

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 24-CR-80103-CANNON

UNITED STATES OF AMERICA

v.

DUSTIN SEAN McCABE,

Defendant.

**UNITED STATES' SECOND NOTICE OF INTENT
TO INTRODUCE EXPERT TESTIMONY**

The United States of America, by and through the undersigned Assistant United States Attorney, files this Second Notice of Intent to Introduce Expert Testimony, pursuant to Federal Rule of Evidence 702. Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G), the United States provides the following summary of the expert testimony it will seek to introduce at trial:

1. Dr. Terrill Tops, Medical Examiner, Palm Beach County Medical Examiner's Office

Training/Qualifications: The Government produced Dr. Tops' medical examiner report to the defense on October 6, 2024, his CV to the defense on February 3, 2025, and his prior four years of testimony to the defense on February 5, 2025.

Summary of Testimony/Opinion and Basis: Dr. Tops, who performed the autopsy of victim M.C.G.F., is expected to testify in a manner consistent with his medical examiner's report as to the victim's physical condition when he examined her and as to her cause of death. That testimony will include (1) that he determined the victim's cause of death to be drowning with chop wounds to her lower extremities serving as a contributory cause and (2) that the victim's physical condition included multiple chop wound injuries and other trauma as described in the report. Dr. Tops is

expected to explain these conclusions in part by explaining the nature of his work as a medical examiner, his method of conducting autopsies, the length of time it typically takes to drown and how that would be influenced by a contributory cause such as sustaining chop wounds, and the impact that his determinations and conclusions about the victim's cause of death have on the victim's experience when drowning—that she would have been conscious throughout the incident until she lost consciousness as she drowned. This context will be based on Dr. Tops' approximately 25 years of practicing medicine, including approximately 18 years working as a medical examiner specifically.

Having made this disclosure, the United States hereby reiterates a request for a written summary of expert testimony that the defense reasonably expects to offer at trial pursuant to Rules 702, 703, or 705 of the Federal Rules of Evidence, describing the witnesses' opinions, the bases and the reasons for those opinions, and the witnesses' qualifications.

Respectfully submitted,

HAYDEN P. O'BYRNE
UNITED STATES ATTORNEY

Date: February 6, 2025

By: /s/ Zachary A. Keller
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 6, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

/s/ Zachary A. Keller
Zachary A. Keller
Assistant United States Attorney