

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NUMBER: CR422-0084
	)	
BERNARD OKOJIE,	)	
Defendant	)	
	)	

**DEFENDANT BERNARD OKOJIE' S
MOTION TO PRESERVE EVIDENCE
AND AUTHORITY THEREFOR**

COMES NOW, BERNARD OKOJIE, Defendant in the above-styled action and moves this Court for entry of an order directing the government to preserve and remain intact and not to destroy or alter any investigative reports (including rough drafts), witness statements, documents, papers, rough notes (interviews, surveillance, or otherwise), tapes, objects, contraband, or other physical evidence which is in its possession, custody, or control.

At the outset, it is to be noted that this motion demands no disclosure, discovery, inspection, or production. It merely seeks to preserve evidence, directly admissible or otherwise, which may, at some future stage of the proceedings, be necessary or helpful to a proper resolution of the case.

This motion is occasioned and necessitated by the administrative practice of alleged good-faith destruction of records by the government, e.g., *United States v. Harris*, 543 F.2d 1247 (5th Cir. 1976), and by the caution which experience teaches. See, e.g., *United States v. Banks*, 383 F.Supp. 389 (D.S.D. 1974); *United States v. Wander*, 601

F.2d 1251, 1263 (3rd Cir. 1979).

The appropriate standard by which to gauge Mr. Okojie's motion is a simple balancing test. We submit that the government has no interest in the alternation or suppression of documents and little or no interest in their destruction. The incidental and slight burden that might be imposed upon the government agencies involved by requiring them to retain intact their records pertaining to this case until such time as Mr. Okojie and the Court have had an opportunity to inspect them is manifestly outweighed by the Defendant's substantial interest in a fair trial. Therefore, in the interest of justice, the motion should be granted.

Respectfully submitted, this 15th day of September, 2022.

/s/John J. Ossick, Jr.
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CERTIFICATE OF SERVICE

This is to certify that I have this day served all parties in this case in accordance with the directives from the Court Notice of Electronic Filing (“NEF”), which was generated as a result of electronic filing.

This 15th day of September, 2022.

/s/John J. Ossick, Jr.
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