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COMMONWEALTH OF MASSACHUSETTS

NORFOLK COUNTY  
SUPERIOR COURT  
NORFOLK COUNTY

SUPERIOR COURT DEPARTMENT  
NO. 2282-CR-00117

_____	)
COMMONWEALTH OF	)
MASSACHUSETTS,	)
Plaintiff	)
V.	)
KAREN READ,	)
Defendant	)
_____	)

**DEFENDANT’S MOTION IN LIMINE TO EXCLUDE IRRELEVANT, INADMISSIBLE, AND PREJUDICIAL PRIOR BAD CHARACTER AND PROPENSITY EVIDENCE**

Now comes the defendant, Karen Read (“Ms. Read”) and respectfully moves this Honorable Court *in limine* to exclude any reference to the irrelevant, inadmissible, and prejudicial events that purportedly transpired in Aruba on December 31, 2021. As grounds for this motion, the Defendant states that the proffered evidence constitutes inadmissible prior bad acts evidence and is not probative of any material issue in this case. *See* Mass. R. Evid. 402. Should the Court find that this propensity evidence has any marginal relevance, any probative value of the proffered evidence is outweighed by the risk of unfair prejudice. *See* Evid. Code, § 404(b)(2); Commonwealth v. Oberle, 476 Mass. 539, 550 (2017) (citing Commonwealth v. Crayton, 470 Mass. 228, 249-250 & n. 27 (2014)).

**FACTUAL BACKGROUND**

Ms. Read is accused of the following crimes arising out of the death of Officer John O’Keefe: Murder in the Second Degree in violation of M.G.L. c. 265, s. 1 (Count One); Manslaughter while under the Influence of Alcohol in violation of M.G.L. c. 265, s. 13 ½ (Count

Two); and Leaving the Scene of Personal Injury and Death in violation of M.G.L. c. 90, s. 24(2)(a ½)(2) (Count Three).

The defense suspects that the Commonwealth will seek to admit testimony regarding a completely irrelevant verbal argument between Ms. Read and a woman named Marietta Sullivan, which occurred in Aruba on December 31, 2021, for the sole purpose of trying to assassinate Ms. Read's character in the eyes of the grand jury. Although every single witness unequivocally testified that there was no history of violence whatsoever in Ms. Read and O'Keefe's relationship, during the course of the state grand jury proceedings, the Commonwealth repeatedly elicited inadmissible testimony regarding an incident that occurred in Aruba one month prior, which had no logical relationship to the crime charged.

The Commonwealth has no reliable evidence to suggest that the Aruba incident had *anything whatsoever* to do with O'Keefe's death a full month later on January 29, 2022, or that this remote and isolated incident was even a point of contention in Ms. Read and O'Keefe's relationship after that trip. During the course of the state grand jury proceedings, the Commonwealth called numerous witnesses to testify about this highly inflammatory incident, in which Ms. Read apparently got angry at another woman—not the decedent—because she purportedly mistakenly believed O'Keefe had kissed another girl. The Commonwealth intentionally admitted this prior bad acts and character evidence for no reason other than to sully Ms. Read's character in the hopes that the jury would indict her based on the fact that she was, in Marietta's words, an "asshole". As set forth herein, this evidence must be excluded.

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## ARGUMENT

### **I. THE ARUBA INCIDENT CONSTITUTES INADMISSIBLE PRIOR BAD ACTS AND CHARACTER EVIDENCE, AND ANY MARGINAL RELEVANCE IS OUTWEIGHED BY THE RISK OF UNFAIR PREJUDICE TO THE DEFENDANT**

“Motions in limine concerning the introduction or exclusion of purportedly relevant evidence are properly made and considered before and during trial, in advance of the evidence being offered.” Commonwealth v. Spencer, 465 Mass. 32, 42 (2013). *See* Mass. G. Evid. § 103(f) (2023). “The purpose of a motion in limine is to prevent irrelevant, inadmissible or prejudicial matters from being admitted in evidence ... and in granting such a motion, a judge has discretion similar to that which he has when deciding whether to admit or exclude evidence” Commonwealth v. Hood, 389 Mass. 581, 594 (1983). *See* Commonwealth v. Tantillo, 103 Mass. App. Ct. 20, 27–28 (2023), review denied, 493 Mass. 1102 (2023).

