

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

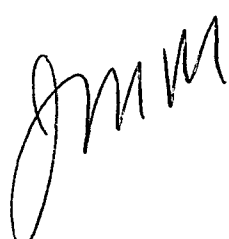
FIRST CIRCUIT

2014 KA 1245

STATE OF LOUISIANA

VERSUS

JORELL MURPHY YOUNG



Judgment Rendered: MAY 06 2015

APPEALED FROM THE THIRTY-SECOND JUDICIAL DISTRICT COURT
PARISH OF TERREBONNE
STATE OF LOUISIANA
DOCKET NUMBER 572,340

HONORABLE JOHN WALKER, JUDGE

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BEFORE: McDONALD, CRAIN, AND HOLDRIDGE, JJ.

*Holdridge, J. concurs and will assign reasons.
Crain, J. concurs and assigns reasons*

McDONALD, J.

The defendant, Jorell Murphy Young, was charged by grand jury indictment with first degree murder, a violation of LSA-R.S. 14:30. He pled not guilty and, following a jury trial, was found guilty as charged. The defendant filed motions for new trial and post-verdict judgment of acquittal, both of which were denied. He was sentenced to life imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence.¹ He filed a motion to reconsider sentence, which was denied. The defendant now appeals, arguing that the district court erred in allowing the State to introduce evidence of other crimes he committed. For the following reasons, we affirm the defendant's conviction and sentence.

FACTS

On December 24, 2009, the defendant visited the Drama Club in Houma, Louisiana, where the victim, Robert Lecompte, worked as the club manager. The club, owned by Randall Chestnut, caters to a homosexual crowd. As was his usual practice, around 2:00 a.m., Mr. Lecompte closed the bar, contacted Mr. Chestnut, with whom he lived, and informed him that he was on his way home. When Mr. Chestnut realized that Mr. Lecompte had not returned by 2:30 a.m., he attempted to contact him. Mr. Lecompte did not answer his cellular telephone, so Mr. Chestnut called the Drama Club telephone line. No one answered, so Mr. Chestnut attempted to contact another club employee, and when that employee did not answer, Mr. Chestnut contacted the sheriff's office.

Terrebonne Parish Sheriff's Deputy Dustin Crabtree arrived at the Drama Club at 3:44 a.m. in response to Mr. Chestnut's report. He noticed two vehicles parked in the parking lot, later determined to belong to Mr. Lecompte and Dwayne Clark. He entered the unlocked front door of the club and saw Mr. Lecompte lying dead in a pool of blood.² More officers arrived on the scene and conducted an investigation. A napkin with a handwritten note stating, "You gave me AIDS" was found underneath Mr. Lecompte's

¹ The State did not seek a capital verdict. See La. R.S. 14:30(C)(2).

² Mr. Lecompte suffered multiple wounds to his neck and back, and his autopsy revealed that the cause of his death was a massive hemorrhage secondary to bleeding from the neck. According to the coroner, something other than a knife was used as the murder weapon, and the wound marks looked like they came from something similar to a Phillips screwdriver.

body.³ A receipt for a cellular telephone minute reload card bearing the defendant's cellular telephone number was also recovered outside of the club's office. Cash reserved for poker payouts, money bags, and petty cash, usually kept in a desk inside the office, were stolen. There had also been a blue Drama Club T-shirt for sale hanging inside the club that was no longer there. According to Mr. Chestnut, the shirt had not been sold and had to have been removed between December 20 and 25.

Mr. Chestnut testified that all of his employees knew that the money bags and petty cash were kept in a desk inside the office. The defendant worked at the club two or three years prior to Mr. Lecompte's murder and had also resided with Mr. Chestnut approximately two years before. Mr. Chestnut, who is HIV positive, testified that he and the defendant had sexual relations, and their last sexual encounter was two or three months prior to Mr. Lecompte's death. About a week prior to the murder, the defendant asked Mr. Chestnut if he could borrow money, but Mr. Chestnut declined.

