**IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS**
**FIRST DIVISION**

**STATE OF ARKANSAS** **PLAINTIFF**

**VS.** **CASE NO. 43CR-24-551**

**AARON SPENCER** **DEFENDANT**

**MOTION IN LIMINE TO EXCLUDE**
**EVIDENCE OF SPENCER'S CONDUCT FROM JULY 2024**

COMES NOW the Defendant Aaron Spencer by and through his attorney Michael Kiel of Lassiter & Cassinelli, and for his motion[1] states:

The State seeks to introduce evidence concerning Spencer's statements and conduct from July 2024, shortly after his daughter disclosed repeated sexual abuse by Michael Fosler. The admissibility of this evidence is governed by Ark. R. Evid. 401, 402, 403, and 404(b), as well as the due-process principles articulated in *Andrew v. White*, 220 L. Ed. 2d 340 (U.S. 2025).

The July 2024 evidence is irrelevant to any fact of consequence under Ark. R. Evid. 401 and 402. Spencer's emotional reaction to learning that his daughter had been raped, and his initial interaction with individuals who facilitated Fosler's access to her, have no bearing on whether Spencer's use of force three months later—after discovering his missing child in Fosler's truck at night and after Fosler fled with her—was justified. The charged conduct arose from Fosler's actions on October 8, 2024, not from Spencer's response to the initial disclosure in July. Evidence that Spencer asked for Fosler's address or was initially upset during the rape

[1] Defendant Aaron Spencer previously filed this Motion in Limine on October 1, 2025. Pursuant to the Court's November 17, 2025 order requiring that all motions and replies be accompanied by a separate supporting brief, Spencer now re-submits the Motion together with an accompanying brief in support.

investigation does not make any material fact at issue in October more or less likely. It therefore must be excluded as irrelevant.

The State also cannot satisfy the independent relevance requirement of Ark. R. Evid. 404(b). The rule prohibits admission of "other acts" evidence when offered solely to show character or conduct in conformity with character. The July evidence does not fall within any recognized 404(b) exception; it does not tend to prove motive, intent, preparation, plan, knowledge, or absence of mistake regarding the events of October 8. The issue for trial is not whether Spencer intended to kill Fosler or behaved angrily in July; it is whether, at the time of the encounter on October 8, Spencer reasonably believed that Fosler posed an imminent threat and whether Spencer acted lawfully in defense of his daughter. Nothing in the July interactions tends to prove or disprove those elements. The 404(b) evidence therefore must be excluded.

Even if the July statements had some marginal relevance—which Spencer does not concede—they must be excluded under Ark. R. Evid. 403. Their probative value is negligible because they relate to a different time, under different circumstances, and long before the charged incident. The danger of unfair prejudice is substantial. Admitting this evidence would mislead the jury into viewing Spencer through a "vigilante" lens and shift the jury's focus away from the actual circumstances that unfolded three months later. The trial risks becoming about Spencer's past emotions rather than the legal question of justification, creating confusion of the issues and encouraging decision-making based on emotion rather than law. Arkansas appellate courts consistently hold that such evidence must be excluded where its primary function is to suggest bad character or criminal propensity.

Moreover, the evidence is the exact type of prejudicial character evidence that Rule 404(b) seeks to prevent. It invites the jury to infer that Spencer harbored a preexisting intent to

confront or harm Fosler, despite no evidence linking his July frustration to the events of October 8. The Supreme Court in *Andrew v. White* reaffirmed that the Due Process Clause prohibits admission of evidence so unduly prejudicial that it renders the trial fundamentally unfair. Allowing inflammatory, remote, and propensity-laden evidence to overshadow the jury's evaluation of the actual justification issues would violate this constitutional protection.

For these reasons, Spencer respectfully requests that the Court enter an order precluding the State from offering any evidence about his July 2024 conduct during the trial in this matter. Alternatively, Spencer requests a hearing at which the State must identify the specific Rule 404(b) exception it claims applies and where the Court may determine admissibility consistent with Rules 401, 402, 403, and 404(b), as well as due-process guarantees.

Respectfully submitted,

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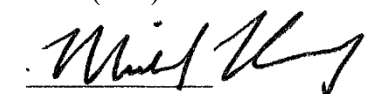
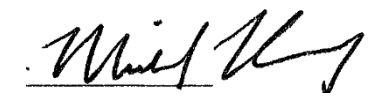


MICHAEL KIEL KAISER (2015001)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was delivered on November 24, 2025, to Chief DPA John Huggins via eFiling.



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