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SUPERIOR COURT
OF GUAM



IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM,

Plaintiff,

vs.

ERIC MATTHEW CRUZ,

Defendants.

Criminal Case No. CF0650-24

**DECISION AND ORDER ON MOTION IN
LIMINE TO ADMIT EVIDENCE UNDER
RULE 413 AND RULE 404(b)**

INTRODUCTION

This matter came before the Honorable John C. Terlaje on People's Motion *in Limine* to Admit Evidence under Rule 413 and Rule 404(b). The Court now issues the following order **GRANTING in part, and DENYING, in part**, the People's Motion in *Limine*.

PROCEDURE

On August 12, 2025, the People filed its Motion in *Limine* regarding Guam Rules of Evidence ("GRE") 413 and Rule 404(b). People's Mot. in Lim. The People's Motion requests that the Court allow admission of evidence that "the Defendant committed similar acts against the child [B.C.] during the same time period", "at least 20 times during 2nd and 3rd grade." The People's Motion also asks that the Court admit evidence that the Defendant committed "one act of cunnilingus and yearly acts of touching the primary genital area of another minor child, C.C. (DOB: 11/22/2002) between the years 2012 and 2014." Defendant Cruz was asked to file an

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1 Opposition by Monday, August 18, 2025, but no Opposition was filed. The Court reviewed the
2 motions and applicable law and makes the following ruling.
3

4 **RULINGS**

5 **I. People's Motion in *Limine* to Admit Evidence Under Rule 413**

6 The Court **GRANTS** the People's Motion to admit evidence pursuant to Rule 413 of the
7 GRE. The People have moved to allow testimony concerning similar sexual acts against the same
8 victim, as well as one act of cunnilingus and yearly acts of touching the primary genital area of
9 another minor child, C.C. between the years 2012 and 2014 be admissible. Rule 413 states that
10 "in a criminal case in which the defendant is accused of an offense of criminal sexual conduct,
11 evidence of the defendant's commission of another offense or offenses of criminal sexual
12 conduct is admissible, and may be considered for its bearing on any matter to which it is
13 relevant." Rule 413 supersedes Rule 404(b)'s prohibition on similar conduct to show propensity.
14 In *Chinel*, the Guam Supreme Court used a three-factor test to determine whether a prior offense
15 or conduct is admissible under Rule 413. *Chinel*, 2013 Guam 24 ¶ 21. This test includes 1) the
16 present case must include criminal sexual conduct charges, 2) the evidence proffered must be
17 evidence of the defendant's commission of another past act of sexual assault, and 3) the past act
18 must be relevant.
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20 The Court will first address the similar sexual acts against the same victim. This Court
21 has found that the current case involves criminal sexual conduct charges and the evidence
22 proffered includes uncharged instances of sexual acts between the defendant and the victim.
23 Furthermore, the Court finds these acts are relevant as they are similar to the acts charged in this
24 criminal sexual conduct case and involve the same defendant and victim. Therefore, under
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1 *Chinel*, the evidence of the prior offenses against the same victim are admissible under Rule 413.
2
3 In relation to the evidence concerning the Defendant's alleged commission of "one act of
4 cunnilingus and yearly acts of touching the primary genital area of another minor child between
5 2012 and 2014," the Court also finds that this evidence is admissible. As stated above, the current
6 case involves criminal sexual conduct charges, and the evidence proffered includes instances of
7 the Defendant's commission of other past acts of sexual assault. Finally, the Court finds these
8 acts are relevant as they are similar to the acts charged in this criminal sexual conduct case.
9 Although these acts do not involve the same victim, they do involve the same defendant and a
10 minor child, approximately four to six years before the conduct initially charged in this case.
11 Although this evidence may not be as relevant as the acts against the same victim, the Court
12 finds that they are sufficiently relevant under the *Chinel* test and therefore should be admissible
13 under Rule 413.

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15 The Court has also considered a balancing test as required under Guam Rule of Evidence
16 403 to determine if the probative value of the 413 evidence is not substantially outweighed by
17 unfair prejudice to a defendant, using the framework provided in *United States v. Lemay*, 260
18 F.3d 1018, 1026-27 (9th Cir. 2001). *Wesen*, 2022 Guam 18 ¶ 47. Under *Lemay*, the trial court
19 should consider, but is not limited to: 1) the similarity of the prior acts to the acts charged, 2) the
20 closeness in time of the prior acts to the acts charged, 3) the frequency of the prior acts, 4) the
21 presence or lack of intervening circumstances, and 5) the necessity of the evidence beyond the
22 testimonies already offered at trial. *Chinel*, 2013 Guam 24 ¶ 36. Regarding the evidence of
23 similar sexual acts against the same victim, B.C., the Court finds that the charged sex acts include
24 similar conduct to the other acts the victim may discuss and occurred in a similar time period.
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1 The People have represented that these acts occurred around 20 times, which is frequent over a
2 period of two years. The Court is not aware of any intervening circumstances, and finds that the
3 evidence is very probative and necessary for the jury to fully understand the circumstances
4 surrounded the charged offenses. Furthermore, the victim's testimony is likely to be the main
5 evidence offered at trial, and the Court sees no reason to limit her testimony when Rule 413
6 allows for its admission and it is likely to be more probative than prejudicial.
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8 Regarding the evidence concerning the Defendant's alleged commission of "one act of
9 cunnilingus and yearly acts of touching the primary genital area of another minor child [C.C.]
10 between 2012 and 2014," the Court finds that the charged sex acts regarding B.C. include similar
11 conduct to the acts regarding C.C. because both involve touching the primary genital area of a
12 minor on more than one occasion. The Court is not aware of intervening circumstances.
13 However, the events alleged by C.C. occurred about four to six years earlier in time than the
14 events alleged by B.C. in this case. Furthermore, the Court is not convinced that evidence of the
15 events alleged by C.C. are necessary beyond the testimonies already offered at trial to show the
16 jury whether the Defendant is guilty relevant to the acts alleged by B.C. specifically. Therefore,
17 because the Court believes that the probative value of the allegations made by C.C. is
18 substantially outweighed by the danger of unfair prejudice for the Defendant, the Court will not
19 allow the admission of the evidence regarding C.C. in the present trial concerning the acts alleged
20 by B.C.
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22 Therefore, the Court grants the Motion to Admit Evidence Pursuant to Rule 413 of the
23 GRE and admits evidence that "the Defendant committed similar acts against the child [B.C.]
24 during the same time period", "at least 20 times during 2nd and 3rd grade." However, the Court
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1 denies the Motion with respect to evidence that the Defendant committed “one act of cunnilingus
2 and yearly acts of touching the primary genital area of another minor child, C.C. (DOB:
3 11/22/2002) between the years 2012 and 2014” and denies its admission.
4

