(b) that are central to proving that the defendant acted willfully as charged in the Indictment. Moreover, the proffered evidence poses little, if any, risk of unfair prejudice.¹

I. The proffered evidence is admissible as evidence of the defendant's motive, intent, absence of mistake, and lack of accident.

"Federal Rule of Evidence 404(b) provides that 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,' although such evidence may be admissible 'for

¹ The United States' Rule 404(b) notice is timely. Federal Rule of Evidence 404(b)(3) requires "reasonable notice of any such evidence that the prosecutor intends to offer at trial, so that the defendant has a fair opportunity to meet it." Fed. R. Evid. 404(b)(3) (describing reasonable notice requirements). "Other than requiring pretrial notice, however, Rule 404(b) states no specific time limits in recognition of the fact that what constitutes reasonable notice will depend largely on the circumstances of each case." *United States v. Charles*, 3 F.3d 436 (5th Cir. 1993). Some federal courts have found that, "[g]enerally, two to three weeks' notice [is] sufficient, but a longer period may be appropriate depending on the circumstances." *United States v. Crawford*, No. 4:18-CR-104, 2019 WL 2077035, at *2 (N.D. Miss. May 10, 2019). Other federal courts have routinely upheld much shorter notice, concluding that "'reasonable notice' under Rule 404(b) is in the range of seven to ten days or one to two weeks prior to trial." *United States v. Morales*, 668 F. Supp. 3d 774, 792 (M.D. Tenn. 2023) (collecting cases). The United States is providing formal notice of its intent to present this evidence more than four weeks before trial. This notice is reasonable under Rule 404(b)(3). Moreover, the United States provided discovery related to the uncharged act in a discovery production in May 2025, supplemented by additional discovery provided on September 19, 2025.

another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” *United States v. Smith*, 804 F.3d 724, 735 (5th Cir. 2015) (quoting Fed. R. Evid. 404(b)(1)-(2)). As many circuit courts have observed, Rule 404(b) “is a rule of inclusion.” *United States v. Eckhardt*, 466 F.3d 938, 946 (11th Cir. 2006); *United States v. Blankenship*, 775 F.2d 735, 739 (6th Cir. 1985) (“[Rule 404(b)] is actually a rule of inclusion rather than exclusion, since only one use is forbidden and several permissible uses of such evidence are identified.”). Rule 404(b) makes no distinction between prior and subsequent acts. *United States v. Peterson*, 244 F.3d 385, 392–93 (5th Cir. 2001) (“Our prior decisions clearly allow for evidence of ‘bad acts’ subsequent to the subject matter of the trial for the purpose of demonstrating intent.”).

As a threshold matter, “Rule 404(b) evidence must be ‘sufficient to support a finding that the crime or act actually occurred’ by a preponderance of evidence.” *United States v. Caballero*, No. 23-50091, 2024 WL 3175453, at *3 (5th Cir. June 25, 2024) (quoting *Smith*, 804 F.3d at 735). If the evidence is sufficient to support such a finding, the Fifth Circuit evaluates the admissibility of the evidence under the two-pronged test set forth in *United States v. Beechum*, 582 F.2d 898 (5th Cir. 1978) (en banc), *cert. denied*, 440 U.S. 920 (1979). See *United States v. Percel*, 553 F.3d 903, 911 (5th Cir. 2008) (“Under *United States v. Beechum*, this circuit applies a two-pronged analysis for the admissibility of evidence under Rule 404(b).”); *United States v. McCarty*, 36 F.3d 1349, 1353 (5th Cir. 1994) (“We review alleged violations of Rule 404(b) under the two-pronged test of [*Beechum*].”).

Under the *Beechum* analysis, “[i]f evidence of the crime or act is sufficient, its admissibility under Rule 404(b) hinges on whether (1) it is relevant to an issue other than the defendant’s character, and (2) it ‘possess [es] probative value that is not substantially outweighed

by its undue prejudice’ under Federal Rule of Evidence 403.” *Smith*, 804 F.3d at 735 (quoting *Beechum*, 582 F.2d at 911). “An extrinsic act is relevant to something other than a defendant’s character when it is offered to prove one of Rule 404(b)’s enumerated purposes.” *Caballero*, 2024 WL 3175453, at *3 (citing *United States v. Kinchen*, 729 F.3d 466, 472 (5th Cir. 2013)). Evidence of the defendant’s uncharged assault of B.C. meets each of these requirements.

