

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

CASE NO. 24-80103-CR-CANNON

UNITED STATES OF AMERICA

v.

DUSTIN SEAN McCABE,

Defendant.

JOINT PROPOSED JURY INSTRUCTION AS TO SEAMAN’S MANSLAUGHTER

The United States of America and Defendant Dustin Sean McCabe, by and through their undersigned counsel (collectively, the “Parties”), respectfully submit this Joint Proposed Jury Instruction as to Seaman’s Manslaughter. This joint proposal supersedes the proposals the Parties submitted at Docket Entry 54 at 22-26.

PROPOSED JURY INSTRUCTION: SEAMAN’S MANSLAUGHTER

Count One charges the Defendant with seaman’s manslaughter. It’s a Federal crime for a captain, engineer, pilot, owner, charterer, or other person employed on a vessel to engage in negligence that proximately causes the loss of a life.

The Defendant can be found guilty of this crime only if all the following facts are proved beyond a reasonable doubt:

- (1) that the Defendant was an owner, charterer, captain, engineer, pilot, or other person employed on the M/V SOUTHERN COMFORT;
- (2) that a person lost his or her life; and
- (3) that the loss of life was proximately caused by the Defendant’s negligence.

“Negligence” is a breach of duty, which means an omission to perform some duty, or a violation of some rule or standard of care, which is made to govern and control one in the

discharge of some duty. Negligence includes misconduct, inattention to duties upon the vessel, fraud, connivance, and violation of law.

Negligent conduct “proximately causes” a loss of life if the loss of life resulted from the negligence and it was reasonably foreseeable that the negligent conduct was or could be a threat to the lives of others.

CONCLUSION

Based on the authority set forth in the Parties’ submissions, *see* DE 29; DE 54 at 22-26, and after conferral, the Parties respectfully request that this Court instruct the jury as proposed herein for Count One.

Dated: February 27, 2025

Respectfully submitted,

HAYDEN P. O’BYRNE
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 27, 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