

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

CASE:. 9:24-cr-80103-AMC-1

V.

DUSTIN SEAN MCCABE
Defendant.

_____/

DEFENDANT’S SUPPLEMENTAL ADDENDUM TO THE PRESENTENCE INVESTIGATION REPORT

COMES NOW the Defendant, Dustin Sean McCabe, by and through counsel, and respectfully submits this Supplemental Addendum to the Presentence Investigation Report (“PSR”) prepared on May 8, 2025, pursuant to Rule 32(f) of the Federal Rules of Criminal Procedure. This supplemental addendum is intended to clarify and supplement key factual matters relevant to sentencing, including mental health treatment needs, designation considerations, and pretrial hardship factors. These submissions are consistent with the Court’s authority under 18 U.S.C. § 3553(a) and applicable case law.

1. Mental Health History and Bureau of Prisons Medical Designation

Paragraphs 80 and 81 of the PSR acknowledge that Mr. McCabe has been diagnosed with bipolar disorder and is receiving medication while in custody. However, this diagnosis significantly predates his arrest and has been managed previously under psychiatric supervision, including treatment by Dr. Molly Christiansen. Mr. McCabe has experienced mood instability, depression, and suicidal ideation. Given the seriousness of his mental health needs, the defense respectfully requests that the Court recommend designation to FMC Butner, a Bureau of Prisons facility specializing in psychiatric care or FCI Manchester Camp, a Bureau of Prisons facility closer to family and friends.

Although BOP retains ultimate discretion, judicial recommendations regarding placement are expressly contemplated by 18 U.S.C. § 3621(b), and such recommendations are frequently honored. See Tapia v. United States, 564 U.S. 319, 331 (2011) (courts may recommend placement for treatment purposes); United States v. Ceballos, 671 F.3d 852, 855 (9th Cir. 2011) (“The BOP gives respectful consideration to such recommendations.”).

2. Request to Bypass FCI Miami Intake

The defense respectfully requests that the Court recommend Mr. McCabe bypass the standard intake process at FCI Miami and be designated directly to FMC Butner or FCI Manchester Camp. This request is based on the nature of his mental health condition and the widely documented limitations of FCI Miami in handling psychiatric intake cases. Numerous public reports, including those from the U.S. Department of Justice Inspector General, have identified serious deficiencies in the Bureau of Prisons’ handling of inmates with mental illness at non-specialized facilities such as FCI Miami, well-known for violence and overcrowding.

Mr. McCabe's bipolar disorder, history of suicidal ideation, and vulnerability in general population settings make direct designation to a medical facility both medically appropriate and morally imperative. While courts cannot mandate placement, they may recommend alternatives that reflect medical necessity and least restrictive placement principles.

See United States v. Tapia, 564 U.S. 319 (2011); United States v. Ceballos, 671 F.3d 852 (9th Cir. 2011). Such recommendations are often crucial to ensuring continuity of care and avoiding intake delays that place inmates with mental health diagnoses at elevated risk.

3. Pretrial Monitoring and Holiday Restrictions

Mr. McCabe was subject to electronic monitoring and restricted movement from August 29, 2024, through March 4, 2025. During this period, he was unable to leave his residence to spend time with family and missed Thanksgiving, Christmas, New Year’s, and his birthday. While not custodial time in the legal sense, courts have recognized the relevance of home confinement and its impact on the defendant’s life and mental health as part of the broader § 3553(a)(1) analysis. See United States v. Mateo, 299 F. Supp. 2d 201 (S.D.N.Y. 2004); United States v. Peters, 2020 WL 2092617 (D. Neb. May 1, 2020).

4. Restitution Context – Civil Settlement Paid

Mr. McCabe’s insurance carrier paid \$300,000 to the victim’s family in 2020, resolving all civil wrongful death claims related to the incident. While this payment is not a substitute for statutory restitution related to other charges, it reflects a clear demonstration of financial accountability. Courts may consider such efforts under § 3553(a). See United States v. Kim, 364 F.3d 1235 (11th Cir. 2004) (noting that civil settlements may reflect acceptance of responsibility); United States v. Ranum, 353 F. Supp. 2d 984 (E.D. Wis. 2005).

5. Abrupt Remand and Loss of Closure

Following the jury's verdict, Mr. McCabe was taken into custody immediately based solely on the assertion that he 'knows how to drive a boat.' This remand occurred without prior notice and resulted in Mr. McCabe being unable to prepare for incarceration, arrange care for his emotional support animal, or even say goodbye to his elderly mother. While remand is a lawful consequence of conviction, the circumstances of this transition created an abrupt and emotionally disruptive event that merits inclusion in the Court's assessment of a just and humane sentence.

6. Supplement to ¶72 – Family History and Psychological Background

The Defendant respectfully supplements Paragraph 72 of the Presentence Investigation Report to include critical information regarding Mr. McCabe's early family trauma. At the age of 11, Mr. McCabe was the one who discovered his father following a suicide attempt. This traumatic event profoundly affected Mr. McCabe's emotional development and is a contributing factor to his later mental health challenges, including his diagnosis of bipolar disorder.

This childhood trauma, combined with the absence of adequate psychological support at the time, has shaped Mr. McCabe's adult emotional health. He continues to cope with the long-term psychological consequences of that event.

