NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

Fairfax County Courthouse
4110 Chain Bridge Road
Fairfax, Virginia 22030-4009
703-246-2221 • Fax: 703-246-5496 • TDD: 703-352-4139

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June 22, 2015

To The Attached Distribution List

Re: Commonwealth v. Charles Severance
Case No. FE-2015-430

Dear Counsel:

This matter came before the court on April 23, 2015 for a hearing on the Defendant's Motion to Sever and the Commonwealth's Memorandum in Opposition to Defendant's Motion to Sever. At that time, I took the motion under advisement. I have since fully considered the motion, the opposition, and the arguments of counsel. For the reasons stated below, the Motion to Sever will be denied.

I. Background

Charles S. Severance (the "Defendant") was indicted on September 8, 2014 in the Circuit Court of the City of Alexandria.[1] The indictment consists of the following counts:

Count 1: Capital murder of Ruthanne Lodato on February 6, 2014;

[1] Venue was subsequently changed to Fairfax County by an order entered on April 23, 2015.

OPINION LETTER

Count 2: Use of a firearm while committing murder on February 6, 2014, a second or subsequent offense;

Count 3: Malicious wounding of J.F. on February 6, 2014;

Count 4: Use of a firearm while committing malicious wounding on February 6, 2014, a second or subsequent offense;

Count 5: Capital murder of Ronald Kirby on November 11, 2013;

Count 6: Use of a firearm while committing murder on November 11, 2013, a second or subsequent offense;

Count 7: First degree murder of Nancy Dunning on December 5, 2003;

Count 8: Use of a firearm while committing murder on December 5, 2003;

Count 9: Possession of a firearm by a convicted felon on February 6, 2014; and

Count 10: Possession of a firearm by a convicted felon on November 11, 2013.[2]

The Commonwealth has declared in writing that it will not seek the death penalty for either of the capital murder charges.

In his Motion to Sever, the Defendant requests that Counts 7 and 8, relating to the murder of Nancy Dunning on December 5, 2003, be severed from the remaining counts and that he be granted a separate trial on those charges.

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[2] Counts 7 and 8 will be referred to collectively as the "2003 Charges." Counts 5, 6, and 10 will be referred to as the "2013 Charges." Counts 1, 2, 3, 4, and 9 will be referred to as the "2014 Charges."

II. Discussion of Authority

Rules of the Supreme Court of Virginia

Rule 3A:10 of the Rules of the Supreme Court of Virginia provides, in pertinent part:

> (c) An Accused Charged With More Than One Offense. The court may direct that an accused be tried at one time for all offenses then pending against him, if justice does not require separate trials and (i) the offenses meet the requirements of Rule 3A:6(b) or (ii) the accused and the Commonwealth's attorney consent thereto.

Rule 3A:6(b) provides:

> (b) Joinder of Offenses. Two or more offenses, any of which may be a misdemeanor, may be charged in separate counts of an indictment or information if the offenses are based on the same act or transaction, or on two or more acts or transactions that are connected or constitute parts of a common scheme or plan.

Summarizing, unless justice requires separate trials, offenses may be joined for trial over the objection of the Commonwealth or the accused if the offenses are:

1. based on the same act or transaction,

2. multiple acts that are connected,

3. multiple acts that are parts of a common scheme, or

4. multiple acts that are parts of a common plan.

In his Motion to Sever, the Defendant argues that the 2003 Charges are not "based on the same act or transaction" as the 2013 Charges or the 2014 Charges, nor are the 2003 Charges "part of a common scheme or plan" together with the 2013 Charges or the 2014 Charges. Further, the Defendant contends, justice requires a separate trial on the 2003 Charges.

The Commonwealth responds that all of the charges in this case are "connected," part of a "common scheme," and part of a "common plan" within the meaning of Rules 3A:10(c) and 3A:6(b). The Commonwealth maintains that justice does not require separate trials.

Case Law[3]

A. Multiple Acts That Are Connected

To be "connected" for the purposes of Rules 3A:10(c) and 3A:6(b), "two or more crimes . . . must be so intimately connected and blended with the main facts adduced in evidence that they cannot be departed from with propriety." Commonwealth v. Smith, 263 Va. 13, 17 (2002), quoting Kirkpatrick v. Commonwealth, 211 Va. 269, 273 (1970) (internal quotation marks omitted).[4]

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[3] The court will not address the "same act or transaction" prong of Rule 3A:6(b) because the Commonwealth makes no argument that the 2003 Charges are part of the "same act or transaction" as the 2013 Charges and the 2014 Charges.

