

**Fifth Circuit Court of Appeal  
State of Louisiana**

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No. 26-K-252

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STATE OF LOUISIANA

*versus*

DUVELL LONDON

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IN RE DUVELL LONDON  
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT  
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE  
HONORABLE JACQUELINE F. MALONEY, DIVISION "D", No. 25-515

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TRUE COPY

June 29, 2026



LINDA TRAN  
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,  
John J. Molaison, Jr., and Scott U. Schlegel

**WRIT GRANTED IN PART AND DENIED IN PART**

Defendant/relator, Duvell London, seeks supervisory review of the trial court's May 5, 2026 ruling, which granted in part the State's Notice of Intent to Introduce Evidence Under La. C.E. Article 404(B). The trial court declared four prior incidents to be admissible at trial: a July 15, 2017 vehicle flight; an August 8, 2019 marijuana arrest; an October 30, 2021 narcotics arrest; and a November 5, 2024 traffic stop. For the reasons that follow, we grant the writ application in part and deny it in part. We find that the trial court did not abuse its discretion by finding the August 8, 2019 and October 30, 2021 incidents are admissible under La. C.E. art. 404(B). However, we reverse the ruling insofar as the trial

court found that evidence of the July 15, 2017 flight incident and the November 5, 2024 traffic stop would be admissible at trial.

## **PROCEDURAL BACKGROUND**

On March 28, 2025, the Jefferson Parish District Attorney filed a bill of information charging defendant with aggravated flight from an officer in violation of La. R.S. 14:108.1(C) (count one), transactions involving proceeds from drug offenses in violation of La. R.S. 40:1041 (count two), and possession with intent to distribute a Schedule II controlled dangerous substance (methamphetamine) weighing less than 28 grams in violation of La. R.S. 40:967(A) (count three). All three counts arise from a single incident on January 28, 2025, in which a search of defendant's vehicle yielded eight tablets that field-tested as methamphetamine.

On or about April 15, 2026, the State filed a Notice of Intent to Introduce Evidence Under La. C.E. Article 404(B), in which it sought to introduce evidence of six prior incidents involving defendant. The State attached copies of the police reports pertaining to each incident. On May 5, 2026, defendant filed an opposition to the Notice of Intent. And on the same day, following oral argument, the trial court granted the State's Notice of Intent in part, finding that four of the six incidents that the State sought to introduce (July 15, 2017 incident, August 8, 2019 arrest, October 30, 2021 arrest, and November 5, 2024 incident) were admissible.

## **STATE'S ARTICLE 404(B) NOTICE OF INTENT**

With respect to the facts relating to the current charges pending against defendant, the State asserted in its Notice of Intent that in October 2024, Kenner Police Department narcotics agents received an anonymous complaint identifying defendant as a "large quantity drug dealer." Officers conducted

surveillance of defendant and indicated that they observed him to be “surveillance-conscious” in his movements on foot and while driving, including use of “heat runs” to throw off investigators. The State provided that on January 28, 2025, after surveilling defendant, officers initiated a traffic stop, which led to a high-speed pursuit of defendant in his vehicle. Defendant was ultimately apprehended during his flight on foot, and \$5,627 in cash was found on his person. Upon search of defendant’s vehicle, officers discovered eight blue tablets containing methamphetamine on the floor. Investigators obtained information regarding defendant’s wage history and determined that he had no reported income or work history to that date. The State also contends that a review of defendant’s cell phone seized during his arrest showed “indicia of narcotics distribution.”

The State summarized the facts of the four prior incidents at issue in this writ application as follows:

1) On July 15, 2017, a St. Charles Parish deputy attempted to conduct a traffic stop on defendant for failing to stop at a stop sign. According to the police report, defendant acknowledged the officer, then proceeded to flee at a high rate of speed before abandoning his vehicle and escaping on foot.

2) On August 8, 2019, defendant was arrested in St. Charles Parish for possession with intent to distribute marijuana following a traffic stop in which he was the sole occupant of a vehicle. A bag containing three individually wrapped baggies of marijuana was found under the front passenger seat. The marijuana totaled approximately 29 grams.

