



establish modus operandi, intent, identity and that the crime charged was part of a common scheme, design or plan of the defendant. Because they are relevant and probative for these other purposes, as held by the Illinois Supreme Court, they should be ruled as being admissible by this court. *People v. Stewart*, 105 Ill.2d 22, 473 N.E.2d 840 (1984), *People v. Illgen*, 145 Ill.2d 353, 583 N.E.2d 515 (1991).

2. Defendant's argument is a classic example of a straw man argument. Defendant makes a claim that there is no overarching plan or scheme existed while ignoring the actual reasons for inclusion of the evidence, including modus operandi. Defendant's argument also makes light of the similarities by claiming no difference exists between any other robberies and these robberies. This couldn't be further from the truth which is apparent from the following case which illustrate how the Court interprets cases similar to ours.
3. Defendant, in his response (entitled reply), cites *People v. Tate*, 87 Ill. 2d 134 (1981) which relied on many cases to interpret modus operandi. One of the cases that the Illinois Supreme Court referred to in *Tate* was *People v. McDonald*, 62 Ill. 2d 448 (1975). In *McDonald*, the court allowed evidence of crimes the defendant was not on trial for to show modus operandi. The Illinois Supreme Court stated at page 455: "The character of the attacks upon Mrs. Bowers and Mrs. Bailey and the Modus operandi in each were similar in several respects. The attacks were committed in the early morning hours. In the commission of each crime the burglar gained entrance to the residence by removing a window screen while standing on an overturned refuse basket. In

each case the manner of the attack upon a female victim was similar. In each case the intruder wore gym shoes, khaki pants and gloves. Under the circumstances there was no error in admitting the testimony of Mrs. Bailey.”

4. The incidents cited in People’s Motion clearly qualify as *modus operandi*. Contrary to the allegations in defendant’s response (entitled reply) which fail to talk about the facts of the other crimes evidence, the offenses are “strikingly similar.” *People v. Tate*, 87 Ill. 2d 134 at 142, 429 N.E. 2d 470 (1981). The similarities are not just the elements of the offenses charged. The elements of robbery involve the taking of property by force or threat of force. 720 ILCS 5/18-1(a) ILLINOIS COMPILED STATUTES 1992 AS AMENDED. The crime of theft from person (also charged) involve the exerting of unauthorized control of property from the person of another with intent to permanently deprive the person of the property. 720 ILCS 5/16-1(a)(1) ILLINOIS COMPILED STATUTES 1992 AS AMENDED.
5. In People’s Motion to Introduce Proof of Other Crimes, the People clearly enunciated the facts of each offense and its similarities separate and apart from the elements of the charged offenses. Defendant chose similar victims, elderly women. In addition, the area where defendant targeted his victim was the southwest side of Chicago just west of Midway airport as well as one victim in nearby Cicero. In each case, defendant selected a victim who had left a grocery store, in one case, a bakery. These crimes all occurred in the late morning, early afternoon hours. In each case, the property taken forcibly from the victim was a purse. Defendant wore the same brown parka during

the two most recent robberies. All of these similarities comprise a very specific modus operandi.

6. In addition, these incidents are clearly relevant to identity, or more accurately to show that this is not a case of mistaken identity. In addition to committing these crimes within a very specific area of metropolitan Chicago, the evidence will show that defendant was stopped a month later in his vehicle and a contact card made by Chicago police within a block of where the crime in this case occurred. When defendant was arrested two weeks after this stop by police, it was approximately a half a mile away in the parking lot of a nearby grocery store that defendant was circling in the same vehicle. The eye witness in this case saw defendant flee in a vehicle similar to the vehicle that defendant was stopped in two weeks after this robbery and that he was driving when he was arrested. In addition, defendant was wearing a similarly described brown parka in this incident, as well as the incident involving Dorothy Jocabaitis (the incidents closest in time) and at the time of arrest. Viewed all together, the other crimes evidence is clearly strong evidence of identity.
7. The crimes that are described in People's Motion to Introduce Proof of Other Crimes may be considered a common scheme or design. At the time of defendant's arrest on this case, defendant was driving around a grocery store lot (circumstantial evidence that defendant was looking for another victim to follow and forcibly take her purse). This demonstrates the common scheme

or design of defendant (which require a lesser amount of similarity than modus operandi).

8. The People's position is that the evidence strongly supports that the probative value of the evidence outweighs its prejudice. It can be inferred from the evidence that defendant targets older women presumably because they are easier to victimize, because he believes they will not be able to identify him, that he believes that they will be forgetful, and that he is less likely to get caught and have to pay for his crimes. The facts that will be presented from the other crimes evidence is not evidence of propensity, it is clearly modus operandi, common scheme or design, and evidence of identity.

**WHEREFORE**, the People of the State of Illinois respectfully request that this Honorable Court permit the introduction of the evidence of the robbery of Rosella Defenbaugh, the robbery of Lucille Zay, the robbery of Ana Mirelis, the robbery of Mary Moore, and the robbery of Dorothy Jocabaitis at the trial of the instant case for the limited purpose of establishing defendant's modus operandi, identity, and common scheme or design.

Respectfully submitted,

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