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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12  
13 **WESTERN DIVISION**

14  
15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 BRAYAN RAMOS-BRITO.

19 Defendant.

20 Case No. 2:25-CR-00501-SVW

21 **DEFENDANT'S OPPOSITION TO**  
**GOVERNMENT'S MOTION *IN***  
***LIMINE* TO PRECLUDE SELF-**  
**DEFENSE; EXHIBITS 1-6**

22  
23 Hearing Date: Sept. 15, 2025

Hearing Time: 11:00 a.m.

Location: Courtroom of the Hon.  
Stephen V. Wilson

24  
25 Defendant Brayan Ramos-Brito, through his counsel of record, M. Bo Griffith  
and Cuauhtemoc Ortega, hereby files his opposition to the government's Motion *in*  
*Limine* to Preclude Self-Defense (Dkt. 84).

1     **I. INTRODUCTION**

2     The government claims that defendant Brayan Ramos-Brito “struck Agent J.M.’s  
3     chest” during a protest (Dkt. 84 at 3), and, for that reason, has charged him with  
4     assaulting a federal officer. There is no evidence of a strike to J.M.’s chest, however.  
5     No video depicts it. The evidence at trial will show that J.M.’s story is untrue, and that,  
6     contrary to his account, it was J.M. and his fellow U.S. Border Patrol (USBP) agents  
7     who acted as the aggressors and assaulted Mr. Ramos-Brito.

8     The video evidence at trial will plainly show that J.M. violently pushed Mr.  
9     Ramos-Brito for no justifiable reason. Afterward, Mr. Ramos-Brito was savagely  
10    assaulted and dragged across the concrete, leaving his clothing tattered and his body  
11    injured in multiple places, including his face, arms, ribs, hands, and legs. (Exhibits 1-6.)



22     *Exhibit 1*

22     *Exhibit 2*

23     The government attempts to downplay J.M.’s actions by essentially describing  
24     him as a traffic controller helping ferry trucks into a Department of Homeland Security  
25     facility. But a juror, after reviewing the video evidence, could comfortably conclude  
26     from observing J.M.’s aggressive demeanor and the brute force of his shove that he  
27     used unlawful force for reasons completely unrelated to traffic, including that he simply  
28

1 abused his power because he was able to, or that he was annoyed by Mr. Ramos-Brito's  
2 and the protestors' presence and expression, and acted on that anger. The evidence will  
3 show USBP agents described Mr. Ramos-Brito as a "street thug," even though Mr.  
4 Ramos-Brito is a law-abiding citizen with no criminal history. The use of the pejorative  
5 "street thug" corroborates that USBP agents felt animus toward Mr. Ramos-Brito, even  
6 though they had no personal familiarity with his background and were making  
7 assumptions based on his appearance.

8 The fact that Mr. Ramos-Brito used profane language to express his feelings  
9 about USBP, and that he was in close proximity to them, is not illegal. Mr. Ramos-  
10 Brito can say whatever he wants in public; this does not give USBP license to beat him.

11 Mr. Ramos-Brito did not strike J.M. in the chest, and that fact alone is dispositive  
12 in this case. The defense, however, reserves the right to additionally argue that any  
13 contact Mr. Ramos-Brito had with J.M. or any agent as a result of their unlawful use of  
14 force was in self-defense.

## 15 **II. APPLICABLE LAW**

16 The elements for self-defense relating to a federal official are set forth in the  
17 Model Ninth Circuit Jury Instructions, 8.3 Assault on Federal Officer or Employee—  
18 Defenses are: (1) the defendant did not know that the victim was a federal officer or  
19 employee; (2) the defendant reasonably believed that use of force was necessary to  
20 defend oneself against an immediate use of unlawful force; and (3) the defendant used  
21 no more force than appeared reasonably necessary in the circumstances. See Ninth  
22 Circuit Model Criminal Jury Instructions, No. 8.3 (2022 ed.).