[4] The abstruse phrase that the offenses must be "so intimately connected and blended with the main facts adduced in evidence that they cannot be departed from with propriety" is first found in Walker v. Commonwealth, 28 Va. (1 Leigh) 574 (1829). That case did not, however, involve a joint trial for two offenses. Rather, the issue was whether, in Walker's prosecution for stealing a watch, evidence was admissible that he had once stolen a coat.

Federal Rule of Criminal Procedure 8(a) is similar to Rule 3A:6(b).[5] In interpreting that rule, "federal courts ask whether commission of one of the offenses either depended upon or necessarily led to the commission of the other." Walker v. Commonwealth, 289 Va. ___, 770 S.E.2d 197, 200 (2015) (internal ellipses and alterations omitted).

B. Multiple Acts That Are Part of a Common Scheme

A "common scheme" means "a particular act done multiple times in a similar way." Walker, 770 S.E.2d at 200 n. 4.

> If the similarity between the offenses is sufficiently distinctive, this is consistent with our definition in Scott that the term "common scheme" describes crimes that share features idiosyncratic in character, which permit an inference that each individual offense was committed by the same person or persons as part of a pattern of criminal activity involving certain identified crimes.

Id., citing Scott v. Commonwealth, 274 Va. 636 (2007) (internal alterations omitted).

C. Multiple Acts That Are Part of a Common Plan

In Scott v. Commonwealth, 274 Va. 636 (2007), the Supreme Court of Virginia held that "the term 'common plan' describes crimes that are related

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[5] The federal rule provides:

> (a) Joinder of Offenses. The indictment or information may charge a defendant in separate counts with 2 or more offenses if the offenses charged—whether felonies or misdemeanors or both—are of the same or similar character, or are based on the same act or transaction, or are connected with or constitute parts of a common scheme or plan.

Fed. R. Crim. P. 8(a).

to one another for the purpose of accomplishing a particular goal." Id. at 646.

In the recent case of Walker, the Court reversed the lower courts' holding that the defendant's four charges of drug distribution were properly joined for a single trial because they were part of a common plan. The Walker court quoted with approval the case of Spence v. Commonwealth, 12 Va. App. 1040, 1044 (1991), in which it was held that a common plan was one "that tied the offenses together and demonstrated that the object of each offense was to contribute to the achievement of a goal that was not obtainable by the commission of any of the individual offenses."

Attempting to clarify the "amorphous" term "common plan," the Court in Walker reasoned:

> Thus, a "common plan" connotes a series of acts done with a relatively specific goal or outcome in mind. This goal or outcome exists when the constituent offenses occur sequentially or interdependently or advance some common, extrinsic objective. For example, a defendant may break into a bank president's home, steal the keys to the bank, and then burgle it. All of the associated offenses are committed sequentially to further the principal objective of taking the money from the bank. Similarly, a defendant may be a partner in a business and murder the other partners to acquire control of it. Each murder is a separate prerequisite to acquiring control of the business, so each offense is an act in furtherance of that objective.

Walker, 770 S.E.2d at 200-201, quoting David P. Leonard, The New Wigmore: A Treatise on Evidence: Evidence of Other Misconduct and Similar Events §§ 9.2.1 and 9.2.2 (2009) (internal citations omitted).

D. The Requirements of Justice

The "justice" prong of Rule 3A:10(c) requires an analysis of whether evidence of one crime would be inadmissible as unduly prejudicial in the prosecution of a second crime. Commonwealth v. Minor, 267 Va. 166 (2004). Justice "requires separate trials where highly prejudicial evidence of one of the crimes is not admissible in the trial of the other." Long v. Commonwealth, 20 Va. App. 223, 226 (1995).

In Minor, the Supreme Court held that, where identity of the perpetrator was not at issue, justice required that the accused have separate trials on two rape charges. The only issue in Minor's prosecution was the consent of the alleged victims. The Court reasoned that "evidence showing that a defendant raped one or more individuals other than the victim in the crime charged is generally not relevant to the question whether that victim did or did not consent to sexual intercourse with the defendant." The Court distinguished the case of Satcher v. Commonwealth, 244 Va. 220 (1992), where identity of the perpetrator was disputed and evidence of an earlier sexual assault was admissible in the prosecution for rape and murder of a second victim to prove identity.