3) On October 30, 2021, defendant was arrested in St. Tammany Parish for an incident in which defendant fled an attempted traffic stop, initiating a high-speed vehicle pursuit in excess of 100 miles per hour. Defendant

eventually came to a stop and was placed under arrest; \$4,845 in cash was found on his person. In defendant's car, officers found 8.8 pounds of marijuana and 180 ecstasy tablets.

4) On November 5, 2024, Kenner Police Department narcotics agents were conducting the arrests of Eric and Demetrius Cox for possession with intent to distribute marijuana, when according to the State, defendant was seen approaching the Cox residence. Approximately 1.9 kilograms of marijuana and \$2,800 in cash were found in the Cox residence. On the same day, officers conducted a traffic stop on defendant's vehicle, and an exterior K-9 sniff of the vehicle demonstrated a response to narcotic odor. A later search of the vehicle's interior revealed a large amount of cash in mixed denominations, but no narcotics.

The State argued that taken together, defendant's prior encounters with law enforcement demonstrate a pattern of activity consistent with "deep involvement in narcotics distribution." The State explained that defendant was subject to a lengthy term of surveillance by narcotics officers, who observed behaviors which appeared consistent with narcotics activity. It averred that the incidents would be helpful to the finder of fact in explaining defendant's behavior observed during officers' surveillance and probative of defendant's intent to distribute narcotics in his possession.

#### **DEFENDANT'S OPPOSITION TO NOTICE OF INTENT**

In his opposition to the State's Notice of Intent, defendant argued that the State intended to use these prior incidents to invite the jury to convict him on his perceived character, which is prohibited by La. C.E. arts. 403 and 404(B), rather than on the evidence relating to the January 28, 2025 events. Defendant asserted that the State articulated three purposes for the admission of these prior acts: 1)

intent, knowledge and absence of mistake; 2) modus operandi, identity and system; and 3) motive and plan, and that none of these articulated reasons could withstand scrutiny. With respect to identity, modus operandi, and system, defendant argued that his identity was not at issue. Thus, he claimed that modus operandi evidence was irrelevant because the signature pattern doctrine exists only to identify an unknown perpetrator. With respect to motive and plan, defendant argued that the State did not identify an overarching scheme connecting the prior incidents to the charged offenses. And he claimed that the only motive offered – involvement in narcotics distribution – is a euphemism for propensity prohibited by Article 404(B).

Defendant argued that regarding intent, knowledge, and absence of mistake, the prior drug arrests were not probative because they involved drugs other than methamphetamine. He further asserted that the prior flight incidents had only marginal value because intent and knowledge were not contested elements with respect to his current aggravated flight charge. He argued that the only contested element of his charge was whether the officers gave defendant a visible or audible signal to stop and the prior incidents were not relevant to this issue. Thus, defendant claimed that the prior-flight evidence only served to establish that defendant is the kind of person who flees from police, which he contends is the textbook propensity inference Article 404(B) forbids.

Defendant also argued that the November 5, 2024 incident did not qualify as conduct properly considered under Article 404(B), because no narcotics were recovered from his vehicle and no charges were filed against him. He claimed that the only reason the State sought to include this incident was because he approached a residence that was under a separate investigation and a K-9 alerted

to his vehicle. He argued that an alert without a seizure of contraband is not a wrong or act relevant to the pending charges.

Finally, defendant argued that even if certain incidents were admissible pursuant to La. C.E. art. 404(B), the cumulative volume of these prior incidents would consume a substantial portion of the trial and risk conviction based on character grounds. Defendant also argued that La. C.E. art. 403 independently required exclusion of the prior flight incidents because prior high-speed pursuits are uniquely inflammatory while their probative value as to an uncontested element is nonexistent. He also asserted that the distribution count only involves evidence of eight pills and the State would rely primarily on circumstantial evidence. He claimed that the 404(B) evidence would be prejudicial because it would "supplant" rather than supplement that case.

