

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 19-20693-CR-SEITZ**

**UNITED STATES OF AMERICA,**

v.

**PETER SOTIS and  
EMILIE VOISSEM,**

**Defendants.**

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**GOVERNMENT’S RESPONSE IN OPPOSITION TO SOTIS’S MOTION IN LIMINE**

The United States of America, by and through its undersigned Assistant United States Attorney, hereby files this response, per the Court’s request, to defendant Peter Sotis’s motion in limine [DE 39]. Although styled as a motion in limine, SOTIS’s filing was actually a response noting his objection to the Government’s motion in limine filed on May 29, 2020 [DE 36].

In pertinent part,<sup>1</sup> the Government’s motion in limine sought the admissibility of the following statements that SOTIS made to Robotka:

In November 2016 and December 2016, SOTIS threatened Robotka not to talk to anyone about the Libya shipment. SOTIS said that “anyone who talks to the investigators will get fired” and “it will get bloody and I will personally put you in the ground.” SOTIS again asked Robotka why he was so concerned about Libya and stated, “You don’t get it. Our signatures are not on the documents. I ran everything through Emilie [Voissem]. She will take the fall for everything. I had Ken [Wesler] delete all the files on the server which we will blame on Emilie as a disgruntled employee.”<sup>2</sup> SOTIS then stated to Robotka, “We can always throw

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<sup>1</sup> The Government in its Motion in Limine also seeks to exclude certain hearsay statements made by the defendants and to exclude any reference to an old, non-relevant arrest of a government witness. *See* Government’s Motion in Limine at 12-14

<sup>2</sup> The references to co-defendant Emilie VOISSEM and her involvement in the conspiracy likely would be excludable under *Bruton v. United States*, 391 U.S. 123 (1968). Therefore, while the Government will mention at trial SOTIS’s statements about directing Wesler to delete files and the fact that SOTIS felt he could escape law enforcement detection because his signatures were not on certain documents, the Government will not elicit, and the defense should be precluded from eliciting, the statements regarding VOISSEM unless SOTIS testifies.

them Ken for destroying documents.”

In a text message to Special Agent Wagner on December 9, 2016, Robotka indicated he was “being threatened” and that SOTIS had told him that he “better not say a word to anyone about anything or it would be bloody.” SOTIS later in December told Robotka that “you’re a dead man. I’m going to kill you” and “I told you this would get bloody. I’m going to put you in the ground.”

Government’s Motion in Limine at 9-10.

SOTIS’s objection to the admissibility of the above statements consists of a conclusory statement that under Rule 403 of the Federal Rules of Evidence that the probative value of those statements would be “outweighed” by their prejudicial effect. Rule 403, however, provides for exclusion only when the prejudicial effect of evidence “substantially outweighs” its probative value. And the probative value of SOTIS’s statements is significant here.

SOTIS threatened one of the main witnesses in the case -- his business partner Shawn Robotka – and tried to destroy evidence soon after Commerce began a criminal investigation in September 2016 of SOTIS’s illegal export of rebreathers to Libya the prior month. SOTIS’s attempt to scare Robotka into not cooperating with the investigation and to alter or hide documents relevant to the case is a significant indicator of SOTIS’s consciousness of his own guilt. An innocent person secure in the knowledge that they did not nothing wrong would not try to strong arm their business partner into silence or ask anyone to delete files responsive to a federal subpoena. Robotka had previously warned SOTIS that exporting the breathers was illegal, so the statement also shows that SOTIS was aware that Robotka had damaging information about SOTIS’s culpability. Robotka’s statements are corroborated by their contemporaneous memorialization to law enforcement. Soon after these threats were made Robotka texted Commerce Special Agent Brent Wagner on December 9, 2016 to let him know about them.

SOTIS’s motion does not cite to any case law. Nor does it address the cases that the

Government cited in support of their admissibility. In particular, in the Eleventh Circuit case of *United States v. Gonzales*, cited in Government Motion at 12, the court affirmed the district court's conclusion that death threats were relevant to conscious of guilt and that "the probativeness of the death threat outweighed any danger of undue prejudice." *United States v. Gonzales*, 703 F.2d 1222, 1223-1224 (11<sup>th</sup> Cir. 1983).

Moreover, the Government cited to *United States v. Abell*, 271 F.3d 1286 (11<sup>th</sup> Cir. 2001), for the proposition that attempts by the defendant to destroy evidence are probative and admissible. Government's Motion in Limine at 12. In that case, the Eleventh Circuit noted that the "government's evidence that, in the days and weeks before a search warrant was executed against Abell's office, Abell destroyed or altered his records of his bills to Rodriguez-Orejuela - including his bills for reimbursements for payments to third-parties on Rodriguez-Orejuela's behalf - further supports a reasonable jury's finding that Abell knew the money he was paid involved the drug trade." *Abell*, 271 F.3d at 1297.

For all the reasons stated above, this court should grant the Government's motion in limine and deny the defendant's Motion objecting to the above statements' admissibility.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 4, 2021, I electronically filed the foregoing document with the Clerk of Court using CM/ECF.