Virginia Rule of Evidence 2:404(b) governs when "other crimes" evidence is admissible:

> Evidence of other crimes, wrongs, or acts is generally not admissible to prove the character trait of a person in order to show that the person acted in conformity therewith. However, if the legitimate probative value of such proof outweighs its incidental prejudice, such evidence is admissible if it tends to prove any relevant fact pertaining to the offense charged, such as where it is relevant to show motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, accident, or if they are part of a common scheme or plan.

Va. R. Evid. 2:404(b).

III. The Commonwealth's Theory of Its Case

The court must review the Commonwealth's expected evidence in order to determine if the 2003 Charges are connected to or part of a common scheme or plan with the 2013 and 2014 Charges, and also to determine if justice requires separate trials.

Connected

The Commonwealth argues that the 2003 Charges are "connected" to the 2013 Charges and the 2014 Charges because the jury will be asked to compare known images of the Defendant in 2003 with a videotape showing a man who appeared to be following Ms. Dunning in a Target store about an hour before she was murdered. Further, the jury will be asked to compare a police artist's sketch created based on the recollection of an eyewitness to the Lodato murder in 2014 with the Defendant's present appearance. According to the Commonwealth, "[b]ecause part of the government's proof is comparing images of the asserted killer at two vastly different points in time and in two cases and asking the jury to compare them against known images of the defendant at the same time, there is interlocking evidence between the crimes" and the offenses are therefore "connected" within the meaning of Rule 3A:6(b).

Common Scheme

At the April 23, 2015 hearing on the Defendant's Motion to Sever, the Commonwealth's attorney outlined the Commonwealth's evidence of a "common scheme" as follows:[6]

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[6] Transcript (partial) of April 23, 2015 hearing at pp. 22 – 40. The court stresses that what follows is the Commonwealth's proffer of what it expects its evidence at trial to be, not any findings of fact by the court.

All of the offenses charged in the indictment occurred within approximately one mile of one another in the same general neighborhood. The neighborhood is considered a low-crime area of the City of Alexandria. All of the offenses occurred on a weekday, in the late morning. All of them occurred when the victim answered a knock on the door of his or her residence. The victims were all shot in the foyers of their houses. Nothing was stolen in any of the cases. The houses were not rummaged through or ransacked. Other than being shot, no victim was sexually assaulted or touched in any way. The Commonwealth asserts "[i]n other words, the killer, apparently, knocked, perhaps talked, briefly entered, killed, and exited."

Nancy Dunning, the victim in the 2003 Charges, was shot with .22 caliber bullets manufactured by Remington. Three bullets were recovered from her body. The bullets were either the "Cyclone" or "Subsonic" models. That type of ammunition is low velocity and designed to make less sound when fired. The bullets had eight lands and grooves and a twist to the right.[7] The bullets appear to have been fired from the same firearm, which was a revolver.

In 2013, Ronald Kirby was shot with Remington .22 caliber ammunition, either Cyclone or Subsonic. The gun used to kill Mr. Kirby was similar, but not identical, to the gun used to kill Ms. Dunning. Five bullets were recovered, either from Mr. Kirby or the crime scene.

Ruthanne Lodato was shot in 2014 with Remington .22 caliber ammunition, either Cyclone or Subsonic. Five bullets were recovered, either from Ms. Lodato or the crime scene. The gun used to kill Ms. Lodato was very similar, but not the same gun used to kill either Ms. Dunning or Mr. Kirby. According to the Commonwealth, "the firearms evidence establishes

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[7] The Commonwealth's attorney explained that: "Firearms examiners . . . [examine] impressions imparted on the soft lead of a bullet as it travels down the barrel of a firearm after firing. Most firearms are rifled, meaning that a series of grooves inside of the barrel imparts spin to the bullet and improves its accuracy. These grooves leave a number of marks called lands and grooves on the bullet, and, additionally, the lands and grooves twist to either the right of left, depending on the firearm."

that three very similar firearms using the same type of ammunition were used in the murders."

Two firearms experts from the Department of Forensic Science who between them have 65 years of experience "would testify that in their entire careers the only offenses in which they have observed this type of ammunition used in a crime, any crime, let alone murder, are these three offenses that occurred within approximately one mile of one another in a low crime neighborhood of Alexandria." Low velocity rounds make less sound than higher velocity rounds and "therefore can be used . . . to kill somebody without neighbors, or passersby, hearing."