23 However, the Ninth Circuit expressly allows for modification of the instruction  
24 based on the facts of each case. The commentary to the jury instruction states:

25 In *United States v. Span*, 970 F.2d 573 (9th Cir. 1992), the  
26 Ninth Circuit upheld this instruction. The court cautioned,  
27 however, that "the model instruction would be inappropriate in

1 a case where a defendant's theory of the case is self-defense  
2 against the use of *excessive* force by a federal law enforcement  
3 officer." *Id.* at 577 (emphasis in original). In such a case, the  
4 instruction *must be modified appropriately*.

5 *Id.*, Commentary (latter emphasis added). The *Span* court explained that giving  
6 Instruction 8.3 where there is a claim of excessive force, as is the case here, would be  
7 inappropriate because the instruction's language "allows the government to defeat an  
8 excessive force theory of defense merely by proof beyond a reasonable doubt that the  
9 defendant knew that the person that [he] allegedly assaulted was a federal law  
10 enforcement officer." 970 F.2d at 577. The court found it troubling that a jury could not  
11 acquit a defendant, even if it believed unlawful excessive force was used and the  
12 defendant reasonably defended himself, simply because the government could establish  
13 that defendant knew the aggressor was law enforcement. *Id.*

14 The defense erred in submitting Model Jury Instruction 8.3 for the Court's  
15 consideration in the parties' Joint Jury Instructions in light of this authority. It  
16 respectfully requests that the Court instead give Model Jury Instruction 5.10—Self-  
17 Defense, as adjusted below to reflect the facts of this case:

18 **5.10 Self-Defense**

19 The defendant has offered evidence of having acted in self-  
20 defense. Use of force is justified when a person reasonably  
21 believes that it is necessary for the defense of oneself or another  
22 against the immediate use of unlawful force. However, a  
23 person must use no more force than appears reasonably  
24 necessary under the circumstances.

25 ~~Force likely to cause death or great bodily harm is justified in~~  
26 ~~self-defense only if a person reasonably believes that such~~  
27 ~~force is necessary to prevent death or great bodily harm.~~

1                   The government must prove beyond a reasonable doubt, with  
2                   all of you agreeing, that the defendant did not act in reasonable  
3                   self-defense.

4 This instruction is appropriately tailored to the facts of this case and should be read to  
5 the jury for the reasons stated in this motion. *See United States v. Ornelas*, 906  
6 F.3d 1138, 1147-48 (9th Cir. 2018) (citing *Span* approvingly, and observing that  
7 provision of general self-defense instruction resolved the *Span* conflict discussed  
8 above).

9                   A defendant is entitled to a self-defense instruction when “there is any  
10 foundation in the evidence, even though the evidence may be weak, insufficient,  
11 inconsistent or of doubtful credibility.” *United States v. Sanchez-Lima*, 161 F.3d 545,  
12 549 (9th Cir. 1998) (quotation marks and citation omitted).

### 13           **III. ARGUMENT**

14           Mr. Ramos-Brito comfortably satisfies the low standard set by *Sanchez-Lima*,  
15 and the Court should permit him to present a self-defense claim and to have the jury  
16 instructed on self-defense law. It does not matter that the government contests the  
17 evidence of self-defense, it is only sufficient to have “any foundation,” even if “weak,  
18 insufficient, inconsistent or of doubtful credibility.” *Id.*

#### 19           **A. Mr. Ramos-Brito reasonably believed the use of force was 20                   necessary to defend himself or another against the immediate 21                   use of unlawful force**

22           Mr. Ramos-Brito did not strike J.M. in the chest. J.M aggressed against Mr.  
23 Ramos-Brito, forcefully shoving him. There was no justification for the degree of force  
24 J.M. used; it was unlawful. A juror observing J.M.’s demeanor in the video could easily  
25 conclude from the agent’s body movement and demeanor that he was acting  
26 maliciously with the intent to harm, and that explanations to the contrary are pretextual.