A. There is sufficient evidence that the act occurred.

As to the threshold inquiry, there is ample evidence that would allow a reasonable jury to conclude that the defendant committed the uncharged assault against B.C. on June 14, 2023. That evidence includes statements that B.C. and multiple officers made to the FBI regarding this incident. *See Smith*, 804 F.3d at 735 (“Proof of an uncharged offense is sufficient if the jury could reasonably find that the offense occurred by a preponderance of the evidence.”) (internal quotation marks omitted) (finding the evidence sufficient to show that an uncharged bribe took place); *United States v. Simon*, 87 F. App’x 355, 357–58 (5th Cir. 2004) (“The Government must offer sufficient proof demonstrating that [the defendant] committed the alleged extrinsic offense for the evidence to be relevant. ... The district court need not be convinced beyond a reasonable doubt that [the defendant] committed the extrinsic offense, nor must the court require the Government to offer clear and convincing proof.”); *United States v. Mortazavi*, 702 F.2d 526, 528 (5th Cir. 1983) (Finding, where other acts evidence was supported by the testimony of a single law enforcement agent, that “the district judge properly found that adequate proof had been offered demonstrating that the defendant had committed the earlier offense.”); *United States v. Johnson*, 872 F.2d 612, 624 (5th Cir. 1989) (“No ‘independent proof’ was necessary ... [t]he testimony of the single witness who related the conversations and confirmed the accuracy of the tapes was sufficient for the jury to find that the conduct occurred.”); *see also United States v.*

Johnson, 439 F.3d 947, 953 (8th Cir. 2006) (“[The defendant] argues [the witness’s] testimony was the sole evidence [the defendant] committed the prior acts. We agree. Nonetheless, [the witness’s] testimony by itself was sufficient.”); *United States v. Johnson*, 132 F.3d 1279, 1283 (9th Cir. 1997) (Finding that “the testimony of a single witness can be sufficient” under Rule 404(b)).

It is worth noting that this evidence will not take up a significant amount of time at trial. Although Rule 404(b) does not contain any limitation on the quantity of evidence the United States may seek to admit under the rule, the United States is cognizant of the need for judicial economy. The United States is prepared to prove the uncharged incident largely through the testimony of B.C. and/or one or two officer-witnesses. The additional time needed for these witnesses to testify about the uncharged incident is minimal.

B. The evidence is offered for proper purposes under Rule 404(b).

The evidence of the defendant’s acts during the uncharged incident is admissible for several permissible purposes. Specifically, the evidence is relevant for the purposes of showing the defendant’s intent, motive, and lack of mistake or accident—all of which are central to proving the statutory element that the defendant acted willfully when he assaulted E.S. as charged in the Indictment. The United States specifies below how the other acts evidence applies to the relevant categories recognized by Rule 404(b).

i. Intent

Evidence of the defendant’s acts during the uncharged incident is admissible to prove the defendant’s intent, which is an element of the Section 242 offense charged in the Indictment and a permissible purpose under Rule 404(b). To prove the offense charged in the Indictment, the United States must show that the defendant acted with specific intent, specifically, that he acted

“willfully.” 18 U.S.C. § 242; *United States v. Aguilar*, 242 F. App’x 239, 244 (5th Cir. 2007) (“[Section] 242 requires specific intent.”); *see also Screws v. United States*, 325 U.S. 91, 101 (1945). In other words, the United States must prove that the defendant knew that slamming E.S.’s head and kicking him in the face was wrong and chose to do it anyway. Evidence of the defendant’s uncharged assault against B.C. is strongly probative of this specific intent. Indeed, courts have recognized that, “[i]n prosecuting specific intent crimes, prior acts evidence may often be the only method of proving intent. This is especially true with regards to the ‘willfulness’ standard of 18 U.S.C. § 242.” *United States v. Mize*, 498 F. Supp. 3d 978, 983–84 (S.D. Ohio 2020) (internal citation and quotation marks omitted); *see also United States v. Matthews*, No. CR 24-114, 2025 WL 1697528, at *3 (E.D. La. June 17, 2025) (“[O]ther act evidence may be especially probative in cases where the defendant is charged with a specific intent crime.”) (quoting *United States v. Tan*, 254 F.3d 1204, 1212 n.8 (10th Cir. 2001)).

