

FILED
09-03-2024
Clerk of Circuit Court
Brown County, WI
2022CF001067

STATE OF WISCONSIN CIRCUIT COURT BROWN COUNTY
BRANCH II

STATE OF WISCONSIN,

Plaintiff,

v.

Case No.: 22 CF 1067

ALEJANDRO PATRICIO CANTU,

Defendant.

DEFENDANT'S MOTION IN LIMINE REGARDING 906.08(2)
EVIDENCE AND WITNESS CREDIBILITY

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PLEASE TAKE NOTICE the Defendant, Alejandro Patricio Cantu, appearing specially by Kirk Obear & Associates, specifically Attorney Stephanie M. Rock, and reserving the right to challenge the jurisdiction of the Court, if necessary, respectfully moves the Court for an order allowing him to impeach the below listed witnesses regarding a specific instances of conduct probative of their truthfulness as described below, pursuant to Wis. Stat. Sec. 906.08(2).

I. Applicable Legal Principles

Wis. Stat. Sec. 906.08(2) provides as follows:

SPECIFIC INSTANCES OF CONDUCT. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witnesses' credibility...may not be proved by extrinsic evidence. They may, however, subject to s. 972.11(2), if probative of truthfulness or untruthfulness and not remote in time, be inquired into on cross-examination of a witness or on cross-examination of a witness who testifies to his or her character for truthfulness or untruthfulness. (emphasis added).

Witness credibility is a key issue in this case. When witness credibility is the crux of the case, greater latitude should be given in allowing inquiry into matters related to witness credibility. *See, e.g., State v. Cuyler*, 110 Wis. 2d 133, 327 N.W.2d 662 (1983) (reversing sexual assault and child enticement convictions in interest of justice based on erroneous exclusion of evidence offered under sec. 906.08(1) to bolster defendant's credibility when witness credibility was critical issue at trial). Accordingly, the defendant believes that the

probative value of the evidence in this case is significant, essential to the effective presentation of his defense, and not outweighed by potential prejudice to the State under Wis. Stat. Sec. 904.03. Since Sec. 906.08(2) specifically prohibits the use of extrinsic evidence, questioning on these matters will be limited to impeachment only, not presentation of additional evidence, and therefore will not waste time or confuse the jurors.

II. Specific Instance of Conduct Probative of Truthfulness

The defendant moves the court to allow him to impeach the following witnesses regarding the associated specific instances of conduct:

A. Naomi Rose Cadotte

The defense should be permitted to impeach Naomi Rose Cadotte by questioning her as to the following:

1. Whether, on January 29, 2015, she was charged with one count of Obstructing an Officer in Brown County. According to the criminal complaint, law enforcement was called out for a disturbance involving Cadotte. When asked to identify herself, Cadotte provided law enforcement an identification card for a female named Alyssa S. Tourtilott. Law enforcement later learned Cadotte's true identity and confirmed that she had multiple warrants out at that time.

2. Whether, in September of 2015, she was charged with three counts of Retail Theft in Outagamie County. According to the criminal complaint, on August 31, 2015, Cadotte stole hundreds of dollars worth of merchandise from a PINK store in the Fox River Mall on three different dates: August 29, August 31, and September 2, 2015. Cadotte would conceal the items in her bag and leave the store without purchasing them. The officer was able to observe the stolen items posted for sale on a Facebook account called, "Green Bay Buy/Sell/Trade".

3. Whether, in October of 2015, she was charged with Retail Theft in Brown County. According to the criminal complaint, while at Wal-Mart, Cadotte selected several items of clothing and placed them in a selected backpack. She also placed numerous other items including a purse, additional clothing, and bedding into a shopping cart and pushed it past the last point of sale without paying.

4. Whether, on May 7, 2016, she was charged with Obstructing an Officer in Brown County. According to the criminal complaint, Cadotte provided a false name to law enforcement after law enforcement was dispatched to a hotel. Cadotte's true identity was discovered by law enforcement uncovering a booking photo of her. There was an arrest warrant out for Cadotte at this time.

5. Whether, on February 24, 2021, she was charged with Retail Theft in Brown County. According to the criminal complaint, Cadotte concealed merchandise from Webster Avenue Market in her purse. She then passed all points of sale after paying for only a few items and not the ones she had concealed in her purse.

6. Whether, on November 13, 2022, she was charged with Possessing an Illegally Obtained Prescription and Obstructing an Officer in Brown County. According to the criminal complaint, Cadotte was contacted by law enforcement after they were dispatched to a gas station for a complaint that she was using substances inside

of a vehicle. In the vehicle, officers located a prescription pill bottle with a number of different pills inside of it. Cadotte falsely claimed to know what each of the pills were and that she had a prescription for each of them.