In April 2003, eight months before the murder of Ms. Dunning, the Defendant purchased a .22 caliber North American Arms five-shot mini-revolver. That firearm is capable of firing .22 caliber Remington Cyclone or Subsonic ammunition. In February 2004, two months after the Dunning murder, that gun was seized from the Defendant during a traffic stop in Harrisonburg, Virginia. The Defendant was convicted of a felony and thereafter was prohibited from possessing or purchasing firearms. The gun seized in Harrisonburg was later destroyed by court order.

After his conviction in Harrisonburg, the Defendant spent several years traveling throughout the United States. He returned to Virginia and met a woman with whom he lived in Ashburn. At the Defendant's urging, his girlfriend purchased two North American Arms five-shot mini revolvers, one in May 2012, and the other in August 2012. The Defendant accompanied his girlfriend to a local gun shop in order to purchase ammunition for the guns. She purchased .22 caliber ammunition. "She doesn't remember the manufacturer's name, but she remembers it came in a green and white box, which is the design of Remington ammunition." She recalls that the Defendant emphatically wanted "low velocity ammunition only."

In March 2014, after the Defendant learned that the police wanted to speak to him, he left his girlfriend's house. She discovered that the two .22 caliber North American Arms five-shot mini revolvers were gone from her

house, although two other, larger caliber guns that she owned before meeting the Defendant remained.

Search warrants were executed for the Defendant's parents' house in Fairfax County, where the Defendant sometimes stayed. A box of .22 caliber Subsonic low-velocity ammunition "perfectly matching the firearms evidence" was recovered in the area where the Defendant kept his belongings. The 50-round box contained 40 rounds of unfired ammunition, suggesting that ten rounds were missing. The Defendants' parents stated that it was not their ammunition.

A search warrant was executed at the Defendant's girlfriend's house in Ashburn. Two spent cartridge cases of Remington .22 caliber ammunition were recovered. The girlfriend said she had never fired the guns and had no idea how these cartridge cases ended up in her house. The forensic scientists determined that these rounds were consistent with either Cyclone or Subsonic ammunition and likely had been fired through a North American Arms .22 caliber revolver.

Summarizing the firearms evidence, the Commonwealth states: "The firearms evidence shows a killer who used three different, but extremely similar firearms, with eight lands and grooves and a right twist and was partial to .22 caliber Remington ammunition, either Cyclone or Subsonic, low velocity. The evidence shows that the Defendant possessed three different, but extremely similar firearms, with eight lands and grooves and a right twist and was partial to .22 caliber Remington Subsonic ammunition."

In the Commonwealth's view, "[t]he fact that [the Defendant] possessed these guns and was [fixated] on the appropriate ammunition at the appropriate times is evidence that he committed all three murders."

The Defendant is also tied to the firearm evidence by his writings found in his automobile at the time of his arrest and recovered from his girlfriend's house. "In his own handwriting and on an internet printout of the gun, the Defendant lists the gun, a gun cleaning kit, and specifically writes

'one box of .22 caliber low velocity subsonic ammunition.' On another piece of paper, after writing the serial number of one of the guns, he writes 'NAA .22 caliber long rifle mini revolver, hammer interferes with the left side, frame track does not clear both sides of track.' In other words, in his own handwriting, the Defendant is describing the mechanical issue he had discovered on the gun while firing it."

Also found in the Defendant's writings:

"Please purchase three North American Arms .22 caliber MINI revolvers and 500 rounds of low velocity subsonic cartridges. The five-round stainless steel with a wooden grip is small and easily concealed. Thou shalt murder and vengeance is mine saith the Lord. Hollow point and below the speed of sound is sweet music and very very effective in the very dangerous land of Allah . . . ."

The guns "should never have fired medium velocity, or higher velocity, .22 cartridges, only .22 caliber low velocity subsonic ammunition. On the street or in a hollow, the gun is called a Mormon death squad."

"North American Firearms out of Utah makes a beautiful, tiny and deadly .22 caliber mini revolver 5 cartrage [sic] stainless steel mormon [sic] death squad special. Best to discharge subsonic less than the speed of sound ammunition. Don't damage the gun with high velocity high energy rounds. Aversion and appetite govern men. Aversion to jail and appetite to kill an adversary."

The Commonwealth concludes its discussion of its evidence of a "common scheme" by arguing that "[t]hese offenses are signature crimes and it is the Defendant's signature etched upon them. The method, location, time of day, gun and ammunition evidence, all establish that the offenses are idiosyncratic signature crimes and, therefore, connected."