Federal courts have repeatedly upheld admission of other acts evidence in Section 242 excessive force prosecutions because, as here, it is often central to proving a defendant-officer’s intent. *See, e.g., United States v. Brugman*, 364 F.3d 613, 620 (5th Cir. 2004) (finding, in prosecution of border patrol agent under 18 U.S.C. § 242 for unlawful force, that it was not an abuse of discretion to admit evidence of a subsequent uncharged act because the use of similarly unlawful force on another individual was relevant to prove intent given the uncharged act required the same intent as the charged offense); *see also United States v. Boyland*, 979 F.2d 851 (6th Cir. 1992) (noting that “proof tending to show a defendant’s intent is relevant” to prosecutions under § 242, including other acts evidence); *United States v. Abbott*, No. 24-5602, 2025 WL 2237656, at *6 (6th Cir. Aug. 6, 2025) (“To prove the crime of deprivation of civil rights under § 242, the government must show that the defendant had the specific intent to

deprive an individual of a right under the Constitution. Evidence of [the defendant's] prior acts was accordingly offered for the admissible purpose of showing his specific intent to violate 18 U.S.C. § 242.”) (internal citation and quotation marks omitted); *United States v. Cowden*, 882 F.3d 464, 472 (4th Cir. 2018) (holding that other acts “evidence was probative of [the defendant's] state of mind at the time he used excessive force, namely, of his intent to punish [the victim] for earlier defying the directions of law enforcement officers.”); *United States v. Boone*, 828 F.3d 705, 713 (8th Cir. 2016) (holding that “[the defendant's] use of unreasonable force against [a second individual] and his attempt to conceal that use of force had significant probative value on whether [the defendant] had acted willfully when he kicked [the charged victim] in the face.”); *United States v. Rodella*, 804 F.3d 1317, 1335 (10th Cir. 2015) (finding no error in admission of three prior incidents); *Mize*, 498 F. Supp. 3d at 983 (finding that, in prosecutions under § 242, “intent is material and automatically at issue,” so intent is a proper purpose for admitting Rule 404(b) evidence).

ii. Motive

For similar reasons, evidence of the uncharged act is also admissible to show the defendant's motive. The uncharged act involves evidence that the defendant was motivated by anger and a desire to punish individuals whom he perceived to have disrespected or wronged the police. The uncharged act demonstrates a pattern of conduct by the defendant and helps prove that, on the night of July 27, 2022, the defendant was motivated by an improper purpose—to personally punish E.S., who had not pulled over for the defendant as the defendant tried to conduct a traffic stop—rather than a legitimate law enforcement objective. *See, e.g., United States v. Brown*, 250 F.3d 580, 585 (7th Cir. 2001) (admitting under Rule 404(b), in prosecution of two police officers for using excessive force, previous incident of force involving one of the

officers because it was relevant to the officer's "intent to punish defiant individuals."); *Cowden*, 882 F.3d at 472 (admitting under Rule 404(b), in prosecution of police officer for using excessive force, two previous incidents of the officer using excessive force because "both prior incidents were relevant to [the defendant's] use of excessive force in circumstances when [the defendant] or others were not actually threatened, but [the defendant] perceived that an individual was not showing adequate respect to law enforcement officers.").

iii. Lack of mistake and accident

The other acts evidence is likewise admissible to show the defendant's lack of mistake and accident. The defendant's conduct during the uncharged act helps demonstrate that the defendant did not act in good faith due to an honest mistake when he assaulted E.S. by slamming his head on the hood of a car and kicking him in the face. It shows instead that the defendant assaulted E.S. on purpose as punishment for disrespecting law enforcement. The uncharged act is therefore probative of the defendant's lack of mistake or accident. *See Rodella*, 804 F.3d at 1329–35 (noting that the district court held that "the government is tasked with proving the high burden of willfulness, and evidence of these three prior incidents is probative to proving willfulness, if used for the proper purposes of showing motive, intent, plan, absence of mistake, and lack of accident.").

C. Evidence of the uncharged assault is highly relevant and not unfairly prejudicial.

The proffered evidence of the defendant's uncharged act is highly probative. The Court should admit the evidence because that probative value is not substantially outweighed by the danger of unfair prejudice. *Beechum*, 582 F.2d at 911.

i. The other acts evidence is highly relevant.