7. Whether, on December 9, 2022, she was charged with Possessing an Illegally Obtained Prescription in Brown County. According to the criminal complaint, law enforcement was dispatched for a report of a female believed to be under the influence and in vehicle screaming and hitting herself. Officers located the vehicle and at first observed a female sitting in the driver's seat. When officers approached, the female was found laying down in the backseat in an apparent attempt to hide from officers. In the vehicle was Suboxone that Cadotte did not have a prescription for.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Naomi Cadotte's untruthfulness. Further, they are not remote in time, making them a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

B. Sarol Cadotte

The defense should be permitted to impeach Sarol Cadotte by questioning her as to the following:

1. Whether, in September of 2015, she was charged with one count of Obstructing an Officer in Racine County. According to the criminal complaint, Cadotte was part of a traffic stop. When asked by law enforcement to identify herself, she provided the name Naomi Cadotte. Cadotte only properly identified herself when she became aware that law enforcement knew her true identity. She eventually admitted to providing the false name as she was on parole and aware that she was not to be in that area.

2. Whether, in January of 2018, she was charged with two counts of Misappropriation of Personal Identifying Information or Documents and two counts of Obstructing an Officer. According to the criminal complaint, on April 16, 2017, a traffic stop was conducted on Cadotte who identified herself by a written document as Destinee A. Diaz. On August 8, 2017, law enforcement was called to a hotel disturbance during which Cadotte again identified herself through written document as Destinee A. Diaz. Diaz. Officers eventually made contact with the real Diaz who reported that Sarol Cadotte had been using her name to get out of trouble in the past.

3. Whether, in November of 2019, she was charged with one count of Retail Theft in Brown County. According to the criminal complaint, Cadotte was observed concealing perfume from Kohls in her own personal bag. She was also observed taking off her shoes, placing them in a shoebox and returning that to a shelf, and putting on the new pair of shoes. She then attempted to leave the store without paying for the items. When asked to stop by loss prevention, she replied "no".

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Sarol Cadotte's untruthfulness. Further, they are not remote in time, making them a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

C. Carla Renee Cooper

The defense should be permitted to impeach Carla Cooper by questioning her as to the following:

1. Whether, on September 28, 2021, she was charged with one count of Burglary of a Building or Dwelling, PTAC and one count of Theft, PTAC in Oconto County. According to the criminal complaint, in June of 2020, law enforcement was dispatched to a property after the homeowner reported seeing suspicious activity on his Ring camera. It was discovered that a home had been burglarized and several items were missing including a large screen TV and a Boise music system. Through investigation, it was discovered that Cooper was one of two parties involved in the burglary.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Carla Cooper's untruthfulness. Further, they are not remote in time, making them a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

C. Leon Denny

The defense should be permitted to impeach Leon Denny by questioning him as to the following:

1. Whether, in August of 2020, he was charged with one count of Obstructing an Officer in Sawyer County. According to the criminal complaint, Leon Denny was involved in a traffic stop. When asked to identify himself, he provided law enforcement the name Dacin D. Danforth with a date of birth of 07/20/1996. A DOT check showed this was a lie.

2. Whether, in September of 2020, he was charged with one count of Obstructing an Officer in Brown County. According to the criminal complaint, Leon Denny was involved in a disturbance in which officers were called. When asked to identify himself, Leon Denny provided law enforcement the name of Alex. M. Morgan. When questioned about this later, Leon Denny then provided law enforcement the name of Sunrise S. Denny. It was not until after he was taken to the hospital for clearance and then was being fingerprinted at the jail that his true identity was learned.

3. Whether, in July of 2022, he was charged with one count of Obstructing an Officer in Brown County. According to the criminal complaint, Leon Denny was the subject of a traffic stop. During that stop, he verbally identified himself to law enforcement as Sunrise S. Denny. A DOT check revealed this was false.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Leon Denny's untruthfulness. Further, they are not remote in time, making them a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

D. Brionne Elm

The defense should be permitted to impeach Brionne Elm by questioning her as to the following:

1. Whether, in August of 2016, she was charged with Retail Theft in Brown County. According to the criminal complaint, Elm was concealing unpaid merchandise in a diaper bag. She then paid for some items but not those concealed in the diaper bag.

2. Whether, in October of 2016, she was charged with Retail Theft in Brown County. According to the criminal complaint, Elm and a male took merchandise from Woodman's Markets without paying for it.