Several men who were inside the Drama Club prior to its closing on the night of the murder testified at trial. Their testimony established that Dwayne Clark drove his vehicle to the club around 10:00 p.m. on the night of the murder to meet Jacob Chauvin, George Trosclair, Craig Pennison, and Johnny Billiot. Mr. Clark testified that he knew the defendant and saw him in the club that night. According to Mr. Clark, prior to closing, he was inside the club with Mr. Billiot, Mr. Chauvin, and the defendant. Messrs. Clark, Billiot, and Chauvin left the club and drove to a Waffle House in Mr. Billiot's vehicle, leaving Mr. Clark's and Mr. Chauvin's vehicles at the club. The defendant and Mr. Lecompte were still inside the club when the three men left to go to Waffle House. The men returned to the club around 3:00 a.m., and Mr. Chauvin picked up his vehicle and drove home. Mr. Billiot drove Mr. Clark home. Because Mr. Lecompte's vehicle was still parked at the club, the men joked that Mr. Lecompte and the defendant must have "hooked up" and left together. Nicole Lecompte, Mr. Lecompte's sister, testified that she has known her brother to give free drinks to patrons of the bar as well as to "encounter sexual activity" after the bar closed. According to Mr. Clark, he did not see the defendant paying for drinks that night. Mr. Billiot, who was Mr. Clark's designated driver, also noticed that the defendant ordered

³ Testimony established that the victim was HIV positive, but did not have AIDS, and the fact that he was HIV positive was public knowledge.

a round of drinks and did not pay. Mr. Billiot confirmed that the defendant was still inside the club when everyone else left.

Joel Porche, who was also at the Drama Club on the night of the murder, testified that he and Richard Dickerson left around 2:00 or 2:30 a.m. Prior to closing time, Msrs. Porche, Dickerson, Billiot, another white male, and a black male who indicated that he was a former bartender at the Drama Club were still inside. They were all near the door when the black male stated that he had to use the restroom. The black male used the restroom while the others exited the club. Mr. Lecompte was still inside of the club when Mr. Porche left. Mr. Porche was unable to identify the defendant as the black male.

Misty Breaux testified that she was at the All Star Lounge on Christmas Eve 2009, and left to go to the Drama Club around 1:50 a.m. Ms. Breaux saw three cars in the parking lot, including Mr. Lecompte's truck, a silver SUV, and a car, but the club doors were locked. At trial, she watched surveillance footage from a gas station showing the defendant pumping gas around 3:00 a.m. on the morning of the murder. Ms. Breaux confirmed that the silver SUV seen in the surveillance video was the same one she saw in the Drama Club parking lot.

The defendant's girlfriend at the time of the murder, Darkus Baker, testified that, on Christmas Eve 2009, the last time that she spoke to the defendant was around midnight. Early Christmas morning, the defendant showed up at her grandparents' house where she and her children were. He was driving Ms. Baker's silver SUV and told her to come outside. Ms. Baker went outside, got into the vehicle, and the defendant handed her a tightly tied Walmart bag. He stated that he had to kill someone so that they could be a family. The defendant told Ms. Baker that he stabbed Mr. Lecompte with a screwdriver and disposed of the screwdriver on Grand Bois Road. He told Ms. Baker that Mr. Lecompte stated, "Why, why, why me? I thought I was your friend." Ms. Baker explained that Mr. Lecompte and the defendant lived together at one time. The defendant showed Ms. Baker a set of keys with "Robert" written on a wooden keychain and told Ms. Baker that he needed to get rid of them. He also pulled money out of his pockets wrapped in Capital One Bank wrappers.⁴ The money consisted of one, five, and ten dollar

⁴ Mr. Chestnut testified that he banked with Capital One Bank.

bills, as well as a few unwrapped twenty and hundred dollar bills. The defendant and Ms. Baker drove to his mother's trailer, and the defendant hid the money inside of light fixtures. He told Ms. Baker to remove the money and hide it at her grandmother's house when the police came to question him. The defendant also instructed Ms. Baker to burn or get rid of the bag that he had given her, which he told her contained a shirt that he pulled off of a hanger in the club and used to wipe the screwdriver. Ms. Baker hid the bag in a closet at her grandmother's house. Ms. Baker did not disclose any of this information to police until April 1, 2010.

The defendant told Ms. Baker that they could not rent a house together right away because it would look suspicious. They waited to rent until the end of January or beginning of February, 2010, and the defendant told Ms. Baker to tell the landlord that she made the money waitressing, if he asked why they were paying in small bills. At trial, the defendant claimed that Ms. Baker paid rent with money Ms. Baker received from her grandfather. Their landlord confirmed that the defendant and Ms. Baker paid the first month's rent of \$700 cash in five and ten dollar bills. He also confirmed that the telephone number written on the lease agreement was the same as that on the receipt found at the murder scene.