“It is a fundamental rule that the prosecution may not introduce evidence that a defendant previously has misbehaved, indictably or not, for the purpose of showing his bad character or propensity to commit the crime charged.” Commonwealth v. Baker, 440 Mass. 519, 529 (2003). Although this type of evidence is sometimes admissible for other relevant purposes, such as to prove a “common scheme, pattern of operation, absence of accident or mistake, identity, intent or motive...these exceptions are not without limitation.” *Id.* (citing Commonwealth v. Triplett, 398 Mass. 561, 562 (1986) and Commonwealth v. Helfant, 398 Mass. 214, 224 (1986)) (internal quotations omitted). Similarly, although evidence of a hostile relationship between a defendant and his spouse may be admitted as relevant to a defendant’s motive to kill the victim, “such evidence should not be admitted if it relates to events which occurred at a time too remote from the killing.” Commonwealth v. Gil, 393 Mass. 204, 215-216 (citing Commonwealth v. Abbott, 130 Mass. 472, 475 (1881) (animosity between husband and wife three years before murder too

distant to be probative of husband's motive) and Commonwealth v. Burke, 339 Mass. 521, 533 (1959) (evidence of defendant's husband's adulterous relationship which terminated seven months before wife's death not probative of motive to murder)). "Temporal remoteness is not an exercise in line drawing; rather, a reviewing court focuses on the "logical relationship" between the prior bad act evidence and the crime charged." Commonwealth v. Peno, 485 Mass. 378, 386 (2020) (citing Commonwealth v. Facella, 478 Mass. 393, 405 (2017)). Moreover, even when this type of evidence is relevant for some limited purpose, the evidence must be excluded if its probative value is outweighed by the risk of unfair prejudice to the defendant.<sup>1</sup> See Evid. G., § 404(b)(2); Commonwealth v. Oberle, 476 Mass. 539, 550 (2017) (citing Commonwealth v. Crayton, 470 Mass. 228, 249-250 & n. 27 (2014)).

Here, testimony by Marietta Sullivan that Ms. Read got angry at Marietta Sullivan—not the decedent—on December 31, 2021, because she mistakenly believed Marietta had kissed her boyfriend, John O'Keefe, is simply not probative on the issue of whether Ms. Read had an intent to murder John O'Keefe on January 29, 2022. This event was remote in time and was clearly not an issue between O'Keefe and Ms. Read on January 29, 2022, as evidenced by video

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<sup>1</sup> Section 404(b)(2) permits the court to exclude evidence of a crime, wrong, or other act that is offered for a proper purpose (e.g., to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident) if the risk of unfair prejudice simply outweighs the probative value of the evidence. This is a more exacting standard than the standard set forth in Section 403, Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons, which permits the court to exclude relevant evidence if the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence substantially outweighs the probative value. Compare Evid. Code, § 403, with Evid. Code, § 404(b)(2). That is because bad act and propensity evidence is "inherently prejudicial" and the risk of improper use is enormous. Commonwealth v. Crayton, 470 Mass. 228, 249 & n.27 (2014); see Commonwealth v. Woollam, 478 Mass. 493, 500–501 (2017) (where offered to establish motive in prosecution for first-degree murder, "testimony regarding the changes in the defendant once he began using drugs," including the statement that defendant had become "a little more violent," was "more prejudicial than probative").

surveillance footage from the Waterfall Bar and Grille on the night in question and the testimony of eight witnesses—all of whom agreed the parties appeared happy and in good spirits. There is no logical relationship between the Aruba incident and the crime charged. The sole purpose of the Commonwealth’s attempts to admit this evidence is to sully Ms. Read’s character by allowing Marietta Sullivan to testify that Ms. read is an “asshole”. If we are to believe the Commonwealth’s best evidence, i.e. that Ms. Read said “fuck you” to Marrietta when she temporarily and mistakenly believed that she observed Marietta kissing her boyfriend one month prior on New Years Even in Aruba, that evidence is simply not probative of a motive to murder O’Keefe more than a month later when the parties were, by all accounts, in good spirits. In order for there to be a “logical relationship” between the prior bad acts evidence and the crime charged as required by Commonwealth v. Peno, 485 Mass. 378, 386 (2020), the jury would need to believe that Ms. Read reacted with a verbal “fuck you” when she believed she had observed adulterous behavior on December 31, 2021, but then subsequently flew into a murderous rage a month later *when this event was remote in time and not the subject of any arguments on the night in question*. That type of reasoning defies logic. The only reason for the admission of this evidence is to sully Ms. Read’s character and prejudice the jury against her.