27           In summary, the foundation Mr. Ramos-Brito offers for this element is:  
28

- 1     • There is no video evidence showing Mr. Ramos-Brito striking J.M.'s chest,  
2         and, thus, there is no justification for J.M.'s or anyone else's use of force
- 3     • On the other hand, there is video evidence of a violent shove by J.M. against  
4         Mr. Ramos-Brito
- 5     • J.M. appears physically taller and larger than Mr. Ramos-Brito, and was  
6         dressed in tactical gear
- 7     • Mr. Ramos-Brito was surrounded on all sides by a large number of similarly  
8         outfitted USBP agents
- 9     • Any responsive action Mr. Ramos-Brito might have taken was a result of  
10         being placed in a state of fear and apprehension by J.M.'s excessive force was  
11         reasonable given their size/gear disparity, and the fact that Mr. Ramos-Brito  
12         was assaulted first
- 13     • There is video evidence of USBP agents piling onto Mr. Ramos-Brito after  
14         J.M. unlawfully shoves him
- 15     • Any responsive action Mr. Ramos-Brito might have taken was a result of  
16         being placed in a state of fear and apprehension by the agents piling onto him  
17         was reasonable given that they vastly outnumbered him and were inflicting  
18         unjustified, unlawful force
- 19     • Whether J.M. participated in the continued assault is a contested issue of fact  
20         that the jury should resolve
- 21     • There is photographic evidence that Mr. Ramos-Brito sustained pronounced  
22         injury, from which a jury could infer unjustified, excessive force by J.M. and  
23         his colleagues
- 24     • Mr. Ramos-Brito's injuries are consistent with intentional assault and beating,  
25         not simply an effort to move, restrain, and arrest him. For example, Mr.  
26         Ramos-Brito has injuries to his rib cage area and face, consistent with  
27         punching or kicking, from which a jury could infer unlawful, excessive force

- 1     • A witness will testify that Mr. Ramos-Brito was placed in a choke hold
- 2     • Video of the gratuitous dragging of Mr. Ramos-Brito across the concrete,
- 3         which caused him additional injury, could reasonably lead a jury to conclude
- 4         that the USBP agents were using unlawful force from first contact
- 5     • For the foregoing reasons, a jury could conclude that any actions Mr. Ramos-
- 6         Brito took to defend himself or others from the USBP agents' aggression
- 7         were reasonable responses to the immediate use of unlawful force

8     This element of self-defense is satisfied and should go to the jury.

9     **B.     Mr. Ramos-Brito used no more force than reasonably  
10         necessary under the circumstances**

11     This element is also satisfied. The foundation Mr. Ramos-Brito offers is:

- 12     • Mr. Ramos-Brito did not strike J.M.
- 13     • Any force he used to defend himself against J.M. was reasonable since J.M.
- 14         was the aggressor and had a size and equipment advantage
- 15     • Mr. Ramos-Brito was outnumbered by the assaulting agents; as such, any
- 16         force he used to defend himself against their attack was reasonably necessary,
- 17         since he was overpowered
- 18     • Because J.M. and the other agents' use of force was excessive and unjustified,
- 19         any physical action Mr. Ramos-Brito might have taken was reasonably
- 20         necessary to shield himself from further injury
- 21     • The photographs of Mr. Ramos-Brito's injuries speak for themselves; they
- 22         show he was unable to stop the excessive, unlawful use of force against him,
- 23         and, thus, any force he used to try to save his bodily integrity was reasonable,
- 24         even if ineffective against a mob of agents

25     This element of self-defense is also satisfied and should go to the jury.

#### IV. CONCLUSION

The defense has far exceeded the minimal showing necessary to present this affirmative defense. Thus, the defense respectfully requests that the Court permit the presentation of a self-defense case, if the defense chooses to present one, and that the Court instruct the jury consistent with the defense's proposed jury instruction. Should the Court grant this motion, the defense will amend the Joint Jury Instructions filing.

Respectfully submitted,

CUAUHTEMOC ORTEGA  
Federal Public Defender

DATED: September 11, 2025 By /s/ Cuauhtemoc Ortega

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