

IN THE SUPERIOR COURT OF ATHENS-CLARKE COUNTY  
STATE OF GEORGIA

FILED IN OFFICE  
CLERK OF SUPERIOR COURT  
ATHENS-CLARKE COUNTY, GEORGIA

STATE OF GEORGIA

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CRIMINAL CASE NO.

SU24CR0323- H

v.

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SU-24-CR-0323-H

10/28/2024 2:16PM

JOSE ANTONIO IBARRA,  
Defendant.

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ELISA ZARATE, Clerk

**ORDER DENYING DEFENDANT'S MOTION TO SEVER**

This matter is before the Court on Defendant's Motion to Sever. A hearing on the motion was held October 11, 2024. For the reasons that follow, Defendant's motion should be **DENIED**.

**I. Analysis**

Defendant seeks to sever Count 10 from Counts 1 through 9. Counts 1 through 9 concern the murder of Ms. Laken Riley. Count 10 alleges that Defendant committed the crime of Peeping Tom against another woman on the same day Defendant allegedly murdered Ms. Riley.

As the Georgia Supreme Court has frequently stated:

[A] defendant has a right to severance where the offenses are joined solely on the ground that they are of the same or similar character because of the great risk of prejudice from a joint disposition of unrelated charges. However, where the joinder is based upon the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, severance lies within the sound discretion of the trial judge since the facts in each case are likely to be unique.

*Price v. State*, 316 Ga. 400, 404 (2023) (internal quotation omitted). *Price* explained further:

If severance is not mandatory, it is nevertheless incumbent upon the trial court to determine whether severance is necessary to achieve a fair determination of the defendant's guilt or innocence as to each offense. This inquiry requires the trial court to consider whether, in view of the number of offenses charged and the complexity of the evidence to be offered, the trier of fact will be able to distinguish the evidence and apply the law intelligently as to each offense.

*Id.* (internal quotations omitted).

Defendant maintains that severance is mandatory, because the crimes are only joined because they are of a similar character. Even if severance was not mandatory, Defendant maintains that failing to sever Count 10 would create significant prejudice.

Count 10 allegedly occurred the same morning as Ms. Riley was murdered, and the alleged crimes occurred within 300 yards of each other. “Severance is generally not warranted where the crimes charged occurred over the same period of time and stem from a course of continuing conduct.” *Carson v. State*, 308 Ga. 761, 765 (2020).

Defendant’s alleged crimes are inextricably intertwined, as he allegedly went to one apartment complex, failed to enter the woman’s apartment, and then went to a nearby wooded area where students are often found jogging or otherwise exercising. In a similar case, the trial court did not err by failing to sever the charge of Peeping Tom with burglary with the intent to commit rape. *Howard v. State*, 266 Ga. App. 281, 285 (2004). As the *Howard* Court noted: “the charges were based upon acts constituting a single scheme or plan to prey upon young female victims.” *Id.*


Defendant only asserts in a conclusory fashion that he will be prejudiced. Absent a more compelling argument, the Court concludes that a jury can distinguish all 10 alleged crimes.

## II. Conclusion and Order

Count 10 is inextricably intertwined with Counts 1 through 9. Accordingly,

**IT IS ORDERED** that Defendant’s Motion to Sever is **DENIED**.

**IT IS SO ORDERED**, this 28 day of October, 2024.

  
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H. PATRICK HAGGARD  
JUDGE, WESTERN JUDICIAL CIRCUIT  
SUPERIOR COURT OF ATHENS-CLARKE COUNTY

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