

2018 MAR 15 09:28:19

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,
PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA : No. 3932-16
: :
v. : :
WILLIAM H. COSBY, JR. :

2018 MAR 15 PM 2:51

CLERK OF COURTS
OFFICE
MONTGOMERY COUNTY
PENNA.

ORDER

AND NOW, this 15th day of March, 2018, upon consideration of the Commonwealth's "Motion to Introduce Evidence of 19 Prior Bad Acts of the Defendant," the Defendant's response thereto, the Commonwealth's offers of proof, argument of Counsel on March 5 and 6, 2018, the post hearing briefs submitted by Counsel, and this Court's comprehensive review of Pa. R. E. 404 (b), reported appellate authority, an analysis of the proposed evidence under the "common plan, scheme and design" and "absence of mistake" exceptions, and a balancing of the probative value of the other acts evidence versus the risk of unfair prejudice to the Defendant, it is hereby **ORDERED** and **DECREED** that the Commonwealth's Motion is **GRANTED** in part and **DENIED**, in part, subject to further examination and evidentiary rulings in the context of trial.

The Commonwealth shall be permitted to present evidence, pursuant to Pa. R. E. 404 (b), regarding **five** prior bad acts of its choosing from CPBA 2-12 through CPBA 2-19. See, Commonwealth v. Hicks, 91 A.3d 47, 55 (Pa. 2014) ("Hicks I") (stating that "[trial court] would have the authority to dictate how many cumulative witnesses may testify, but it cannot dictate which of those

witnesses the Commonwealth may call to prove its case”); Commonwealth v. Hicks, 156 A.3d 1114 (Pa. 2017) (plurality) (“Hicks II”); Commonwealth v. Gordon, 652 A.2d 317, 324 (Pa. Super. 1994); Commonwealth v. Frank, 577 A.2d 609 (Pa. Super. 1990) (enumerating balancing test factors); Commonwealth v. Smith, 825 A.2d 1086 (Pa. Super. 1993); Commonwealth v. Donahue, 549 A.2d 121 (Pa. 1988).

The balance of the Commonwealth’s Motion is **DENIED**.

The Commonwealth shall identify to the undersigned and to Defense counsel which witnesses it intends to call by March 19, 2018.

BY THE COURT:

STEVEN T. O'NEILL J.

Copies of this Order mailed on 3/15/18 to the following:

- Lane Vines, Esq.
- Thomas A. Mesereau, Jr., Esq.
- Kathleen Bliss, Esq.
- Jason Hicks, Esq.
- Becky S. James, Esq.
- Kevin R. Steele, Esq.
- M. Stewart Ryan, Esq.
- Kristen Gibbons Feden, Esq.
- Michael R. Kehs, Esq. (Court Administrator)

Secretary