

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

V.

CASE NO.: 2:24-cr-00192

KISHA SUTTON,

DEFENDANT.

**DEFENDANT KISHA SUTTON'S RESPONSE TO GOVERNMENT'S
MOTION IN LIMINE TO EXCLUDE UNDISCLOSED DEFENSE EVIDENCE**

NOW COMES the Defendant, Kisha Sutton, by and through counsel, and hereby responds to the *Government's Motion In Limine to Exclude Undisclosed Defense Evidence* by stating that such Motion is premature and should be denied and/or revisited if a document in evidence is being introduced in the Defendant's case-in-chief that was not turned over to the prosecution. However, Defendant Sutton reserves the right to use and introduce documents and other evidence as is relevant for other such purposes, such as: rebuttal or impeachment. Finally, the Government just superseded the Indictment on June 10, and provided its Second Supplemental Discovery Response on June 16, 2025. As of the filing of this response, 14 days have not yet elapsed. Nevertheless, this Motion should be denied as premature.

The Motions *In Limine* filed by the Government in this case do not provide adequate context, do not point to any particular documents, and are otherwise general in nature. The West Virginia Supreme Court has held these types of Motions are frivolous:

“I totally agree with the excellent majority opinion. I write to emphasize that our recently amended *Rules of Evidence* not only discourage the use of motions *in limine*, but recognize that many of the motions that are filed are frivolous and a waste of judicial resources. The comment to Rule 103 of the new *Rules of Evidence* [2014] states:

Motions *in limine* on legal issues presented in a vacuum are often frivolous. Boilerplate, generalized objections in motions *in limine* are inadequate and tantamount to not making any objection at all and will not preserve error. For example, a motion that simply asks the trial court to prohibit the adverse party from presenting hearsay evidence or mentioning insurance at trial is a waste of judicial resources. Generally, a motion *in limine* should not be filed (or granted) until the trial court has been given adequate context, and the evidence is sufficient to permit the trial court to make an informed ruling.”

Browning v. Hickman, 235 W.Va. 640, 776 S.E.2d 142 (W.Va. 2015) (Justice Ketchum concurring opinion). While obviously not of precedential value, the reasoning of the WVSC applies.

This Court should deny the Government’s Motion.

Respectfully submitted,
By Counsel

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA,

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V.

CASE NO.: 2:24-CR-000192-01

KISHA SUTTON,

DEFENDANT.

CERTIFICATE OF SERVICE

I, Connor Robertson, certify that on the 24rd day of June, 2025, a copy of the foregoing Response was served on the United States by ECF, to Jonathan Storage, Assistant United States Attorney to the following:

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