Terrebonne Parish Sherriff's Office Detective Terry Daigre interviewed the defendant on December 26, 2009. The defendant claimed that he left the Drama Club before anyone drove out of the parking lot. He admitted that he knew Mr. Lecompte was HIV positive when the two were roommates. He lied about being employed at the time of the murder. When the detective continued to question him about his employment, he stated that he lied because he did not want the officers to think that he killed Mr. Lecompte because he needed money. However, according to Detective Daigre, at that point in the interview, they had not discussed the money that was missing from the Drama Club office. When asked why someone would kill Mr. Lecompte, who was so well-liked in the community, the defendant stated that someone was probably angry because Mr. Lecompte infected that person with AIDS. According to Detective Daigre, however, at that point in the interview, the note written on the napkin had not been discussed. The defendant refused to give a recorded statement but provided a written statement

indicating that he believed Mr. Lecompte was killed because he infected someone with AIDS.⁵

Ms. Baker continued to communicate with the defendant while he was in jail and visited him in June 2010. During their telephone conversations, which the two knew were being recorded, the defendant stated that Jeremiah Washington was the offender and told Ms. Baker to tell officers that she was drunk and that she only reported that he was the offender because she was angry with him for cheating. At the end of June, Ms. Baker met with an investigator and told him the story that she and the defendant concocted in order to undo the damage she had done by telling the truth. She wanted to get the defendant out of jail because he told her that he loved her, he would change, and they could raise their family together. Ms. Baker continued to communicate with the defendant until six or seven months prior to trial.

The defendant testified at trial. He denied killing Mr. Lecompte, writing the note on the napkin, and telling Ms. Baker that he committed the murder. According to the defendant, the only time he asked Mr. Chestnut for money was the night he went to the club, and Mr. Chestnut told him to tell Mr. Lecompte to give him free drinks. The defendant stated that when everyone was leaving the club, he announced that he had to use the restroom and because the bathroom door was open, everyone could see him. The defendant claimed that he then talked to Mr. Lecompte while watching everyone walk out of the door, but left the club around 2:00 a.m., while other people were still in the parking lot and still next door. The defendant admitted going to get gasoline, but claimed that the reason it took him much longer than the usual twenty minute travel time from the Drama Club to the gas station was because he was drunk, was driving recklessly, and drove off of the road on the way there.

According to the defendant, on December 25, 2009, Mr. Washington came to his house with a blue shirt sticking out of his back pants pocket. He claimed that Mr. Washington sat in Ms. Baker's vehicle and smoked weed and talked with her. He claimed that when Mr. Washington left, he no longer had the shirt. Mr. Lecompte's DNA was located in the bloodstains on the blue Drama Club T-shirt turned in by Ms. Baker. The

⁵ Ms. Baker testified that she and the defendant were not HIV positive.

defendant was excluded as a contributor to those DNA samples. The exterior of the shirt disregarding any stains was also tested. A mixture of three individual's DNA was located. Mr. Lecompte could not be excluded as a contributor, but the defendant was excluded.

The defendant claimed that the allegation he made in his written statement was based on his opinion that Mr. Lecompte did not always tell his partners that he was HIV positive. Handwriting analysis was performed on the napkin, but the defendant could not be eliminated or confirmed as the person who wrote the message. The napkin itself was tested, and the DNA profile matched Mr. Lecompte. The defendant was excluded as a contributor.

In reference to his cellular telephone minute receipt found at the crime scene, the defendant insisted that receipt was inside of his wallet where he kept all of his receipts, when he was booked into jail. When asked about his relationship with Ms. Baker, the defendant did not deny physically harming her.

OTHER CRIMES EVIDENCE

In his sole assignment of error, the defendant argues the district court erred in allowing the State to introduce evidence of other crimes he committed. Specifically, the defendant contends that, despite the State's argument that evidence of the other crimes was necessary to explain that Ms. Baker waited until April to report her knowledge of the murder out of fear of the defendant, Ms. Baker testified that her delay was out of fear of facing prison time as an accomplice.

Prior to trial, the State filed notice of its intent to use evidence of other crimes. The notice indicated that the State planned to introduce acts of violence and threats against Ms. Baker to show that she did not immediately report the defendant because she was afraid of him.

