

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Case No. 07-10142-JTM

JERMAL CAMPBELL, et al.,
Defendants.

MEMORANDUM AND ORDER

This motion serves to rule on the admissibility of several prior crimes that the government would like to present, pursuant to Rule 404(b). After a careful review of the government's 404(b) notice, as well as the defendants' objections, the court rules as follows.

Fed. Rule Evid. 404(b) precludes "evidence of other crimes, wrongs, or acts . . . to prove the character of a person in order to show actions in conformity therewith." However, such evidence may be admissible for other purposes such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Admissible Prior Crimes

The following prior crimes are deemed admissible, assuming that counsel provide proper foundation at trial:

Jermall Campbell

1. WPD Case 01C20612 – Campbell is driving a car and fellow Crip Derrick Waite is the passenger. Police stop the car and find cocaine in the vehicle.

2. WPD Case 00C98671 – Campbell is stopped driving a car with fellow Crip Arkadis Hubbard as a passenger. Officers find crack where Campbell was seated in the car.
3. WPD Case No. 01C102338; 01C10998; 01C102592; 01C101945: These cases are associated with the arson charge that is alleged in racketeering act eighteen. In addition to the arson, we intend to introduce evidence the shooting of Andre Walker, a Blood gang member that occurred the same night the defendant committed the arson.

Corey Cornelius

1. WPD Case No. 05C85343 – Someone fires a handgun into the Cornelius residence. Mr. Cornelius tells officers that he was no longer “banging” but then says, “I’m an OG, and you know how things are, even if I knew who did this, I wouldn’t tell you.”
2. WPD Case No. 97C22394: Mr. Cornelius is a witness to the killing of Melvyn Johnson at a party. Mr. Cornelius, Mr. Johnson and two other Crips arrived at the party together. The killing occurred because Johnson was throwing up Crip gang signs. Specifically, it is permissible for the government to bring out that Corey Cornelius was there, as well as any statement he might have made.
3. WPD Case No. 94C119489: Officers Champman and Darling are at Patrol North when they hear gunshots. They see a car speed away, stop the car and find Mr. Cornelius (passenger) and Michael Peach (Crip, driving). Mr. Cornelius admits that he tossed a gun that is found in the street and which fired shell casings near location of drive-by. Mr. Cornelius said that some Folk gang members shot at him.

Calvin Williams

1. WPD Case No. 94C20831: Cory Gholston (Crip) is driving a car and Calvin Williams is the passenger. Police stop the car. Mr. Williams appears to be hiding something during the stop. Officers search the car and find a derringer.
2. WPD Case No. 67529: Car stop. Mr. Williams is driving, Robin Knight, Jamale Lewis and Clinton Knight (all Crips) are passengers. Officers find marijuana and a 9mm handgun in car. Officers find more marijuana inside the patrol car that Williams was transported in, near where Williams was seated.
3. WPD Case No. 94C115707: Mr. Williams and four or five other individuals rob Angela Smith and Silas Jay Griffin at gunpoint.
4. WPD Case No. 96C51103: Mr. Williams and Junian Johnson rob an individual who is acting as a confidential informant for the Wichita Police Department.
5. WPD Case No. 97C36948 and 97C3673: Corey Latham, a rival gang member, is shot during a drive-by. Mr. Williams is identified as the driver of the car, Corey Gholston and Manny Roach (both Crips) are also identified as being involved.
6. WPD Case No. 98C60023: WPD execute a search warrant. Williams, a female and children are in the house. Officers find crack, scales, baggies, .22 caliber handgun, 9mm handgun are found in the house.
7. Sedgwick County Sheriff's Dept Case No. 03S001481 – Mark Jackson, a Neighborhood Crip, goes to a club with Calvin Williams, Troy Langston and Jermall Henderson (all fellow Crips). Jackson called Williams “Little Calvin.” Mr. Williams took offense and

stabbed Mr. Jackson. Mr. Jackson had been out of town for awhile and had not been associating with the Wichita Crips prior to this incident.

Non-Admissible Prior Crimes

The following prior crimes are not admissible:

Jermall Campbell

1. WPD Case 03C49337 – Campbell and Lonnie Wade are together in a car.
2. WPD Case No. 00C106052 – Sharron Pitman reports a drive-by shooting at her house. Campbell, James Jones, and Lucas Wade are at the house when the report is made.

Corey Cornelius

1. WPD Case No 03C2400: Cornelius is a passenger in a car driven by fellow Crip Nathaniel Price.
2. WPD Case No. 01C7031: Mr. Cornelius is stopped driving a car registered to fellow Crip Robert Collins.
3. WPD Case Nos. 00C33138 and 00C331345: Ofc Hosty enounters Mr. Corenlus and two Crip gang members, Tidus Dean and Mike Brown, together in a house.
4. WPD Case Nos. 94C113929 & 94C113930: Jamie Edwards, Michael Peach (Crip), Nardeita Shaw and Mr. Cornelius are stopped in car. A gun is found. Peach says gun is his.
5. WPD Case No. 93C63367: During a car stop, Officer BL Harris notices Mr. Cornelius has a blue bandana. Mr. Cornelius says that he is a Neighborhood Crip gang member.

Calvin Williams

1. WPD Case No. 94C29820: Mr. Williams is in a car with fellow Crips Junian Johnson, Dewajn Wilkerson and Marco Brown (who is driving). A gun is found in the glove box in front of where Johnson is seated.
2. WPD Case No. 94C30790: Tommell Friday is driving a car. Fellow Crips Mr. Williams, Corey Hall and Marco Brown are passengers. Officers find a handgun under the passenger seat where Brown was seated.
3. WPD Case No. 97C124945: Junian Johnson and Mr. Williams are together in a car, Williams is driving.
4. WPD Case No 94C8882: Mr. Williams and Junian Johnson are in a car together.
5. WPD Case No. 97C79082: Mr. Williams is stopped driving a car. The officer notices that Williams is wearing a bullet proof vest.
6. WPD Case No. 02C95195: WPD executed a search warrant at Marlon Brown's (Crip, brother of Williams) residence. Williams and Curtis Profit (Crip) are seen leaving the residence. Crack cocaine is found inside the residence.

More Information Needed

Jermall Campbell

1. WPD Case 97C74766: WPD officers execute a search warrant at fellow Crip Curtis Profit's residence. Campbell is outside acting as a "look-out." Crack cocaine is found inside the residence.

Specifically, the court would like more information regarding how the government knows that Campbell was acting as a "look-out."

2. WPD Case 01C20612 – Campbell and Derrick Waite (a fellow Crip) are in a car together, Campbell is driving. A search of the car yields cocaine under the driver’s seat.

Specifically, the court would like more information regarding Campbell’s location in the car.

Corey Cornelius

1. WPD Case No. 97C82095: Mr. Cornelius is in a car with Robert Collins. Ammunition is found in the glove compartment.

Specifically, the court would like more information regarding Cornelius’ location in the car.

Calvin Williams

1. WPD Case No. 96C123084: WPD execute a search warrant. Mr. Williams, Alvin Manuel and Cameron Griffen (Crip) are inside the residence. Officers find cocaine, marijuana and a shotgun.

Specifically, the court needs information regarding the owner of the residence.

_____ Before ruling on admissibility, the court needs more information on the following prior crimes/bad acts:

IT IS ACCORDINGLY ORDERED this 28th day of February, 2009.

s/ J. Thomas Marten

J. THOMAS MARTEN, JUDGE