Common Plan

The Commonwealth argues that there is ample evidence of a "common plan" within the meaning of Rule 3A:6(b). According to the Commonwealth's proffer of what it expects its evidence at trial to be:[8]

The Defendant lived in Alexandria in the late 1990's through the early 2000's. He lived in Park Fairfax, within one-half mile of Ms. Lodato's house and in the same general neighborhood as all three murders. The Defendant was well-known in political circles, which he would later call part of the 'nefarious utopian elites." He ran "quixotic" campaigns for mayor of Alexandria.

While an Alexandria resident, the Defendant fathered a child with a woman with whom he lived. After the birth of the child, he and the mother separated. A contentious and prolonged custody case ensued in the Alexandria courts. The mother was granted sole custody and the Defendant never again saw his child. The court's custody decision caused extreme anger in the Defendant. According to the Commonwealth, "[w]itnesses have recounted that years [after] the decision the Defendant, occasionally, would go on irrational tirades about the custody decision, blaming the City of Alexandria, the courts, and elected officials, for kidnapping his child. Witnesses were frightened and concerned by the intensity of the anger he displayed, even as late as 2013."

As the ten-year anniversary of Ms. Dunning's murder approached, the Defendant's motive "mutated slightly away from a hatred just of the court system and more to 'the nefarious utopian elites.'"

The Commonwealth proffers that "[w]ritings in this case, in the Defendant's own hand, and which can be dated to as late as the fall of 2013, one month before Ron Kirby's murder, bear out his intense anger and an internal debate about whether murder was justified." The Defendant wrote t

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8 Transcript (partial) of April 23, 2015 hearing at pp. 40 – 52.

"received no satisfaction after revenge killing." He concluded that "Murder is good. Court justice is bad. Can you forgive someone for kidnapping your son? Can you murder someone for kidnapping your son?"

Other writings of the Defendant on this topic include:

"Thou shat not kill is a lie. No self-respecting god-fearing patriarch would not kill men and women who delight in terrorizing his family."

"A man who becomes victim of Child Protective Services, or Family Court, or other government kidnapping agencies, is at liberty until he is effectively fatigued from finding no satisfaction."

"Suffering father's scheme is rife with murder and grief, exempt from all measures of the enforcement class. Murder on my mind and my mind on murder. Thou shalt murder saith the Lord."

"Attachments to government cease to be natural when they cease to be mutual."

"It is not he who dies with the most toys wins, or lives the longer. He who denies the most years of life to his adversaries wins."

"Thou shalt murder kill assassinate slay execute"

"Vengence [sic] is mine saith the Lord."

"The last scream of a victim echoes to eternity."

"Give glory to God. Peace on earth. Death to adversaries."

"It has nothing to do with business, everything is personal."

"They kidnap and they die."

"Violent change or revolution is necessary to rein in the excesses of government law and order. Effective coercion on all beneficiaries of a government that failed to protect. Innocents died on the cross 2000 years ago; the guilty is all that is left."

"Let all members of the enforcement class scream."

"Elites are always driven by selfish motives. Murder elites. My liberty and your oppression are the order of the day."

"Violence is the last vacation resort for ambitious victims. The reward is denying pleasure to others, especially members of the law enforcement class and nefarious utopian elites."

"The first law of Noble Savage Theory is thou shalt murder. The second law of Noble Savage Theory is thou shalt murder again and the third again and again."

"Great patriarchs teach their children how to murder thy neighbor and the happy good mother of his children submits."

"Violence on Utopians is the new world law and order. Reverse role and become the enforcement class only by violent means, violent change, violent regime change, violent negotiations, violent policy, violent actions, violent words, violent behavior, and above all violence. The opperative [sic] word is violence. Violence wins."

"Introduce murder into a safe & secure neighborhood. It shudders with horror. Do it again and again and again . . . . Add violence and increase uncertainty among status quo utopian oppressive elites. Emotionally disturb them with violence.

> Nightmares and day dreams of terror. Horrible child trolls the neighborhood."
>
> "i've been nudging and trolling for over a decade and nobody has noticed. violence wins. assassinate because it is in the best interest of the child."

