

1 CUAUHTEMOC ORTEGA (Bar No. 257443)  
2 Federal Public Defender  
3 M. Bo Griffith (Bar No. 315358)  
(E-Mail: bo\_griffith@fd.org)  
4 Deputy Federal Public Defenders  
321 East 2nd Street  
5 Los Angeles, California 90012-4202  
6 Telephone: (213) 894-2854  
Facsimile: (213) 894-0081

7  
8 Attorneys for Defendant  
Brayan Ramos-Brito  
9

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 EXCLUDE POST-**  
**ASSAULT EVIDENCE**

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 Exclude Post-Assault Evidence (Dkt. 85).

1      **I. INTRODUCTION**

2      The government by this motion seeks to exclude evidence showing United States  
3      Border Patrol (USBP) agents unjustifiably assaulted and then forcefully dragged  
4      Brayan Ramos-Brito across the concrete, tearing his clothes and causing him significant  
5      bodily injury. This includes the video footage the government attaches as Exhibit A to  
6      its motion. The government may not like that its agents engaged in excessive,  
7      unjustified force, but that is not a reason to try to hide this information from the jury.  
8      The evidence is relevant to Mr. Ramos-Brito's defense and must be admitted.

9      **II. ARGUMENT**

10     **A. Relevance**

11     Rule 401 permits the introduction of evidence "having *any* tendency to make the  
12     existence of any fact that is of consequence to the determination of the action more  
13     probable or less probable than it would be without the evidence" (emphasis added).  
14     Evidence that does not meet this definition is inadmissible. Fed. R. Evid. 402.  
15     However, Rule 401 sets a very low threshold for admissibility in framing the bar as  
16     "any tendency," rather than a specific, concrete, or direct "tendency." That is because  
17     the Court must be careful to allow the jury, and not the parties, to act as the final arbiter  
18     of fact.

19     The government claims that Mr. Ramos-Brito struck J.M. in the chest. The  
20     defense disputes this claim as false. Thus, whether the action happened is a question of  
21     fact for the jury. The defense will also argue that any actions Mr. Ramos-Brito took in  
22     response to J.M.'s excessive force, or the excessive force of the agents working in  
23     concert with him, were in self-defense, for the reasons addressed in response to the  
24     government's Motion *in Limine* to Exclude Self Defense.

25     The fact that USBP agents used excessive force in arresting Mr. Ramos-Brito is  
26     relevant here because it shows that the agents, including J.M., engaged in a *pattern* of  
27     excessive force from the moment of first encounter until the very end. There is no video

1 footage capturing the alleged strike by Mr. Ramos-Brito to J.M.’s chest, as such, the  
2 issue will come down to a credibility determination of J.M.’s and the other agents’  
3 words. The evidence in dispute is, thus, relevant for at least two important reasons.

4 First, it is relevant to bias and credibility. The fact that the agents engaged in  
5 excessive force against Mr. Ramos-Brito gives them an incentive to lie, including  
6 regarding whether Mr. Ramos-Brito struck J.M. as they falsely claim. J.M. and the  
7 agents have an interest in framing Mr. Ramos-Brito as the aggressor because a finding  
8 of excessive, unlawful force can subject them to workplace discipline, social  
9 opprobrium, and liability. Because J.M.’s and the other agents’ words will form the  
10 basis of the government’s case, Mr. Ramos-Brito must be allowed to undermine their  
11 credibility, including with evidence that they have a motive to lie to justify their  
12 unlawful actions.

13 Second, the evidence is relevant because it supports Mr. Ramos-Brito’s defense  
14 that he never struck J.M. in the first place. A jury can infer from the fact that the agents  
15 used excessive, unlawful force when arresting Mr. Ramos-Brito that they were willing  
16 to use such force from the onset as the initial aggressors. The government may disagree  
17 with that inference, but the government is not the finder of fact. It is common sense that  
18 video showing the agents applying excessive force to Mr. Ramos-Brito has a  
19 “tendency” to show they applied the same force on first contact. J.M. may claim he did  
20 not participate in the group beating, but that is a contested issue of fact for the jury to  
21 decide.

22 **B. Unfair Prejudice, Confusing the Issues, Misleading the Jury,  
23 Wasting Time**

24 Rule 403 provides that “[t]he court may exclude relevant evidence if its probative  
25 value is substantially outweighed by danger of one or more of the following: unfair  
26 prejudice, confusing the issues, misleading the jury, undue waste of time, or needlessly  
27 presenting cumulative evidence.” Fed. R. Evid. 403.

It is understandable why the government does not want the jury to see evidence of its agents' misconduct, it hurts their case; but that doesn't make this relevant evidence "*unfairly* prejudicial." Rather, it makes it all the more relevant and important. To the extent the Court is concerned about unfair prejudice, there are alternative approaches it should take instead of exclusion. First, the Court will, at the parties' request, already be instructing the jury to set aside emotion and bias when deliberating. Rather than exclude the evidence, the Court can invite the government to propose additional limiting instructions to address its (unfounded) concerns. Second, the Court can allow the government to elicit context for the video footage from its witnesses. If the witnesses did nothing wrong, they should have no trepidation about explaining their actions.

The other Rule 403 reasons for exclusion cited by the government are nonsense. The short video footage is not going to unduly waste any time, confuse the issues, or mislead the jury. To the extent the government is genuinely concerned about confusing or misleading the jury, it can submit limiting instructions for the Court to review and deliver at the time the evidence is received.

### III. CONCLUSION

For the foregoing reasons, the defense respectfully requests that the Court deny the government's motion.

Respectfully submitted,

Cuauhtemoc Ortega  
Federal Public Defender

DATED: September 11, 2025 By */s/ M. Bo Griffith*

M. Bo Griffith  
Deputy Federal Public Defender  
Cuauhtemoc Ortega  
Federal Public Defender  
Attorneys for Brayan Ramos-Brito