The State subsequently filed a motion in limine requesting a pretrial hearing to determine the admissibility of threats made by the defendant against Ms. Baker. The motion stated that the defendant threatened Ms. Baker with harm if she reported the robbery and murder of Mr. Lecompte, and because Ms. Baker was the victim of domestic violence before and after the murder, she had a "real fear" that the defendant would carry out his threats. The State argued that the probative value of the threats and violence

outweighed any prejudicial effect and that it was "imperative for the trier of fact to know why the reporting was done so long after [Ms. Baker] had knowledge of the homicide."

The notice and motion in limine were consolidated at the State's request, and a hearing was held. In lieu of officer testimony, the State introduced police reports from incidents occurring on November 4, 2008; April 8, 2009; and April 2, 2010. The State argued that the three police reports were indicative of a history of physical abuse perpetrated by the defendant on Ms. Baker, and of the retaliation she endured from the defendant's family after she made her report, and were probative to show that her fear was legitimate. It further argued that defendant's threat to Ms. Baker on the morning of Christmas 2009, was part of the *res gestae* of the offense. In response, defense counsel argued that Ms. Baker could testify that she was afraid of the defendant, but that introducing evidence of arrests as opposed to convictions was "so prejudicial as to cause the trial to be reversed on appeal." Opining that Ms. Baker's relationship with the defendant was "certainly relevant" and "certainly explains the motive or reason for the delayed reporting[,]" the district court ruled that the fact that the incidents were reported to law enforcement was relevant, but warned the State that the fact that there were arrests should not be mentioned. It further opined that credibility was crucial and that it would be unfair to allow the defense to attack Ms. Baker's credibility and inquire why her disclosure was delayed without allowing her to testify about the other crimes. Defense counsel objected to the ruling.

Generally, evidence of other crimes committed by the defendant is inadmissible due to the substantial risk of grave prejudice to the defendant. To admit other crimes evidence, the State must establish that there is an independent and relevant reason for doing so, i.e., to show motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or when it relates to conduct that constitutes an integral part of the act. Evidence of other crimes, however, is not admissible simply to prove the bad character of the accused. Although relevant, evidence of other crimes may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. See LSA-C.E. art. 403; **State v. George**, 11-0325 (La. 2/23/11), 55 So.3d 788,

789 (per curiam).⁶ Ultimately, questions regarding the admissibility of evidence are within the discretion of the district court and should not be disturbed absent a clear abuse of that discretion. **State v. Mosby**, 595 So.2d 1135, 1139 (La. 1992).

Although the defendant contends that Ms. Baker's testimony established that her delayed reporting was out of fear of facing prison time, the State presented ample testimony in support of its theory that Ms. Baker's delayed reporting was out of fear of the defendant. At trial, Ms. Baker described some of the violence that she endured prior to and after the murder, including the incidents occurring on November 4, 2008; April 8, 2009; and April 2, 2010. According to Ms. Baker, in November 2008, the defendant, angry about one of Ms. Baker's previous relationships, slid the blunt end of a knife across her throat. He also held a handgun to her head and told her that he loved her, but that if he had to, he would kill her. In April 2009, the defendant shot her with a BB gun approximately twenty times, and her legs were covered in bruises and welts. (R. 439). The defendant did not deny this incident but claimed that the BB gun was actually a toy gun with plastic pellets.

On December 25, 2009, the defendant told Ms. Baker that she was an accessory to murder because she knew everything. He also told Ms. Baker that the murder was her fault because he did it for the children. He told her to burn the bag and to transfer the money to her grandmother's house when the police came to question him. Ms. Baker hid the bag and transferred the money. She stated that she would have done anything for the defendant.

Ms. Baker testified that during the last week of December 2009 through March 2010, the defendant began drinking more, which made him "really mean." According to Ms. Baker, when the defendant was mean, he was evil. The two got into bad fights, and

⁶ The procedure to be used when the State intends to offer evidence of other criminal offenses was formerly controlled by **State v. Prieur**, 277 So.2d 126 (La. 1973). Under **Prieur**, the State **was required** to prove by clear and convincing evidence that the defendant committed the other crimes. **Prieur**, 277 So.2d at 129-30. However, 1994 La. Acts 3d Ex. Sess., No. 51, §2 added LSA-C.E. art. 1104, which provides that the burden of proof in pretrial **Prieur** hearings "shall be identical to the burden of proof required by Federal Rules of Evidence Article IV, Rule 404." The burden of proof required by Fed. Rules Evid. 404 is satisfied upon a showing of sufficient evidence to support a finding by the jury that the defendant committed the other crime, wrong, or act. See **Huddleston v. United States**, 485 U.S. 681, 685, 108 S.Ct. 1496, 1499, 99 L.Ed.2d 771 (1988). The Louisiana Supreme Court has yet to address the issue of the burden of proof required for the admission of other crimes evidence in light of the repeal of LSA-C.E. art. 1103 and the enactment of LSA-C.E. art. 1104. However, numerous Louisiana appellate courts, including this court, have held that burden of proof to now be less than "clear and convincing." See **State v. Day**, 12-1749 (La. App. 1 Cir. 6/7/13), 119 So.3d 810, 814.