5 **II. People’s Motion in *Limine* to Admit Evidence Under Rule 404(b)**

6 The People also wish to admit under Guam Rule of Evidence 404(b) evidence that the
7 Defendant was arrested in October 2021 for Family Violence against Antoinette Cruz, another
8 witness in the case. GRE Rule 404 creates a general prohibition on the admission of evidence of
9 other crimes, wrongs or acts for the purpose of showing criminal propensity, but 404(b) allows
10 such evidence when offered to prove “motive, opportunity, intent, preparation, plan, knowledge,
11 identity, or absence of mistake or accident.” GRE 404(b).
12

13 The People bear the burden of establishing that a prior bad act: (1) proves a material
14 element of the crime currently charged, (2) is similar to the charged conduct, (3) is based on
15 sufficient evidence; and (4) is not too remote in time. *People v. Evaristo*, 1999 Guam 22, ¶ 11
16 (citing *United States v. Hinton*, 31 F.3d 817, 822 (9th Cir. 1994)). Additionally, the probative
17 value of the relevant evidence must substantially outweigh the danger of unfair prejudice. *See*
18 *People v. Camaddu*, 2015 Guam 2 ¶ 12, *see also* GRE 403. In considering the *Hinton* factors,
19 the Court finds that the alleged prior bad acts only tangentially, if at all, go toward proving a
20 material element of the crime. The People assert that introducing this evidence would refute any
21 defense that the victim is fabricating the story on Antionette’s behalf or because of what the
22 Defendant allegedly did to Antoinette. The Court does not agree that the victim absolutely
23 “would have told police about the sexual assault in 2021” if this were the case. Therefore, the
24 Court does not believe that the prior bad act proves a material element of the crime currently
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1 charged. Furthermore, the conduct, Family Violence, is not sufficiently similar to the currently
2 charged conduct of Criminal Sexual Conduct to go toward the Defendant's intent in the present
3 case. Evidence of the alleged prior bad act is based on insufficient evidence as the only evidence
4 provided by the People is an October 2021 arrest of the Defendant which lacks a relevant plea
5 or judgment. Finally, the act must not be too remote in time. *See Camaddu*, 2015 Guam 2 ¶ 53.
6 Here, "prior acts" occurred about seven to eight years after the charged offenses. The Court
7 believes these factors weigh against allowing evidence of the previous bad act.
8

9 Under Guam Rule of Evidence 403, the probative value of these prior bad acts is
10 substantially outweighed by the danger of unfair prejudice. *See* GRE 403. The only argument
11 identified by the People that this information is probative is their belief that introducing this
12 evidence would refute any defense that the victim is fabricating the story on Antionette's behalf
13 or because of what the Defendant allegedly did to Antoinette. The Court finds the probative
14 value of the evidence through this argument to be limited, particularly given the conditional and
15 attenuated nature of the People's argument. In contrast, the risk of unfair prejudice to the
16 Defendant if this evidence is admitted is significant. The purpose of the GRE Rule 404 is to
17 prevent the jury from hearing about other crimes or bad acts which could show propensity in the
18 minds of the jury. The Court finds that on this issue, the possible probative value of the evidence
19 regarding the 2021 arrest is substantially outweighed by the danger of unfair prejudice.
20 Therefore, the Court hereby denies the People's Motion to admit evidence of the Defendant's
21 October 2021 arrest for Family Violence against Antoinette Cruz.
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CONCLUSION AND ORDER

For the above reasons, the Court **GRANTS** the People's Motion in *Limine* to Admit Evidence under 413, but **DENIES** the People's Motion to Admit Evidence under 404(b), and **ORDERS** the testimony concerning similar acts against the same victim, as well as one act of cunnilingus and yearly acts of touching the primary genital area of another minor child, C.C. (DOB: 11/22/2002) between the years 2012 and 2014 be admissible.

SO ORDERED, this 21st day of August 2025.


HONORABLE JOHN C. TERLAJE
Judge, Superior Court of Guam

SERVICE VIA EMAIL

I acknowledge that an electronic copy of the original was e-mailed to:

OAG & APD

Date: 8/21/25 Time: 3:13

Reinita M. Lindlau

Deputy Clerk, Superior Court of Guam