The Fifth Circuit has instructed that, in determining probative value, courts should “make a common-sense assessment of the relevant circumstances surrounding the extrinsic evidence.” *United States v. Adair*, 436 F.3d 520, 526 (5th Cir. 2006). Factors that must be considered include “(1) the extent to which the defendant’s unlawful intent is established by other evidence; (2) the overall similarity of the extrinsic and charged offenses; and (3) how much time separates the extrinsic and charged offenses because temporal remoteness depreciates the probity of the extrinsic offense.” *Id.* (quoting *Beechum*, 582 F.2d at 915) (internal quotation marks omitted). All three factors demonstrate the critical relevance of the proffered evidence.

As for the first factor, courts should “consider whether there [i]s other evidence of intent that might [make] extrinsic evidence unnecessary.” *United States v. Juarez*, 866 F.3d 622, 627 (5th Cir. 2017). Here, the uncharged act showing the defendant’s intent, motive, and lack of mistake or accident are a crucial component of proving that he acted willfully—that is, that he acted despite knowing his conduct was wrong. As noted above, “[i]n prosecuting specific intent crimes, prior acts evidence may often be the only method of proving intent. This is especially true with regards to the ‘willfulness’ standard of 18 U.S.C. § 242.” *Mize*, 498 F. Supp. 3d at 983–84. Thus, the first factor supports the probative value of the evidence.

The second factor—the overall similarity of the extrinsic and charged offense—also reflects the probative value of the evidence. “Other acts are more probative of intent when they are similar to the charged acts.” *United States v. Williams*, 30 F.4th 263, 268 (5th Cir. 2022). The evidence shows that—much like the offense against E.S. as charged in the Indictment—the defendant unreasonably used force against B.C. in reaction to perceived defiance and disrespect. In both the charged and uncharged incident, the defendant assaulted an individual who did not

pose a threat to anyone, causing injury in each instance to the individual's head and face area. Both times, the defendant used force in contravention of his training and applicable policy and in the presence of other officers who saw no need for force. The similarity of the assaults reflects the probative value of the uncharged act. *See Boone*, 828 F.3d at 712 (finding, in § 242 prosecution, that Rule 404(b) evidence was sufficiently similar, despite some differences in the defendant-officer's manner and degree of force, when, "[i]n both incidents, [the defendant] used more force than necessary to subdue an individual."); *Brugman*, 364 F.3d at 620 (admitting Rule 404(b) evidence of uncharged act in § 242 prosecution of border patrol agent where both charged and uncharged act involved using force against a non-resisting individual); *United States v. Mohr*, 318 F.3d 613, 619 (4th Cir. 2003) (admitting Rule 404(b) evidence of uncharged act in § 242 prosecution where both charged and uncharged act involved the use of excessive force through the release of the defendant-officer's police dog).

The timing of the uncharged act further reflects its probative value. The uncharged act occurred less than one year after the charged offense. The Fifth Circuit has regularly approved of admitting Rule 404(b) evidence with much larger temporal gaps. *United States v. Cockrell*, 587 F.3d 674, 680 (5th Cir. 2009) (admitting Rule 404(b) evidence of drug conviction from 7 years before the charged transaction); *United States v. Broussard*, 80 F.3d 1025, 1040 (5th Cir. 1996) (finding no error in admitting conviction from more than 10 years before the charged offense); *United States v. Chavez*, 119 F.3d 342, 347 (5th Cir. 1997) (15-year-old prior conviction).²

² As previously noted, Rule 404(b) does not distinguish between prior and subsequent acts. *Peterson*, 244 F.3d at 392–93; *see also Roe v. United States*, 316 F.2d 617, 623 (5th Cir.1963) (“Since this is a question of intent, acts done before and after the crime charged are admissible if the circumstances show a sufficient connection from which inferences may reasonably be drawn.”); *United States v. Catano*, 553 F.2d 497, 499–500 (5th Cir.1977) (finding subsequent acts were “highly probative and relevant as to the crucial issue of appellant’s knowledge and intent to import and distribute cocaine.”); *Brugman*, 364 F.3d at 620 (admitting subsequent act in § 242 prosecution of border patrol agent); *see also United States v. Germosen*, 139 F.3d 120, 128 (2d Cir. 1998) (“The fact that the evidence

ii. The evidence is not unfairly prejudicial.

