

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

CASE NO. 24-80103-CR-CANNON

UNITED STATES OF AMERICA

v.

DUSTIN SEAN McCABE,

Defendant.

**UNOPPOSED MOTION FOR LEAVE TO FILE CERTAIN TRIAL EXHIBITS
CONVENTIONALLY PURSUANT TO LOCAL RULE 5.3(b)**

The United States of America, through the undersigned Assistant United States Attorney, moves unopposed to file certain exhibits relating to the victim in this case, M.C.G.F., under seal. In support, the United States respectfully submits the following:

1. This matter proceeded to a seven-day jury trial on February 24, 2025, with that trial concluding on March 4, 2025. See DE 63-64, 69, 72, 74, 76, & 77. On March 5, 2025, and in keeping with Local Rule 5.3(b)(2), the Court ordered that the United States file and serve an electronic version of all exhibits admitted at trial by March 15, 2025. DE 87.

2. Local Rule 5.3(b) provides that within 10 business days of the conclusion of a hearing or proceeding, a party must file “(a) an electronic version of each documentary exhibit that the party offered or introduced into evidence and (b) a digital photograph of each non-documentary physical exhibit.”

3. Certain types of exhibits—in particular, “[c]ontraband images, audio recordings, and video recordings” and “[w]hen permitted by order of the Court, exhibits containing voluminous amounts of confidential information that is subject to privacy protections”—are exempt from mandatory electronic filing under Local Rule 5.3(b)(3).

4. However, Local Rule 5.3(b)(2) expressly contemplates courts' ability to exercise discretion by beginning the section, "[u]nless otherwise ordered by the Court."

5. Through this Motion, the Government asks this Court to exercise its discretion under Local Rule 5.3(b)(2) by permitting the United States to file the exhibits that depict M.C.G.F.'s body or that pertain to her physical condition conventionally with the Clerk of Court, via physical CD, rather than filing them electronically on the docket. More specifically, the Government requests that the Court permit the following exhibits (the "Victim Exhibits") to be filed conventionally: GX38, GX39, GX44, GX45, GX47, GX48, GX49, GX50, GX70, GX109B, GX109H, GX109J, GX109K, GX109L, and GX109M.

6. The United States makes this request based on two factors. First, the photos and records contained in the Victim Exhibits are sensitive and personal on their own terms, and filing conventionally would avoid disseminating them more broadly than necessary. Second and relatedly, M.C.G.F.'s family has requested that the Victim Exhibits be filed in a manner that would render them unavailable electronically due to their sensitive nature.

7. The United States has conferred with the defense, who does not oppose this relief.

WHEREFORE, the United States respectfully requests that the Court permit the Government to file the Victim Exhibits conventionally.

Respectfully submitted,

HAYDEN P. O'BYRNE
UNITED STATES ATTORNEY

Date: March 5, 2025

By: /s/ Zachary A. Keller
ZACHARY A. KELLER
Assistant United States Attorney
U.S. Attorney's Office – SDFL
Court No: A5502767
99 NE 4th Street, 6th Floor
Miami, Florida 33132

Tel: (305) 961-9023

Email: zachary.keller@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 5, 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