3. Whether, in July of 2019, she was charged with one count of Unauthorized Use of an Entity's Identifying Information or Documents and one count of Uttering a Forgery in Brown County. According to the criminal complaint, Elm was involved in a fraudulent checking cashing scheme in April of 2019 involving multiple individuals.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Brionne Elm's untruthfulness. Further, they are not remote in time, making them a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

E. Josephine M. Lyons

The defense should be permitted to impeach Josephine M. Lyons by questioning her as to the following:

1. Whether, in May of 2018, she was charged with two counts of Issuance of a Worthless Check in Shawano County. According to the criminal complaint, in December 2017, issued two checks that did not clear the bank.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Josephine Lyons' untruthfulness. Further, they are not remote in time, making them a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

F. Stephanie Elizabeth Ray

The defense should be permitted to impeach Stephanie Elizabeth Ray by questioning her as to the following:

1. Whether, in May of 2022, she was charged with Obstructing an Officer and two counts of Possession of an Illegally Obtained Prescription in Brown County. According to the criminal complaint, on May 30, 2021, Ray was the subject of a traffic stop during which she identified herself to law enforcement as Annette Ella White, DOB 01/16/1983. A DOT check revealed this was false. A wallet was later located in which Ray's true

identity was discovered. During a search of the vehicle, it was discovered that Ray was in possession of prescriptions for which she did not possess prescriptions for.

2. Whether, in March of 2022, she was charged with Obstructing an Officer in Brown County. According to the criminal complaint, law enforcement was dispatched to a residence for a complaint of drug use and sales. Of note, this residence is down the street from where the incident in question took place. When requested to identify herself, Ray provided a false name of Brittany Elizabeth Miller. At the time, Ray was wanted for full extradition felony warrant on a probation hold.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Stephanie Ray's untruthfulness. Further, they are not remote in time, making them a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

F. Alexandra Skippergosh

The defense should be permitted to impeach Alexandra Skippergosh by questioning her as to the following:

1. Whether, in March of 2023, she was charged with Obstructing an Officer in Brown County. According to the criminal complaint, she was the subject of a traffic. When asked to identify herself, she provided law enforcement the name Alita Teller. At the time, she had an active warrant for her arrest from the Department of Corrections.

This specific instance of conduct constitutes an act of dishonesty, conduct which is probative of Alexandra Skippergosh's untruthfulness. Further, it is not remote in time, making it a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

F. Mario Stewart

The defense should be permitted to impeach Mario Stewart by questioning him as to the following:

1. Whether, in May of 2018, he was charged with one count of Uttering a Forgery, PTAC in Brown County. According to the criminal complaint, on May 27, 2018, law enforcement was dispatched to a disturbance involving individuals in a vehicle. During a search of the vehicle, counterfeit money was located within the possession of Stewart.

2. Whether, in September of 2021, he was charged with two counts of Retail Theft in Brown County. According to the criminal complaint, Stewart was at a Home Depot where he placed two trash cans into his shopping cart. He then filled those trash cans with various Milwaukee tools. After concealing the items, he walked passed all last points of sales. When approached by a loss prevention employee, he exited the building

and ran to a vehicle where he placed some of the items into a vehicle and drove away. Stewart then posted the stolen items on Facebook to sell.

3. Whether, on May 24, 2023, he was charged with Theft in Brown County. According to the criminal complaint, law enforcement was called due to a report of possible vehicle theft. When law enforcement arrived, they observed Stewart sneaking around an apartment complex. A search of his person revealed screws and drill bits inside of his pants pocket. It was discovered that speakers and amplifiers and a battery operated drill were located in plain view in a vehicle. Through investigation, it was confirmed that Stewart was removing a stereo from a vehicle.

4. Whether, on February 15, 2023, he received three citations for Fraud on a Gas Station in Brown County.

5. Whether, on May 9, 2023, he was charged with Retail Theft in Brown County. According to the criminal complaint, law enforcement was dispatched to Dicks Sporting Goods reference a retail theft that had just occurred. Stewart was located outside of the establishment and was carrying a large amount of clothing with tags wrapped in his gray sweatshirt.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Mario Stewart's untruthfulness. Further, they are not remote in time, making it a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

G. Dakota Jourdan

The defense should be permitted to impeach Dakota Jourdan by questioning him as to the following:

1. Whether, in May of 2016, he was charged with two counts of Retail Theft and one count of Obstructing an Officer in Brown County. According to the criminal complaint, on May 13, 2016, Dakota Jourdan was stopped for stealing from a Kohls store. When asked to identify himself, Jourdan gave the false identity of Damien L. Jordan, DOB 03/23/1996. Once at the jail, Jourdan's true identify was revealed by recognition on behalf of jail staff.

