

Court of Appeals, State of Michigan

ORDER

People of MI v Mark Anthony Coulier

Docket No. 314236

LC No. 09-007571-FC

Kirsten Frank Kelly
Presiding Judge

Christopher M. Murray

Michael J. Riordan
Judges

The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), and in lieu of granting leave to appeal, the Court further orders that the December 28, 2012, order to deny plaintiff's motion to admit is REVERSED. Defendant statements to several witnesses are admissible under MRE 801(d)(2)(a), and are highly relevant to his motive, intent, and whether he is the perpetrator of his wife's murder. See *People v Fisher*, 449 Mich 441, 453; 537 NW2d 577 (1995) (*Fisher II*); *People v Amos*, 453 Mich 885; 552 NW2d 917 (1996); *People v Milton*, 186 Mich App 574, 576; 465 NW2d 371 (1990). Moreover, the trial court abused its discretion in concluding that the evidence was inadmissible under MRE 403, as the admission of defendant's statements will not be unfairly prejudicial. *People v Crawford*, 458 Mich 376, 398; 582 NW2d 785 (1998); *People v Vasher*, 449 Mich 494, 501; 537 NW2d 168 (1995). All of Defendant's statements at issue in the motion are highly probative to the issues to be submitted to the jury. The content or number of such statements does not make it unfairly prejudicial. Because the testimony is not "unfairly prejudicial," the prejudicial impact of the evidence does not outweigh its probative value. Second, the victim's statements to four witnesses are admissible under MRE 803(3), where the victim's state of mind is a significant issue in this case and the statements by the victim are relevant to defendant's motive for killing her. *Fisher II*, *supra* at 450-451. Thus, the trial court abused its discretion in barring the testimony for the reasons set forth in defendant's brief.

The motion for stay is DENIED AS MOOT.

Pursuant to MCR 7.215(F)(2), this order shall take immediate effect. The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JAN 17 2013

Date

Larry S. Royster
Chief Clerk