#### **MAY 5, 2026 HEARING**

The trial court held an evidentiary hearing on May 5, 2026. The parties raised arguments similar to those set forth in the Notice of Intent and opposition memorandum discussed above. However, as to the July 15, 2017 flight incident, the State further explained that it involved an attempted traffic stop of defendant where he acknowledged the officer and proceeded to flee at a high rate of speed before abandoning his vehicle. The State argued that defendant was charged with the same conduct in the instant matter and acknowledged defendant's position that the primary issue at trial for the aggravated flight charge was whether or not the officer's lights and sirens were activated. However, the State indicated its belief that the central issue at trial would be if the other elements of aggravated flight were satisfied, namely, whether there was danger to human life during this incident. The State acknowledged that it would be difficult to prove this element and that it would be very probative and valuable for it to include the

2017 incident of defendant fleeing from police at a high rate of speed. The State explained that while defense counsel would argue that this was propensity, it was actually modus operandi. Defense counsel responded that this was propensity evidence, which should be excluded under Article 404(B) and that the incident was nine years prior and too attenuated from the instant offense.

As explained above, following oral argument, the trial court found the four prior instances discussed above to be admissible. The trial court specifically reasoned that the prior arrests for drug distribution were similar enough to be admissible and that the fact that they involved different drugs was not a concern. The trial court did not provide specific reasons for allowing the flight incident and the November 5<sup>th</sup> incident.

## **LAW AND ANALYSIS**

Generally, evidence of other crimes or bad acts committed by a criminal defendant is not admissible at trial. *State v. Neveaux*, 23-477 (La. App. 5 Cir. 11/10/23), 377 So.3d 749, 757, writ denied, 23-1633 (La. 3/12/24), 381 So.3d 56. Courts may not admit evidence of other crimes, wrongs, or acts of a criminal defendant to show that the defendant is a person of bad character who has acted in conformity therewith. La. C.E. art. 404(B); *State v. Hardy*, 14-1569 (La. 11/21/14), 154 So.3d 537, 538 (per curiam). However, when evidence of other crimes tends to prove a material issue and has independent relevance other than to show that the defendant is of bad character, it may be admitted by certain statutory and jurisprudential exceptions to this rule. *State v. Adams*, 22-271 (La. App. 5 Cir. 5/10/23), 364 So.3d 1272, 1288. The State may introduce evidence of other crimes, wrongs, or acts if it establishes an independent and relevant reason for its admissibility, such as to show motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. La.

C.E. art. 404(B). The evidence must tend to prove a material fact at issue or to rebut a defendant's defense. *Hardy*, 154 So.3d at 538.

Where the State offers prior acts to prove intent, three prerequisites must be satisfied: (1) the prior act must be similar; (2) there must be a real and genuine contested issue of intent; and (3) the probative value of the evidence must outweigh its prejudicial effect. *State v. Kennedy*, 17-724 (La. 9/29/17), 227 So.3d 243, 244. The degree of similarity required to admit prior conduct for the purpose of showing intent "is lower than if it is sought to establish the defendant's identity." *Id.*

The fact that the other acts or crimes happened some time before the offense for which defendant is on trial is not sufficient, in and of itself, to require the exclusion of the evidence. *State v. Fuxan*, 24-302 (La. App. 5 Cir. 5/14/25), 415 So.3d 387, 413. Remoteness in time, in most cases, is only one factor to be considered when determining whether the probative value of the evidence outweighs its prejudicial effect. Generally, a lapse in time will go to the weight of the evidence rather than to its admissibility. *Id.*

Finally, the probative value of the extraneous evidence must outweigh its prejudicial effect. *State v. Ivey*, 24-564 (La. App. 5 Cir. 12/19/25), 428 So.3d 962, 982. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time. La. C.E. art. 403. Clearly, evidence of other crimes or bad acts is prejudicial since all evidence which tends to make it more probable than not that an individual committed a criminal offense is necessarily prejudicial. *Neveaux*, 377 So.3d at 758. However, the underlying policy is not to prevent prejudice, since evidence of other crimes is always prejudicial, but to protect against unfair

prejudice when the evidence is only marginally relevant to the determination of guilt of the charged crime. *Id.* As used in the balancing test, prejudice limits the introduction of probative evidence of prior misconduct only when it is unduly and unfairly prejudicial. *State v. Rodgers*, 16-14 (La. App. 5 Cir. 10/26/16), 202 So.3d 1189, 1201, *writs denied*, 16-2189 (La. 9/15/17), 225 So.3d 479, and 16-2093 (La. 1/29/18), 235 So.3d 1104. Absent an abuse of discretion, a trial court's ruling on the admissibility of evidence pursuant to La. C.E. art. 404(B)(1) will not be disturbed. *Ivey*, 428 So.3d at 982.