2. Whether, on March 30, 2017, he was charged with two counts of Retail Theft in Brown County. According to the criminal complaint, on February 9, 2017, law enforcement was dispatched to the Gander Mountain store in the Village of Howard for a report of retail theft. Jourdan had stolen two fish finders and various other items by exiting the store through an emergency use only door without paying for any of the items. That same day, law enforcement also received a report from Target regarding a theft from the previous day. On February 8, 2017, Jourdan had exited the emergency fire door carrying two boxes containing Keurig coffee makers without having paid for the items.

3. Whether, on April 11, 2019, he was charged with two counts of Retail Theft in Brown County. According to the criminal complaint, on two occasions in March of 2019, Jourdan removed vacuum cleaners from a Target store without making a purchase.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Dakota Jourdan's untruthfulness. Further, they are not remote in time, making it a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

J. Jacob Jesse Ventura

The defense should be permitted to impeach Jacob Jesse Ventura by questioning him as to the following:

1. Whether, on May 13, 2016, he was charged with Obstructing an Officer in Brown County. According to the criminal complaint, Ventura was the subject of a traffic stop during which he provided law enforcement the name of Marcus L. Salmon, DOB 3/30/94. Law enforcement knew from previous encounters that this was a false name and other passengers confirmed this. Later mugshots and a DOT check further confirmed this.

2. Whether, in May of 2016, he was charged with Retail Theft and Obstructing an Officer in Brown County. According to the criminal complaint, on May 6, 2016, law enforcement was dispatched to Shopko for a retail theft suspect that had just ran from loss prevention workers. It was observed from surveillance that Ventura took two separate wireless controllers after ripping the hard, plastic tag from them.

3. Whether, on January 30, 2018, he was charged with Retail Theft in Brown County. According to the criminal complaint, Ventura took numerous items of clothing from a Kohl's store without paying for any of the items.

4. Whether, on March 1, 2018, he was charged with Identity Theft-Avoidance in Outagamie County. According to the criminal complaint, on January 5, 2018, Ventura was the subject of a traffic stop during which he identified himself by written document to law enforcement as Omar J. Salmeron. Ventura maintained he was Salmeron up to the point of being at the Outagamie County Jail for an identity check.

5. Whether, on September 8, 2020, he was charged with two counts of Obstructing an Officer in Brown County. According to the criminal complaint, on September 4, 2020, Ventura was the subject of a welfare check during which he provided law enforcement the name of Jacob Shawano. Medical staff later located his true identity which was confirmed through checking mugshots.

6. Whether, on October 29, 2020, Ventura was charged with Retail theft in Outagamie County. According to the criminal complaint, law enforcement was dispatched on October 28, 2020 to Sheels for a retail theft that was in progress. Ventura was in the Nike section of the store concealing merchandise in a yellow bag. Employees attempted to stop Ventura but he did not comply and left with the merchandise to the food court. He then ran into the parking lot with the merchandise.

7. Whether, on August 20, 2021, he was charged with Obstructing an Officer in Brown County. According to the criminal complaint, he was the subject of a traffic stop. When asked to identify himself, he provided the name Marcus L. Salmeron, DOB 03/30/1995. Once confronted with the known false identity, Ventura continued to maintain the Salmeron identity.

These specific instances of conduct constitute acts of dishonesty, conduct which is probative of Jacob Ventura's untruthfulness. Further, they are not remote in time, making it a permissible area of inquiry on cross-examination as a specific incident of conduct under Wis. Stat. Sec. 906.08(2). *See also United States v. Smith*, 80 F.3d 1188, 1193 (7th. Cir. 1996) (Defendant's prior thefts proper topic for cross-examination under Rule 608(b), the federal equivalent of Wis. Stat. Sec. 906.08(2)).

Further, the defendant submits that allowing questioning on cross-examination is essential to preserving the defendant's right to present a defense, because witness credibility is an issue of vital importance in this case. The constitutional right to present evidence is grounded in the confrontation and compulsory process clauses of Art. I, Sec. 7 of the Wisconsin Constitution and the Sixth Amendment of the United States Constitution. *Chambers v. Mississippi*, 410 U.S. 284, 294 (1973); and *State v. Pullizzano*, 155 Wis. 2d 633, 645, 456 N.W.2d 325 (1990).

DATED this Saturday, September 1, 2024.

Respectfully Submitted,
KIRK OBEAR & ASSOCIATES
Electronically signed by:

/s/ Stephanie M. Rock

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