

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 2:23-cr-88-SPC-KCD

DIOP MCKENZIE

Suppression Hearing

Presiding Judge:	United States District Judge Sheri Polster Chappell
Counsel for Plaintiff:	Yolande G. Viacava
Counsel for Defendant:	Russell K. Rosenthal
Date and Time:	March 26, 2024 @ 9:30 AM
Deputy Clerk:	Allison Holland
Court Reporter:	Stacey Raikes

Start Time: 9:28am Court convenes.

Defendant Diop McKenzie is present and seated with counsel.

Agent Silko is present and seated at government table.

The court explains procedure to today's hearing and confirms all parties are ready to proceed with suppression hearing.

Defendant confirms he is in agreement with the motion filed by his attorney and wishes to proceed with today's hearing.

Defense has no objections to the government's proposed exhibits. Therefore, **Government Exhibits 1 through 11** are all admitted.

AUSA Viacava calls Andrew Gallo to the stand; witness sworn.

Direct: 9:30 – 11:01am

Government Exhibits 1, 6, 4, 7a-7b, 8a-8b, and 9-11 shown to witness for reference during testimony; exhibits previously admitted.

11:02am MORNING BREAK TAKEN.

11:13am BACK ON THE RECORD.

Witness Andrew Gallo remains on the stand; witness previously sworn.

Cross: 11:14 – 11:36am

Defense Exhibit 1 shown to witness for reference during testimony.

Defense request to admit Defense Exhibit 1, no objection, **Defense Exhibit 1** is admitted.

Redirect: 11:37 – 11:38am

Witness excused at 11:38am.

Parties agree to release witness Thomas Hurst.

The government calls Mathew Lemos to the stand; witness sworn.

Direct: 11:40 – 11:54am

Government Exhibits 2 and 8a-8b shown to witness for reference during testimony; exhibits previously admitted.

Cross: 11:54 – 12:10pm

Witness refers to personal notes and report for reference during testimony.

Witness dismissed at 12:10pm.

12:12pm BREAK TAKEN.

12:45pm BACK ON THE RECORD.

The government calls Philip Depietro to the stand; witness sworn.

Direct: 12:46 – 1:00pm

Government Exhibits 2 and 3 shown to witness for reference during testimony; exhibits previously admitted.

Cross: 1:01 – 1:09pm

Redirect: 1:10 – 1:13pm

Recross: 1:13 – 1:15pm

Witness dismissed at 1:15pm.

The government has no more witnesses.

Defense has no witnesses. Defendant confirms he is in agreement with calling no defense witnesses and understands his right to testify/not testify.

AFPD Rosenthal presents defense argument.

AUSA Viacava presents government's argument.

AFPD Rosenthal responds.

The court reserves on the issue at this time. A written ruling will issue at a later date.

Government request to substitute redacted exhibits for the record. No objection from defense. Redacted **Government Exhibits 6, 7a-7b and 10** to be provided to the clerk.

Nothing further from either party.

Court is in recess.

End time: 1:53pm

Total time: 3 hours and 37 minutes