***Prior Drug Incidents – August 8, 2019 and October 30, 2021***

Defendant argues that the trial court erred in admitting the August 2019 and October 2021 drug incidents to prove intent to distribute methamphetamine because the prior incidents involved different substances, quantities, and circumstances. In the instant matter, defendant is charged in count three with possession with intent to distribute methamphetamine weighing less than 28 grams in violation of La. R.S. 40:967(A). To be convicted of possession with the intent to distribute a controlled dangerous substance, the State must prove two elements: “(1) a knowing and intentional possession of the substance [and] (2) with specific intent to distribute it.” *State v. Brown*, 17-348 (La. App. 5 Cir. 12/20/17), 235 So.3d 1314, 1324-25, *writ denied*, 18-158 (La. 11/5/18), 256 So.3d 276, *cert. denied*, 587 U.S. 995, 139 S.Ct. 2033, 204 L.Ed.2d 233 (2019). The State may prove intent to distribute controlled dangerous substances through circumstantial evidence of possession if the only logical inference for the defendant's possession is that the defendant possessed in order to distribute it. *Id.* at 1325.

The Louisiana Supreme Court has set forth an illustrative list of factors to consider in determining when possession of a controlled dangerous substance is

evidence of intent to distribute: (1) whether the defendant ever distributed or attempted to distribute the drug; (2) whether the drug was in a form usually associated with possession for distribution to others; (3) whether the amount of drug created an inference of an intent to distribute; (4) whether expert or other testimony established that the amount of drug found in the defendant's possession is inconsistent with personal use only; and (5) whether there was any paraphernalia, such as baggies or scales, evidencing an intent to distribute. *Id.* In light of these factors, the Louisiana Supreme Court has held that evidence of the defendant's past drug crimes is of great probative value in proving the defendant's intent to distribute. *Id.*

We find that the trial court did not abuse its discretion by ruling that the previous incidents involving drugs from August 8, 2019, and October 30, 2021, were admissible to establish intent. The quantities and packaging recovered in the 2019 and 2021 incidents are themselves indicative of distribution rather than personal use: roughly 29 grams of marijuana separated into three individually wrapped baggies in 2019, and a distribution-scale quantity of 8.8 pounds of marijuana together with 180 dosage units of ecstasy and nearly \$5,000 in cash in 2021. Thus, we find the probative value of this evidence outweighs any prejudice. In addition, part of the October 30, 2021 incident involved defendant leading officers on a high-speed vehicle pursuit after an attempted traffic stop.

***Prior Flight – July 15, 2017***

Defendant argues that the prior flight incident of July 15, 2017 was admitted for proving conformity with his past conduct, which he argues is expressly prohibited by Article 404(B). Defendant argues that identity is not disputed here, and the State's intended use of modus operandi to admit these prior acts cannot rescue the evidence. He argues that the flight evidence cannot

be “repackaged as intent evidence,” and that the genuinely contested issue regarding the aggravated flight count concerns the fact that no lights or sirens were activated when he allegedly began evading. Defendant argues that admission of the prior acts makes it neither more nor less probable that the officer who stopped him activated his emergency equipment before the alleged flight in the instant matter.

In addition to the reasons outlined in La. C.E. art. 404(B), evidence of other crimes may be independently relevant to show modus operandi. Louisiana jurisprudence has long sanctioned the use of other crimes evidence to show modus operandi, as it bears on the question of identity, when the prior crime is so distinctively similar to the one charged, especially in terms of time, place, and manner of commission, one may reasonably infer the same person is the perpetrator in both instances. *State v. Shorter*, 23-128 (La. App. 5 Cir. 11/29/23), 377 So.3d 421, 437, *writ denied*, 23-1669 (La. 5/29/24), 385 So.3d 704. However, to assure that modus operandi or system evidence involving crimes similar to the charged offense does not become a means of introducing character and propensity evidence otherwise prohibited by La. C.E. art. 404(B), such evidence must be closely analyzed to determine whether it exhibits such peculiar modes of operation so as to distinguish them as the work of one person. Thus, in order to be admissible, the modus operandi employed by the defendant in both the charged and uncharged offenses must be so peculiarly distinctive that one must logically say they are the work of the same person. *Id.*