Additionally, Mr. McCabe's father has since passed away. The unresolved emotional history surrounding his father's suicide attempt and subsequent death continues to impact Mr. McCabe's mental and emotional well-being. This background supports the defense's request for trauma-informed sentencing and medical designation.

7. Supplement to ¶77 – Status of Defendant's Therapy Dog

The defense respectfully supplements Paragraph 77 to clarify that Mr. McCabe did not 'give away' his dog. Instead, his certified therapy dog is currently being cared for by a trusted friend during his detention. The bond between Mr. McCabe and his dog is significant and therapeutic.

The emotional support provided by this therapy dog has been an important stabilizing factor in Mr. McCabe's life, particularly given his mental health diagnosis. Maintaining a connection to his therapy dog and having a plan for reunification post-sentencing are important aspects of Mr. McCabe's rehabilitation and recovery.

8. Supplement to ¶82 – Clarification of Alcohol Use History

The defense supplements Paragraph 82 to clarify any potential misinterpretation regarding Mr. McCabe's history with alcohol. While the current language may imply a history of excessive drinking or dependency, this is inaccurate. Mr. McCabe has never struggled with alcohol misuse or dependency. He has only ever consumed alcohol socially and in limited quantities, and has no history of abuse, addiction, or any incidents involving alcohol-

related misconduct.

The defense requests that this clarification be considered in any final characterization of Mr. McCabe's personal habits or health-related risk factors.

9. Supplement to ¶105 – Civil Settlement Already Paid to Victim's Family

The defense supplements Paragraph 105 to note that, contrary to any implication that the victim's family has not received restitution or civil compensation, a settlement of \$300,000 was paid in 2020 by Mr. McCabe's insurance carrier. This payment was accepted as full and final settlement of the civil wrongful death claim.

The existence of this settlement is a critical factor in evaluating any additional restitution requests and in ensuring that the Court is presented with an accurate understanding of the financial compensation already received by the decedent's family. The defense respectfully requests that this information be included in the final PSR.

10. Supplement to ¶123 – Factors Warranting Downward Departure or Variance

The Defendant respectfully supplements Paragraph 123 to highlight multiple factors that support a downward departure under the U.S. Sentencing Guidelines and/or a variance pursuant to 18 U.S.C. § 3553(a):

- Mr. McCabe has a documented diagnosis of bipolar disorder and has consistently received psychiatric treatment. This mental health condition played a significant role in his decision-making and stress management at the time of the offenses.
- At age 11, Mr. McCabe experienced traumatic psychological harm when he discovered his father following a suicide attempt. This childhood trauma, coupled with his father's later death, has had a lasting effect on his emotional development.
- Mr. McCabe wore a GPS ankle monitor and was under significant pretrial restrictions for more than six months. During this time, he was denied basic freedoms and family holidays, including Thanksgiving, Christmas, and his birthday. This period should be considered as quasi-custodial time served.
- Mr. McCabe was remanded at trial unexpectedly, without warning, based on the claim that he 'knew how to drive a boat.' He was not permitted to arrange for his affairs, secure care for his therapy dog, or say goodbye to his mother.
- Mr. McCabe has no history of violence, substance abuse, or recidivism. He is a first-time offender with strong family and community ties.
- A \$300,000 civil settlement was already paid by Mr. McCabe's insurance provider in resolution of all wrongful death claims.
- Mr. McCabe's therapy dog provides documented psychological and emotional benefit and has been part of his care plan. Incarceration without continuity of mental health treatment, including the therapeutic presence of his dog, would severely compromise his progress.

These factors collectively justify a non-guideline sentence that is sufficient, but not greater than necessary, to fulfill the goals of sentencing under § 3553(a).

Pursuant to 18 U.S.C. § 3553(a), the Court must impose a sentence that is 'sufficient, but not greater than necessary' to comply with the purposes of sentencing. In particular:

- § 3553(a)(1) instructs the Court to consider 'the nature and circumstances of the offense and the history and characteristics of the defendant';
- § 3553(a)(2)(D) emphasizes 'the need for the sentence imposed to provide the defendant with needed... medical care... in the most effective manner.'

Mr. McCabe's mental health diagnosis, early trauma, therapy needs, and pretrial restrictions—combined with the prior civil settlement and his lack of criminal history—justify a downward variance consistent with these statutory principles.

See United States v. Ferguson, 456 F.3d 660, 665 (6th Cir. 2006) (upholding variance for mental health history and unique personal circumstances); United States v. Schroeder, 536 F.3d 746, 755 (7th Cir. 2008) (mental illness and post-offense rehabilitation supported variance).

WHEREFORE, the Defendant respectfully requests that the U.S. Probation Office and the Court incorporate these supplemental clarifications into the final Presentence Investigation Report, and that the Court issue appropriate recommendations—specifically, for direct designation to FMC Butner or FCI Manchester Camp or, alternatively, FCI Manchester Camp and the bypass of FCI Miami intake—consistent with the facts and legal authority outlined herein.

Respectfully submitted,

TERRENCE O'SULLIVAN

FLA BAR 0644031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically noticed through the CM/ECF system to Zachary A. Keller, AUSA, and all other parties of record, on this 22nd Day of May, 2025.

Respectfully submitted,

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