

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**UNITED STATES OF AMERICA**

**VS.**

**CRIMINAL NO. 3:08cr107-DPJ-LRA**

**FRANK E. MELTON  
MICHAEL RECIO and  
MARCUS WRIGHT**

**DEFENDANTS**

**MOTION TO REQUIRE NOTICE OF PROSECUTION'S  
INTENTION TO USE OTHER CRIMES,  
WRONGS OR ACTS AS EVIDENCE AND MEMORANDUM IN SUPPORT**

COMES NOW, Frank Melton, through counsel, and moves the court pursuant to Fed. R. Evid. 404(b) for an order requiring the prosecution to give notice of at least two weeks prior to trial of its intention to introduce as evidence at trial for any purpose the following:

1. Evidence of “other crimes, wrongs, or acts” of the defendant, as that phrase is used in Fed. R. Evid. 404(b), including the issues on which the prosecution believes such evidence is relevant within the scope and meaning of Rule 404(b).

2. Evidence of “other crimes, wrongs or acts” includes, but is not limited to any and all records and information revealing prior felony convictions or guilty verdicts or juvenile adjudications attributed to defendant as well as any relevant state and/or federal “rap” sheets.

3. At least two weeks notice in advance of trial is necessary in order to avoid unfair surprise and to give defendant an adequate opportunity to investigate the facts of such allegedly similar acts or wrongs. In addition, at least two weeks allows defendant to then prepare appropriate motions *in limine* regarding the introduction of such evidence.

**MEMORANDUM IN SUPPORT**

Rule 404(b) of the Federal Rules of Evidence states:

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon request of the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

WHEREFORE, PREMISES CONSIDERED, Frank Melton respectfully requests that the prosecution be ordered to notify the defense at least two weeks before trial of what evidence it will seek to introduce pursuant to Fed. R. Evid. 404(b).

Respectfully submitted,  
Frank Melton

By: /s/ J. Justin King  
John R. Reeves, MBA#4699  
J. Justin King, MBA#101138  
Law Offices of John R. Reeves, P.C.  
355 South State Street  
Jackson, MS 39201  
601/355-9600

**CERTIFICATE OF SERVICE**

I certify that on October 6 , 2008, I electronically filed the foregoing via the United States District Court ECF System, which sent electronic notification of such filing to:

Mark Blumberg, Esq., U.S. Department of Justice

Patricia A. Summer, Esq., U.S. Department of Justice

John M. Collete, Esq.

Cynthia A. Stewart, Esq.

/s/ J. Justin King\_\_\_\_\_

J. Justin King