Ms. Read reasserts here that this inadmissible propensity evidence has *no* probative value regarding the crimes for which she has been indicted. Regardless, even if the Court finds that this evidence has some marginal relevance in terms of evidencing a “hostile relationship” or intent to murder (which the defense asserts it does not), Ms. Read’s verbal reaction in response to a *temporary* mistaken belief that O’Keefe kissed another girl one month prior is far outweighed by the prejudicial, and inflammatory effect it will have on the jury.

## II. THE COMMONWEALTH MUST BE PROHIBITED FROM CALLING WITNESSES TO TESTIFY TO INADMISSIBLE HEARSAY FOR THE PURPOSE OF ATTEMPTING TO SHOW A HOSTILE RELATIONSHIP

Moreover, Massachusetts courts have long held that the admission of hearsay statements for the purpose of showing a hostile relationship between the defendant and the victim is not permissible because it would “entirely eviscerate the [rule’s] important purpose of securing the correctness and completeness of testimony through cross-examination.” Commonwealth v. Seabrooks, 425 Mass. 507, 511-512 (1997).

Here, testimony by Paul O’Keefe and Laura Sullivan regarding the irrelevant and inherently prejudicial Aruba incident must be excluded because these witnesses have nothing to testify about other than inadmissible hearsay. Indeed, during the course of the state grand jury proceedings, the Commonwealth knowingly chose to put O’Keefe’s brother, Paul O’Keefe, on the stand to testify about *stories* he’d heard from other people about an incident in Aruba on December 31, 2021, involving Ms. Read, O’Keefe, and a woman named Marietta Sullivan. (April 27, 2022, GJ Minutes at 43-46.) Notably, Massachusetts courts have long held that the admission of hearsay statements for the purpose of showing a hostile relationship between the defendant and the victim is not permissible because it would “entirely eviscerate the [rule’s] important purpose of securing the correctness and completeness of testimony through cross-examination.” Commonwealth v. Seabrooks, 425 Mass. 507, 511-512 (1997). In spite of this bright line rule, Paul O’Keefe was permitted to testify to gossip he heard from three separate individuals, including his wife, Erin O’Keefe, Laura Sullivan, and Marietta Sullivan about the Aruba Incident: “I had heard of an incident [in Aruba] where Karen had got off the elevator and saw my brother hugging Laura Sullivan’s younger sister Etta who is probably ten years younger than she is, who my brother has known for a long time. **And Karen perceived that as they were**

**kissing or making out which was not accurate, because I've actually had conversations with both Laura and Etta after the fact and they said that wasn't the case at all.** And I guess Karen made a big scene, you know, yelled at both of them, and I guess it just wasn't a pretty scene, from what I understand. . . . I had originally heard it from my wife who would communicate with Karen often. And then after the fact, through Laura Sullivan and Etta Sullivan." (April 27, 2022, GJ Minutes at 45-46.) Paul O'Keefe has no personal knowledge regarding *any* of the events that transpired in Aruba. Thus, all testimony from Paul O'Keefe regarding the Aruba incident is inadmissible hearsay and must be excluded.

During the state grand jury proceedings, the Commonwealth also called Laura Sullivan as a witness to testify about the same incident, which, like Paul O'Keefe, she did not personally observe or witness. (May 5, 2022, GJ Minutes at 4-34.) *Inter alia*, Laura Sullivan was permitted to testify about her completely irrelevant negative initial impressions of Karen during the planning of the Aruba trip (i.e. that Karen told her she needed her own bathroom and her own space), *id.* at 13; that her husband told her that he saw Karen and John at the pool in Aruba and Karen was "giving John an earful" because she wanted to "get him out of the pool to get ready to go out, and he just wanted to watch the game" (which in addition to being irrelevant also constitutes unreliable and inadmissible hearsay), *id.* at 20-21; the Commonwealth then elicited additional inadmissible and prejudicial hearsay testimony from Laura, allowing her to testify that her sister, Marietta, told her a story about how Ms. Read was an "asshole" in Aruba because she ran into O'Keefe in the hotel lobby on New Year's eve, where "he kind of tripped and like fell, and [Marietta] caught him... And [Marietta] pushed him towards [his room]. And [Marietta] said at that point Karen turned around and said, 'Who the fuck is she?' And [O'Keefe] said 'That's Etta, Laura's Sister.' And [Karen] looks right at my sister and she goes 'Fuck you.' And my

