

Court of Appeals, State of Michigan

ORDER

People of MI v Jeffrey Dale Isabell-Taylor

Docket No. 319833

LC No. 13-009167-FC

Christopher M. Murray
Presiding Judge

Kurtis T. Wilder

Michael J. Riordan
Judges

The Court orders that, in lieu of granting plaintiff's emergency application for leave to appeal, the trial court's December 18, 2013 order denying the admittance of MCL 768.27a evidence is REVERSED. MCR 7.216(A)(7). The trial court abused its discretion in excluding the proposed evidence of defendant's prior criminal sexual conduct convictions under MCL 768.27a, as its conclusion that the evidence was more prejudicial than probative under MRE 403 was based upon the propensity effect of the evidence. Quoting *People v Watkins*, 491 Mich 450, 487-488; 818 NW2d 296 (2012), this Court has stated that when applying MRE 403 to evidence admissible under the statute, "courts must weigh the propensity inference *in favor of* the evidence's probative value rather than its prejudicial effect." *People v Buie*, 298 Mich App 50, 72; 825 NW2d 361 (2012) (emphasis added). Applying the factors articulated in *Watkins*, the evidence proffered by plaintiff was not more prejudicial than probative. As outlined in the Notice of Intent to Introduce Other Acts Evidence, the acts comprising the prior convictions had sufficient similarity (similar ages, evidence tended to show defendant's mode of operation with children who were family friends) and were close enough in proximity to the instant crime to be more probative to the issue than prejudicial. *People v Mann*, 288 Mich App 114, 118-119; 792 NW2d 53 (2010). The probative value of this relevant evidence far outweighs any prejudicial effect, *id.*, and its admittance would not create an undue tendency for the tribunal to decide the case on an improper basis. *People v Vasher*, 449 Mich 494, 501; 537 NW2d 168 (1995).

This matter is remanded for further proceedings consistent with this order. We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

FEB 25 2014

Date

Chief Clerk