the defendant hit Ms. Baker more often. He was always depressed, snapped all the time, and told her that he had demons inside of him. Ms. Baker was afraid of the defendant when he would get mad.

According to Ms. Baker, she finally contacted the police on April 1, 2010, because of the events that occurred the day before. That day, while Ms. Baker read messages on the defendant's phone, she read some that he had sent to another woman. She drove to the defendant's mother's house, and the other woman was there. The defendant demanded that Ms. Baker return his phone, but she refused. The defendant pulled Ms. Baker out of her car, ripping her pants pocket. He then drug her by her hair down the street. Her pants and underwear came completely off. She screamed for help, but no one assisted her.

When asked whether that encounter is what prompted her to call the police, Ms. Baker responded, "I went home, and I thought about everything, and I prayed; and I don't know why, but I went in the closet and I opened up the bag; and then when I seen [sic] it, I just knew I couldn't take it anymore." She told her mom and grandparents what happened and completed paperwork to transfer custody of her oldest child to her mother in case she went to jail. She then contacted the police.

Ms. Baker's telephone call to the sheriff's office was recorded. During the call, Ms. Baker stated that she was scared and started crying. She stated that she did not want to report her knowledge because she was "scared, there's already domestic abuse charges on [the defendant]." She explained that she had those charges dropped because the defendant "told [her] he loved [her] and he wouldn't hit [her] anymore." She stated that after the incident wherein the defendant dragged her across the street, she could not "hold it in no more" and explained, "I was gonna [sic] protect him and not say nothing . . . he said if I tell y'all that I would get in trouble because I had the shirt and because I knew about the money, but I didn't."

On April 2, 2010, the day after Ms. Baker contacted the police, she received text messages from Desiree Pitre, the woman with whom the defendant had been cheating, insisting that she contact the police a second time and tell them that she was drunk and that she lied to them. Ms. Baker claimed that Ms. Pitre also threatened to beat her once

she was located. The defendant's sister called Ms. Baker and told her that she was going to kill her, cut her up, and feed her to her baby.

Thus, Ms. Baker's testimony established that she was afraid of the defendant and living under his control. She testified that their relationship was abusive, there were incidences of domestic violence, and she had taken restraining orders out against the defendant. Ms. Baker had to abide by the defendant's rules. She could not talk to men outside of his presence, wear makeup, or wear certain clothes. The defendant bought Ms. Baker a cellular telephone, but controlled when she was allowed to use the phone and who she was allowed to call. Ms. Baker had to clean the house when the defendant told her to and had to do everything the way the defendant wanted it done. The defendant kept recording devices and a camera inside the house so that he could watch Ms. Baker at all times. To get a kiss or hug, Ms. Baker had to "be good" all day. To maintain control over Ms. Baker, the defendant told her that her family would never take her back and that she had nowhere to go. When the defendant hit Ms. Baker, he told her that he was doing so because he loved her and because she had done something wrong. During the December 2009 timeframe, Ms. Baker was still bound by the defendant's rules and dependent on him for financial support.

Prior to trial, Ms. Baker recanted her story because she was scared, and no longer wanted to testify because the defendant's family was calling and threatening her. Even after the defendant was incarcerated, Ms. Baker was afraid that his friends and family would hurt her. Even though she had lied to the defendant about where she was working, he knew where she worked as well as her hours.

After our review of the record in its entirety, we find that the district court did not err or abuse its discretion in allowing the introduction of the other crimes evidence presented by the State. The purpose served by the admission of the other crimes evidence was not to depict the defendant as a bad man. Primarily, Ms. Baker's testimony was highly probative to establish the defendant's identity as the offender. LSA-C.E. art. 404(B)(1); **State v. Johnson**, 458 So.2d 539, 541-43 (La. App. 4 Cir. 1984), writ denied, 474 So.2d 945 (La. 1985). Her testimony established that defendant had confessed the murder to her, told her that the murder was her fault, and that he had involved her in hiding the bloodstained Drama Club shirt and the stolen money.