sister was like, ‘Well, nice to meet you. Fuck you too.’” id. at 21-22; the Commonwealth then elicited inadmissible and prejudicial hearsay testimony from Laura that she spoke with John later that night and he told her that Karen is “crazy”, id. at 23; the Commonwealth then elicited inadmissible hearsay testimony from Laura, stating that her sister, Marietta, denied ever kissing O’Keefe and that she would know if her sister was lying (improperly vouching for her sister), id. at 24-25; and finally, after all of that, the Commonwealth then asked Laura to describe whether anything stuck out regarding Karen and John’s relationship, permitting Laura to go on a long, irrelevant, and speculative diatribe about her perception of their relationship, which included her opinion that “there was no compassion or affection or anything between the two of them” and that there was no “spark” and “no connection”, id. at 30-31. Thus, all of Laura Sullivan’s testimony regarding the Aruba trip constitutes prejudicial and inadmissible hearsay, which must be excluded. Commonwealth v. Seabrooks, 425 Mass. 507, 511-512 (1997).

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**CONCLUSION**

For the above reasons, Ms. Read respectfully requests that this Honorable Court exclude any reference to the December 31, 2021, incident in Aruba.

Respectfully Submitted,  
For the Defendant,  
Karen Read  
By her attorneys,

  
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Dated: April 9, 2024

**CERTIFICATE OF SERVICE**

I, Attorney Elizabeth Little, do hereby certify that I served the “Defendant’s Motion *In Limine* to Exclude Irrelevant, Inadmissible, and Prejudicial Prior Bad Character and Propensity Evidence ” upon the Commonwealth by emailing a copy on April 9, 2024 to Norfolk County Assistant District Attorney Adam Lally at [adam.lally@mass.gov](mailto:adam.lally@mass.gov).

Dated: April 9, 2024



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Run Date: 01/30/22  
Run Time: 0016  
Phone: 508-427-3000

Good Samaritan Medical Center  
235 North Pearl Street  
Brockton, MA 02301  
Medical Director: Garrey Falley, M.D.

PATIENT Read, Karen A	SEX F	AGE 41	DATE OF BIRTH 02/26/1980	LOCATION ED. 65	DATE PRINTED 01/30/22 @ 0016
MED REC # / ACCT # GS00119987 / GM0066240649	ADMIT DATE 01/29/22	DISCH DATE	SUBMITTING DOCTOR Justin Rice, MD		

Test	Date	Time	Result	Reference	Units
Urine THC Screen	01/29/2022	0930	(Y)	(Negative)	

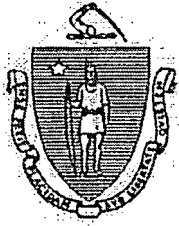
- (Y) Negative
- See also (Z): (\*a)
- (Z) THC Cutoff level 50 ng/mL

This report is intended for use in clinical monitoring and management of patients. It is not intended for use in employment related drug testing or court related proceedings. Samples are not routinely tested for adulteration and are assumed to be within the normal physiological pH range of 5 - 8.

~~Urine Cocaine~~ 01/29/2022 0908 (10) ng/dL

NOTES: (\*a) Good Samaritan Medical Center  
Good Samaritan Medical Center 235 North Pearl Street Brockton, MA 02301  
Garrey Falley, MD - Medical Director

GM0066240649 -- Read, Karen A (GS00119987) DEF(✓) 41/F Justin Rice, MD



*The Commonwealth of Massachusetts*  
*Department of State Police*



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CHRISTOPHER S. MASON  
COLONEL/SUPERINTENDENT

R. SCOTT WARMINGTON  
DEPUTY SUPERINTENDENT

Serum/Plasma Conversion Report

**Report Date:** May 04, 2022

**Laboratory Case Number:** 22-06576

**Defendant:** Karen A Read

**Report To:** ADA Adam Lally, Norfolk County District Attorney's Office

**Reported Serum/Plasma Ethanol Results\*:** 93 mg/dL

Blood ethanol concentrations are calculated from serum/plasma ethanol results using three (3) conversion factors. Low (1.18), average (1.14) and high (1.12) factors are used to report the blood ethanol concentrations based on the variance of the water content in an individual's blood.

