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18 UNITED STATES DISTRICT COURT

19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 v.

23 ERIN PETRA ESCOBAR, and
24 NICK ELIAS GUTIERREZ,

25 Defendants.

No. 2:25-cr-00656-AB

GOVERNMENT'S RESPONSE TO
DEFENDANT'S FIRST MOTION IN
LIMINE

26 Plaintiff United States of America, by and through its
27 counsel of record, the First Assistant United States
28 Attorney for the Central District of California and
Assistant United States Attorneys William Kanelis and
Lloyd Masson, hereby files its Response to Defendant's
First Motion in Limine.

1 This Motion is based upon the attached memorandum of
2 points and authorities, the files and records in this case,
3 and such further evidence and argument as the Court may
4 permit.

5 Dated: 3/19/2026

Respectfully submitted,

6 TODD BLANCHE
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9 First Assistant United States
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11 ALEXANDER B. SCHWAB
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15 /s/
16 _____
17 Lloyd K. Masson
18 Assistant United States
19 Attorney

20 Attorneys for Plaintiff
21 UNITED STATES OF AMERICA
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The government currently does not intend on presenting
4 evidence relating to any alleged prior instances of
5 defendant Escobar defacing federal property, for the
6 purpose of demonstrating her propensity for certain
7 conduct. See Fed. R. Evid. 404. To date, the only
8 discovery the government is aware of that indicates prior
9 acts of vandalism of Federal Property by defendant Escobar
10 are the same statements that defense references in their
11 motion found in FPS Inspector Mutuc's report.

12 However, if the defendant chooses to testify, and she
13 were to deny that she has ever vandalized federal property
14 near the Roybal center, the Government would then seek to
15 impeach her veracity by using the assertions by Inspector
16 Mutuc, pursuant to Federal Rule of Evidence 608(b).

17 Separately, the government is providing notice to the
18 defense that they do seek to potentially use recently
19 discovered 404(b) type evidence for motive and identity
20 purposes *if* the defendant denies that she was the
21 individual seen in video marking federal property.

22 **II. IMPEACHMENT EVIDENCE UNDER 608(b) DOES NOT REQUIRE THE**
23 **NOTICE EVIDENCE CODE 404(b) REQUIRES**

24 The government does not seek to introduce any 404(b)
25 type evidence related to the issues that defense raises in
26 their motion in limine - that Defendant Escobar was seen
27 marking federal property previously. The government does,
28 however, seek to utilize the fact that defendant was seen

1 previously marking federal property to impeach her
2 character for truthfulness, if she were to testify and deny
3 ever marking or tagging federal property. Defense does not
4 contend that the use of such evidence for impeachment under
5 608(b) requires notice, but the government publishes this
6 intent here due to it being the same root evidence used for
7 a different purpose.

8 Impeachment about particular instances that are
9 probative of a witness's character for untruthfulness is
10 covered by Rule 608(b). United States v. Olsen, 704 F.3d
11 1172, 1184 n.4 (9th Cir. 2013). The type of impeachment
12 evidence contemplated here is not subject to Rule
13 404(b)(3)'s notice requirement. United States v. Lague,
14 971 F.3d 1032, 1038 (9th Cir. 2020); United States v.
15 Bagley, 772 F.2d 482, 487 (9th Cir. 1985). Again, this is
16 not an issue that the defense raises in their motion, but
17 the government addresses it here to both simultaneously
18 answer that they are not in disagreement over the
19 prohibited 404(b) use of Inspector Mutuc's statements,
20 while also alerting defense that they do intend on using it
21 to potentially impeach defendant Escobar if it became
22 relevant. The use of Mutuc's statement - i.e., that other
23 FPS Inspectors had seen defendant Escobar previously
24 tagging federal property - is however a valid avenue of
25 cross examination if the defendant were to testify and deny
26 ever tagging federal property. Rule 608(b) "authorizes
27 courts to permit inquiry into specific instances of conduct
28 during cross-examination if they are probative of the

1 character for untruthfulness of the witness—subject, of
2 course, to the balancing analysis of Rule 403." United
3 States v. Olsen, 704 F.3d 1172, 1184 n.4 (9th Cir. 2013).