In the instant matter, the State alleges that following an anonymous complaint identifying defendant as a “large quantity drug dealer,” surveillance was conducted on defendant, and officers observed him to be “surveillance-conscious.” On January 28, 2025, while surveilling defendant, officers initiated

a traffic stop that led to a high-speed pursuit of defendant's vehicle. The State seeks to introduce the previous flight incident as modus operandi, alleging that the admission of the previous flight would be probative of defendant's pattern of fleeing from the police at a dangerously high rate of speed, to assist them in proving defendant endangered life in the instant matter.<sup>1</sup> At the May 5, 2026 evidentiary hearing, the State conceded that it would be difficult for it to prove this element.

We find that the trial court abused its discretion by finding that the July 15, 2017 flight incident is admissible under Article 404(B) because the modus operandi doctrine serves to establish identity, and identity is not in dispute in this prosecution. The issue in this case is whether the State can prove that defendant endangered human life in this case by committing at least two of the six acts established in La. R.S. 14:108.1(D) during the instant chase.

#### ***November 5, 2024 Traffic Stop***

Defendant next argues that he did not commit a cognizable act in the November 5, 2024 incident. He avers that his act of driving toward the residence was not a crime, and the possession of cash later found in his vehicle

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<sup>1</sup> La. R.S. 14:108.1(D) defines circumstances where human life is endangered as follows:

Circumstances wherein human life is endangered shall be any situation where the operator of the fleeing vehicle or watercraft commits at least two of the following acts:

- (1) Leaves the roadway or forces another vehicle to leave the roadway.
- (2) Collides with another vehicle or watercraft.
- (3) Exceeds the posted speed limit by at least twenty-five miles per hour.
- (4) Travels against the flow of traffic or in the case of watercraft, operates the watercraft in a careless manner in violation of R.S. 34:851.4 or in a reckless manner in violation of R.S. 14:99.
- (5) Fails to obey a stop sign or a yield sign.
- (6) Fails to obey a traffic control signal device.

resulted in no charge nor were there narcotics found in the vehicle. Defendant argues that admission of the incident would only result in “guilt by association” because of the acts of the Cox brothers and the drugs recovered from their residence. He also argues that there is little probative value, and it is outweighed by prejudice.

At the hearing, the State argued that this incident was suggestive of defendant’s intent to distribute in the instant matter.

We agree that the trial court also abused its discretion by finding that evidence of the November 5, 2024 traffic stop is admissible at trial. The primary purpose for this evidence is to suggest that defendant consorts with drug traffickers and is therefore likely a drug trafficker himself. This is the precise inference Article 404(B) forbids, and it lacks substantial relevance independent of character. Further, any minimal probative value is substantially outweighed by the danger of unfair prejudice.

Accordingly, we deny defendant’s writ application in part and find that the trial court did not abuse its discretion by ruling that the August 8, 2019 and October 30, 2021 drug incidents are admissible under La. C.E. art. 404(B). However, we grant the writ application in part and reverse the May 5, 2026 ruling insofar as the trial court found that evidence of the July 15, 2017 flight incident and the November 5, 2024 traffic stop are admissible at trial.

Gretna, Louisiana, this 29th day of June, 2026.

**SUS**  
**FHW**  
**JJM**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
STEPHEN J. WINDHORST  
JOHN J. MOLAISSON, JR.  
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**NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **06/29/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

**CURTIS B. PURSELL**  
CLERK OF COURT

**26-K-252**

**E-NOTIFIED**

24th Judicial District Court (Clerk)  
Honorable Jacqueline F. Maloney (DISTRICT JUDGE)  
Honorable Paul D. Connick, Jr. (Respondent)      Devin C. Jones (Relator)  
Thomas J. Butler (Respondent)

**MAILED**

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