	Low	Average	High
<b>Reported Serum/Plasma Result</b>	93 mg/dL	93 mg/dL	93 mg/dL
<b>Conversion Factor</b>	1.18	1.14	1.12
<b>Blood Ethanol Concentration</b>	0.078 g%	0.081 g%	0.083 g%

A serum/plasma result of 93 mg/dL corresponds to a blood ethanol concentration between 0.07 g% and 0.08 g%.

\*The ethanol result used in this serum/plasma conversion report was provided by an external party. The testing to obtain the ethanol result was not performed at the Massachusetts State Police Crime Laboratory and therefore this report does not fall under the laboratory's scope of accreditation.

These calculations were performed by the author of this report on 5/3/2022.

This report reflects the test results, conclusions, interpretations, and/or the findings of the analyst as indicated by the signature above. Reported results relate only to the items tested, sampled,

certified, calibrated, or data processed. Information regarding any items which the laboratory collected or created and preserved for future testing is available upon request.



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Nicholas C. Roberts  
Forensic Scientist II  
Massachusetts State Police Crime Laboratory  
This report was electronically signed using password protected software.



*The Commonwealth of Massachusetts*  
*Department of State Police*



CHARLES D. BAKER  
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R. SCOTT WARMINGTON  
DEPUTY SUPERINTENDENT

Retrograde Extrapolation Report

**Report Date:** June 06, 2022

**Laboratory Case Number:** 22-06576

**Subject:** Karen A Read

**Report To:** ADA Adam Lally, Norfolk County District Attorney's Office

**Background:**

The serum/plasma ethanol concentration obtained from the Good Samaritan Medical Center for Karen A Read was 93 mg/dL at 0908 hours on 1/29/2022 and time of the incident was 0045 hours on 1/29/2022. The ethanol result used in this retrograde extrapolation report was provided by an external party. The testing to obtain the ethanol result was not performed at the Massachusetts State Police Crime Laboratory and therefore this report does not fall under the laboratory's scope of accreditation.

A serum/plasma ethanol concentration of 93 mg/dL corresponds to a blood ethanol concentration (BAC) between 0.07 g% and 0.08 g% at 0908 hours on 1/29/2022. See the MSPCL serum/plasma report issued on 5/4/2022.

**Calculations:**

Possible BACs approximately 8.5 hours prior to the time of the test were calculated assuming different rates of elimination\* of ethanol. Minimum and maximum BAC's 8.5 hours prior to the time of the test are calculated as follows:

**Minimum BAC:** A possible minimum level is calculated by multiplying the lowest elimination rate\* (0.010 g% per hour) by the time interval (8.5 hours) minus two hours. This two hour allowance is to account for the uncertainties associated with the drinking history of the subject prior to the time interval. The resulting number is added to the lowest BAC at the time of the hospital test.

$$0.07 \text{ g\%} + ((0.010 \text{ g\%} / \text{hour}) \times 6.50000) = 0.135 \text{ g\%}$$

**Maximum BAC:** A possible maximum level is calculated by multiplying the highest elimination rate\* (0.025 g% per hour) by the time interval (8.5 hours) and adding the resulting number to the highest BAC at the time of the hospital test. This calculation assumes that the subject's BAC had peaked at or prior to the start of the time interval (0045 hours) indicating that the subject had consumed no ethanol 0.5 to 1.5 hours prior to the time interval.

$$0.08 \text{ g\%} + ((0.025 \text{ g\% / hour}) \times 8.5) = 0.292 \text{ g\%}$$

Therefore, based on the information provided and these calculations, the subject's BAC could be between 0.13 g% and 0.29 g% at 0045 hours on 1/29/2022.

These calculations were performed by the author of this report on 6/6/2022.

\* The rates of elimination chosen for the above calculations (0.010 g%/h and 0.025 g%/h) represent, respectively, "low" and "high" values based on published studies in the scientific community. These rates serve to indicate an established range of experimentally determined ethanol elimination rates, however may not account for all individuals.

This report reflects the test results, conclusions, interpretations, and/or the findings of the analyst as indicated by the signature below. Reported results relate only to the items tested, sampled, certified, calibrated, or data processed. Information regarding any items which the laboratory collected or created and preserved for future testing is available upon request.



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Nicholas C. Roberts  
Forensic Scientist II  
Massachusetts State Police Crime Laboratory  
This report was electronically signed using password protected software.