4 If the defendant were to deny ever tagging property,
5 confronting her with allegations that other FPS Inspectors
6 had seen her do just such a thing before would be probative
7 of her truthfulness. As such, this would be valid line of
8 cross examination, should the need arise.

9 **III. IMPEACHMENT EVIDENCE UNDER 608 (b) DOES NOT REQUIRE THE**
10 **RULE 404 REQUIRES**

11 Although the government does not seek to introduce Rule
12 404(b) evidence based on the material the defense
13 identifies in their first motion in limine, the government
14 does seek to introduce recently discovered 404(b) evidence
15 about defendant Escobar if the defense's main theory of
16 their case is revealed to rely on a lack of identity.

17 Recently the government has learned that defendant
18 Escobar has been making false and threatening statements to
19 a local small business owner (victim). In 2025, Escobar
20 had been protesting against the current administration's
21 immigration policies at a Silverlake farmer's market, and
22 according to the owner of a stand within that market,
23 caused him to lose customers. After the victim made a
24 remark that Escobar interpreted as supportive of the
25 current administration's policies, she posted several
26 inflammatory, reckless, and/or false statements about the
27 victim on Instagram, including calling him a racist. She
28 also called the managers of the farmer's market to try to

1 get his booth removed, repeating false or inflammatory
2 accusations against him. After the victim attempted to
3 diffuse the situation by apologizing (for something he said
4 did not happen), Escobar escalated the confrontation by
5 demanding on Instagram that the victim pay money to her
6 charity, and later that he pay \$5,000 to a charity that
7 supported certain immigration policies.

8 The victim reported the threats, false allegations, and
9 conduct to the Los Angeles Police Department. He informed
10 the government that Escobar has continued to make threats
11 against him and his business, including threats that could
12 be interpreted as threats of violence, most recently two
13 weeks before the date of this filing. Escobar's tirades,
14 and attempts to extort money from the victim based upon the
15 threat that she would spread false or reckless allegations
16 against him, are specific acts reflecting her truthfulness
17 (or lack thereof). Further, these actions in zealous
18 opposition of the current administration policies would
19 also be probative of her identity or her use of threats of
20 violence, both of which would bear upon a claim by Escobar
21 that her assault of an FPS inspector (spitting in his face)
22 was an act of self defense. For these reasons then- motive
23 and identity- the government may seek to use this newly
24 discovered evidence for 404(b) purposes, should the need
25 arise. The use of 404(b)-type evidence would be limited to
26 a a scenario where defense denies that the identity of the
27 individual alleged to be the defendant in the video is
28 their client. The usage of the evidence for this limited

1 purpose would not run afoul of the guidelines established
2 in cases that have analyzed 404(b) type evidence. United
3 States v. Bailey, 696 F.3d 794 (9th Cir. 2012).

4 The Ninth Circuit uses a four-part test to gatekeep the
5 admissibility of evidence pursuant to Fed. R. Evid. 404(b).
6 The evidence may be admitted if:

- 7 (1) the evidence tends to prove a material point;
- 8 (2) the other act is not too remote in time;
- 9 (3) the evidence is sufficient to support a finding
10 that the defendant committed the other act; and
- 11 (4) (in certain cases) the act is similar to the
12 offense charged. *Id.*

13 The government has the burden of proving that the
14 evidence satisfies all of these requirements. If the
15 evidence passes this test under Rule 404(b), the court must
16 then decide whether the probative value is substantially
17 outweighed by the prejudicial impact under Fed. R. Evid.
18 403. *Id.*

19 Here, the evidence proves a material facts of identity
20 and motive, because if the defendant is making such charged
21 statements to and about a small business owner in public,
22 they clearly would have the motivations requisite to be the
23 individual that is tagging federal property in the video.
24 The acts are also fresh and are apparently ongoing.
25 Escobar's inflammatory, violence-tinged obloquies against
26 perceived supporters of ICE is also probative of the fact
27 that she is the same person who wrote "Fuck ICE" and "KYS"
28 (an acronym for "kill yourself") on Federal property.