The Defendant wrote a poem, entitled "Parable of the Knocker." It reads:

> Knock Enter
> A metaphor A translation A mystery
> Knock and the door will be answered
> Seek and ye shall find
> Knock and the door will open
> Ask and ye shall know
> Wisdom
> Knock Talk Enter Kill Exit
> Murder Wisdom
> Patience is an excuse for cowardice
> Jesus is the Lord

Summarizing its evidence of a "common plan" the Commonwealth asserts that the Defendant "definitely believed that . . . he had been wronged by what he termed the law enforcement class, and that he therefore had the right to murder and assassinate." The "common plan," according to the Commonwealth, was the Defendant's plan to exact revenge on the "enforcement class" of Alexandria[9] who kidnapped his child. The ten-year gap between the murder of Ms. Dunning in 2003 and the murder of Mr. Kirby in 2013 can be explained, according to the Commonwealth, by the seizure of the Defendant's firearm in 2004, and his inability to purchase

[9] Each of the victims has been described as a prominent Alexandrian. Ms. Dunning was a real estate agent and the sheriff's wife. Mr. Kirby was a transportation planner. Ms. Lodato was a music teacher and the daughter and sister of a judge.

firearms following his felony conviction in Harrisonburg in 2004 until he was able to persuade his girlfriend to purchase two guns for him in 2013.

Conclusion

Having carefully considered the Commonwealth's proffer of evidence as outlined above, the court concludes that the Motion to Sever should be denied.

The court finds that the 2003 Charges are not "connected" with the 2013 Charges or the 2014 Charges as that term is used in Rule 3A:6(b). The court does not agree with the Commonwealth that the "interlocking evidence" of the various images of the Defendant over the years, the images of the man in the Target video, and the police artist's sketch from 2014 make the offenses "connected" under Rule 3A:6(b).

The two capital murder charges (i.e., the murder of Mr. Kirby in 2013 and the murder of Ms. Lodato in 2014) are "connected" because one is the predicate offense for the other. It is the murder of Mr. Kirby and Ms. Lodato within a three-year period which elevates the offenses to capital murder under Code § 18.2-31(8). See Commonwealth v. Smith, 263 Va. 13 (2002) (Code § 18.2-31(8) supplies the connection to satisfy the requirement for joinder).

The Commonwealth's evidence, if proven at trial, would satisfy the "common scheme" prong of the test for joinder under Rule 3A:6(b). The offenses are sufficiently "idiosyncratic in character [to] permit an inference that each individual offense was committed by the same person or persons as part of a pattern of criminal activity involving certain identified crimes." Walker, 770 S.E.2d at 200 n. 4.

Similarly, the Commonwealth's evidence, if proven at trial, would satisfy the "common plan" test for joinder under Rule 3A:6(b). The offenses constitute "a series of acts done with a relatively specific goal or outcome in mind." The "constituent offenses [occurred] sequentially or

interdependently or [advanced] some common, extrinsic objective." Id. at 200-201. The Commonwealth's proffered evidence suggests that the Defendant's common plan was to exact revenge on the elites of the City of Alexandria because of his deep anger over his loss of the custody of his child.

Furthermore, justice does not require separate trials because evidence of the 2003 offenses will be admissible in trial of the other offenses under Rule of Evidence 2:404(b), in that "it tends to prove any relevant fact pertaining to the offense charged, such as . . . motive, . . . intent, preparation, plan, knowledge, [and] identity." Additionally, evidence of the other crimes is admissible under Rule of Evidence 2:404(b) because "they are part of a common scheme or plan."

An order reflecting the rulings contained in this letter has been entered and is enclosed.

Sincerely,

[redacted]

Jane Marum Roush

OPINION LETTER

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA	)	CRIMINAL NUMBER FE-2015-430
VERSUS	)	
CHARLES STANARD SEVERANCE	)	INDICTMENT – CAPITAL MURDER (Counts I & V), 1st DEGREE MURDER (Count VII), MALICIOUS WOUNDING (Count III), USING A FIREARM IN THE COMMISSION OF A FELONY (Counts II, IV, VI & VIII, POSSESSION OF A FIREARM AS A CONVICTED FELON (Counts IX & X)

ORDER

THIS MATTER came before the Court on April 23, 2015 on the Defendant's Motion to Sever. At that time, the Court took the motion under advisement. For the reasons stated in the Court's opinion letter dated today, the motion to sever is **DENIED**.

Entered on June 22, 2015.

[redacted]
JUDGE JANE MARUM ROUSH

cc: Bryan Porter, Esq.
David Lord, Esq.
Marc Birnbaum, Esq.
James Entas, Esq.
Christopher Leibig, Esq.
Joseph King, Esq.
Megan Thomas, Esq.

JMR / wr
FE-2015-430