“Relevant evidence is inherently prejudicial; but it is only *unfair* prejudice, *substantially* outweighing probative value, which permits exclusion of relevant matter under Rule 403.” *United States v. Pace*, 10 F.3d 1106, 1115–16 (5th Cir. 1993) (emphasis in original) (citation and internal quotation marks omitted). “Unfair prejudice ‘speaks to the capacity of some concededly relevant evidence to lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged.’” *United States v. Perez-Solis*, 709 F.3d 453, 464–65 (5th Cir. 2013) (quoting *Old Chief v. United States*, 519 U.S. 172, 180 (1997)); *see also* Fed. R. Evid. 403 advisory committee’s note (“‘Unfair prejudice’ within its context means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.”).

In evaluating whether evidence creates an opportunity for unfair prejudice, the Fifth Circuit looks to factors such as whether the evidence will occupy a significant portion of the trial; whether the evidence relates to a more serious offense than the one charged; and whether the district court can mitigate any prejudicial effect by giving the jury a limiting instruction. *See Adair*, 436 F.3d at 527. Here, as discussed above, the evidence of the uncharged act will not occupy a significant portion of the trial—the United States is prepared to prove the uncharged incident largely through the testimony of one to three percipient witnesses. Thus, the additional time needed for these witnesses to testify about the uncharged incident is minimal. Moreover, the uncharged act is not a more serious offense than the one charged—indeed, the charged incident involves aggravating factors that are not present in the uncharged incident. In particular, the defendant used dangerous weapons to assault E.S.—the hood of a car and a shod foot. In

involved a subsequent rather than prior act is of no moment. “Subsequent act” evidence may be admitted under Rule 404(b)”; *Mohr*, 318 F.3d at 617 (“[404(b)] is understood as a rule of inclusion . . . and covers evidence of both prior and subsequent acts”) (internal citation omitted); *United States v. Perry*, 438 F.3d 642, 647 n.2 (6th Cir. 2006) (“Notably, acts prior to and subsequent to the offense charged are admissible pursuant to Rule 404(b)”).

addition, E.S. and B.C. sustained similar levels of injury. Courts have repeatedly refused to find unfair prejudice when other acts are no more inflammatory than the charged conduct. *See, e.g., United States v. Hernandez-Guevara*, 162 F.3d 863, 872 (5th Cir. 1998) (“[The defendant’s] prior misconduct lacked the hallmarks of highly prejudicial evidence. They were not violent acts, nor were they greater in magnitude than the crimes for which [the defendant] was on trial, nor did they occupy more of the jury’s time than the evidence of the charged offenses.”) (internal citation omitted); *United States v. Taylor*, No. 3:22-CR-50-RGJ, 2022 WL 4125101, at *4 (W.D. Ky. Sept. 9, 2022) (admitting four prior incidents in § 242 prosecution and explaining that “victims of those incidents were not as severely injured” as the victims in the charged count); *United States v. Roldan–Zapata*, 916 F.2d 795, 804 (2d Cir. 1990) (holding that defendant was not unfairly prejudiced when the evidence admitted under Rule 404(b) “did not involve conduct any more sensational or disturbing than the crimes with which [defendant] was charged.”); *United States v. Mandoka*, 869 F.3d 448, 459 (6th Cir. 2017) (finding no unfair prejudice where 404(b) evidence was no more inflammatory than charged offense).

Because the proffered evidence will not occupy a significant portion of the trial and is no more serious than the charged offense, the strong probative value of the evidence will not be substantially outweighed by unfair prejudice.³ Therefore, the Court should admit the highly relevant evidence of the defendant’s uncharged act.

³ Moreover, the United States has no objection to a proper limiting instruction that requires the jury to consider the evidence only for permissible purposes. *United States v. Mitchell*, 484 F.3d 762, 774 (5th Cir. 2007) (“[T]he district court’s limiting instruction sufficiently minimized th[e] risk” that the jury may convict the defendant based on the extrinsic evidence).

CONCLUSION

For the reasons stated above, the United States respectfully provides notice of its intent to introduce other acts evidence at trial and asks the Court to issue a pretrial order admitting this evidence.

Respectfully submitted this 26th day of September 2025.

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CERTIFICATE OF SERVICE

I, Taylor Payne, Trial Attorney for the Criminal Section of the Civil Rights Division, hereby certify that I have this day electronically filed the foregoing “Notice and Motion to Introduce Other Acts Evidence Under Federal Rule of Evidence 404(b)” with the Clerk of the Court using the ECF system with notification of such filing to Arthur Calderón, attorney for the defendant.

Respectfully submitted this 26th day of September 2025.

/s/ Taylor Payne
TAYLOR PAYNE
Trial Attorney