Further, evidence of threats to witnesses has been recognized as admissible other crimes evidence, because actions by the defendant that are designed to prevent witnesses from testifying give rise to an inference that the defendant acted from an awareness or consciousness of his own guilt. See **State v. Burnette**, 353 So.2d 989, 991-92 (La. 1977). Also, Ms. Baker's credibility was at issue, and evidence of the threats and abuse she endured was relevant to explain the State's theory that her fear of the defendant was the reason she delayed reporting as well as why she later recanted her statement. Although Ms. Baker did not explicitly state that the reason she delayed reporting was because she was afraid of the defendant, it was clear from her testimony that she feared him, lived under his control, and was dependent upon him for financial support. While the introduction of this other crimes evidence was certainly prejudicial, the probative value of the evidence - to explain why Ms. Baker did not immediately come forward with the defendant's identity as the offender and other evidence of the offense, including the bloodstained Drama Club shirt - was not substantially outweighed by the danger of unfair prejudice to the defendant.

Moreover, even if we were to determine that the other crimes evidence was improperly admitted in this case, that would not end our inquiry since the erroneous admission of other crimes evidence is a trial error subject to harmless error analysis. See **State v. Johnson**, 94-1379 (La. 11/27/95), 664 So.2d 94, 102. The standard applied in making this determination is whether the verdict rendered was surely unattributable to the error. **Sullivan v. Louisiana**, 508 U.S. 275, 279, 113 S.Ct. 2078, 2081, 124 L.Ed.2d 182 (1993). The testimony placed the defendant alone with Mr. Lecompte inside the Drama Club after it was closed. His vehicle was still in the parking lot after the club's doors were locked, but was gone when officers arrived at the club and found its door unlocked. A receipt bearing his cellular telephone number was found outside of the club's office where the missing money was kept. A surveillance video showed him at a nearby gas station around 3:00 a.m. Further, he was aware that money was stolen from the Drama Club prior to learning about the robbery, and opined that Mr. Lecompte was killed because he infected someone with AIDS before he learned about the napkin. Considering this evidence and testimony, we find that the guilty verdict returned in the instant case was surely unattributable to any error in the admission of evidence of the defendant's other

crimes. Thus, even if admission of this evidence were erroneous, the error was harmless beyond a reasonable doubt. See LSA-C.Cr.P. art. 921. Accordingly, this assignment of error has no merit.

CONCLUSION

For the above reasons, the defendant's conviction and sentence are affirmed.

CONVICTION AND SENTENCE AFFIRMED.

STATE OF LOUISIANA

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VERSUS

COURT OF APPEAL

JORELL MURPHY YOUNG

FIRST CIRCUIT

2014 KA 1245

 CRAIN, J., concurring.

The Article 404B “other crimes, wrongs, or acts” evidence was not offered to prove the character of the defendant, but for the purpose of supporting the credibility of Darkus Baker. The evidence involved three assaultive acts by the defendant upon Ms. Baker, who at the time of the acts was his girlfriend. Two of the assaultive acts occurred before the murder and one occurred after it.

It is undisputed that Ms. Baker’s credibility was at issue at the defendant’s trial. She gave a pre-trial statement, then testified at trial, and presented evidence prejudicial to the defendant, including, the defendant’s statement to her that he committed the murder, that she was directed by the defendant to hide money taken from the crime scene, and that the defendant instructed her to get rid of a shirt taken from the crime scene that he had used to wipe blood from the murder weapon. However, Ms. Baker delayed reporting the defendant’s involvement until approximately three months after the murder, after she and the defendant ended their relationship; and then she recanted her story.

I do not believe that any of the assaultive acts are covered by any one of the *listed* exceptions under Article 404B for the admissibility of such evidence. However, they were relevant to explain Ms. Baker’s state of mind, why she delayed reporting the defendant’s involvement in the murder, and her recantation. Having established the relevance of the Article 404B evidence for reasons other than to prove the character of the defendant, that evidence is admissible unless it is excluded pursuant to the balancing test required by Article 403. Applying the

Article 403 balancing test, the trial court did not abuse its discretion in concluding that the probative value of the assaultive attacks relative to the credibility of Ms. Baker was not *substantially outweighed* by the prejudicial effect of that evidence to the defendant. The evidence was properly admitted.