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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

<p>10 UNITED STATES OF AMERICA,</p> <p>11</p> <p>12 Plaintiff,</p> <p>13 v.</p> <p>14 BAJUN MAVALWALLA,</p> <p>15 Defendant.</p> <p>16</p>	<p>No: 1:24-CR-02027-SAB-10</p> <p>OPPOSITION TO GOVERNMENT MOTION TO EXCLUDE EVIDENCE OF DEFENDANT'S MILITARY SERVICE</p>
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17 TO: TODD BLANCHE, DEPUTY ATTORNEY GENERAL, AND LISA C. CARTIER
18 GIROUX, ASSISTANT UNITED STATES ATTORNEY
19 CLERK OF COURT

20 Comes now, counsel for defendant Bajun Mavalwalla, Matthew F. Duggan, and hereby
21 opposes the government's motion to exclude evidence that Mr. Mavalwalla served in the
22 military. ECF 264 at 4-5.

23 **ARGUMENT**

24 The Constitution guarantees Mr. Mavalwalla an absolute right to testify in his own defense.
25 *See, e.g., Rock v. Arkansas*, 483 U.S. 44 (1987). He intends to exercise that right. In the course
26 of his testimony, Mr. Mavalwalla will describe his employment history, including his six years of
service in the United States Army National Guard (nine months of which were on deployment to
Afghanistan), followed by an honorable discharge.

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1 The government asks the Court to bar Mr. Mavalwalla from mentioning his service to this
2 country. The government's proposed restriction on his testimony would violate his Fifth and Sixth
3 Amendment rights. The Supreme Court has held that restrictions on a defendant's right to testify
4 "may not be arbitrary or disproportionate to the purposes they are designed to serve." *Rock*, 483
5 U.S. at 56. Barring Mr. Mavalwalla from testifying to his six years of military service would be
6 entirely arbitrary and would serve no legitimate purpose. The testimony will not be offered as
7 character evidence under Fed. R. Evid. 404(a)(2), as the government suggests; it will instead be
8 background evidence to assist the jury in assessing Mr. Mavalwalla's credibility. Such evidence
9 is uniformly admitted. As the Second Circuit explained, "The testimony concerning [the
10 defendant's] service in the Marine Corps and his completion of two years of college was properly
11 received as background. It told the jury something about the defendant as a person, and his
12 experience in life." *United States v. Blackwell*, 853 F.2d 86, 88 (2d Cir. 1988); *see, e.g., United*
13 *States v. Lucas*, 395 F. Supp. 3d 241, 254-57 (W.D.N.Y. 2019) (DEA agent called by the
14 government properly permitted to describe his military service, including a combat tour in Iraq;
15 agent was a "significant witness" and it was appropriate for the jury to have this "background
16 information"); *Bird v. West Valley City*, 2019 U.S. Dist. LEXIS 54418, at *20 (D. Utah March 28,
17 2019) ("Mr. Morris's testimony concerning his military experience was relevant and admissible as
18 background evidence. Such evidence helped the jury to get to know the witness and assess his
19 credibility."), *aff'd*, 831 Fed. Appx. 881, 887-90 (10th Cir. Oct. 14, 2020) (court of appeals notes
20 appellant's concession that much of the Morris testimony was "acceptable background evidence";
21 a handful of questions that went beyond background were harmless); *Talley v. King*, 2018 U.S.
22 Dist. LEXIS 1381, at *9 (W.D. Pa. Jan. 4, 2018) ("The employment background of the Defendants
23 is relevant to the jury's assessment of credibility and it was not legal error to allow the Defendants
24 to testify as to their employment history, including any military service."); *United States v. Deel*,
25 2010 U.S. Dist. LEXIS 12074, at *3 (W.D. Va. Feb. 11, 2010) ("While military service or disability
26 is not admissible as character evidence in this case, I will allow a defendant who testifies to give a
brief and straight-forward recitation of his life history, including employment and family details,
simply as background evidence for the jury's benefit to judge his credibility."); *cf.* Fed. R. Evid.

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1 401, advisory committee note ("Evidence which is essentially background in nature can scarcely
2 be said to involve disputed matter, yet it is universally offered and admitted as an aid to
3 understanding.").

4 In line with these and other cases, the Court should deny the government's motion.

5 **CONCLUSION**

6 For these reasons, the Court should deny the government's motion to exclude evidence of
7 Mr. Mavalwalla's military service.

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9 DATED: April 24, 2026

10 Respectfully Submitted,
11 /s/ Matthew F. Duggan
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19 **CERTIFICATE OF SERVICE**

20 I hereby certify that on April 27, 2026, I electronically filed the foregoing with the Clerk
21 of the Court using the CM/ECF System which will send notification of such filing to the
22 following: Caitlin Baunsgard, Assistant United States Attorney.

23 /s/ Matthew F. Duggan
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