

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
 v.) No. 22-cr-392 (DLF)
)
 ABU AGILA MOHAMMAD)
 MAS'UD KHEIR AL-MARIMI,)
)
 Defendant.)

MOTION FOR LEAVE TO FILE
DEFENDANT'S RESPONSE TO GOVERNMENT'S MOTIONS *IN LIMINE* FOR
DEPOSITION OF [REDACTED] UNDER SEAL

The defendant, Abu Agila Mohammad Mas'ud Kheir Al-Marimi, through undersigned counsel, respectfully moves this Court for permission to file his Response to Government's Motions *in Limine* for Deposition of [REDACTED] under seal because his motion will include proposed trial testimony.

1. On February 9, 2026, the Defendant filed his Response.
2. Counsel's position references potential testimony from a government witness and relates to information in prior sealed motions filed by the government.
3. The Court has the inherent power to seal materials submitted to it. *See United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980); *United States v. Wuagneux*, 683 F.2d 1343, 1351 (11th Cir. 1982); *Times Mirror Company v. United States*, 873 F.2d 1210 (9th Cir. 1989); *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984) (the trial court has supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests).
4. The government does not oppose this motion.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
 v.) No. 1:22-cr-392 (DLF)
)
 ABU AGILA MOHAMMAD)
 MAS'UD KHEIR AL-MARIMI,)
 Defendant.)

MR. AL-MARIMI'S RESPONSE TO THE GOVERNMENT'S MOTIONS IN
LIMINE FOR DEPOSITION OF [REDACTED]

In advance of [REDACTED] deposition, the government moved to preclude cross-examination about [REDACTED]. Additionally, the government moved for the admission of [REDACTED] [REDACTED], as non-hearsay. ECF No. 309-1.

I. The Court should permit cross-examination about [REDACTED] consistent with the Federal Rules of Evidence.

The government's motion seeks to restrict cross-examination beyond what the Federal Rules of Evidence require and beyond what is necessary to address the concerns the government has identified. Undersigned counsel agrees that she does not intend to introduce [REDACTED] statements for the truth of the matters asserted, nor to use those statements or [REDACTED] conduct to impeach [REDACTED]. Those issues are therefore not in dispute. The remaining question is whether counsel may cross-examine [REDACTED] about matters relating to [REDACTED] that are relevant and otherwise admissible. The Federal Rules of Evidence permit such examination.

Under Federal Rule of Evidence 611(b), cross-examination may address

matters raised on direct examination as well as matters affecting the witness's credibility. Where the government elicits testimony concerning [REDACTED], inquiry into the involvement and role of [REDACTED] falls squarely within the scope of permissible cross-examination. Such questioning is relevant under Rules 401 and 402 to [REDACTED] knowledge, perceptions, and the factual context of the testimony offered on direct.

Undersigned counsel does not seek to elicit hearsay. Questions posed to establish what [REDACTED] knew, observed, understood, or did, based on [REDACTED], do not depend on the truth of any out-of-court statements. *See* Fed. R. Evid. 801(c). Nor does such questioning improperly shift blame or impeach [REDACTED] through the statements of [REDACTED]. Rather, this testimony would allow for evaluation of [REDACTED] testimony in light of the full factual setting in which the relevant events occurred.

The government's request for a categorical prohibition on cross-examination regarding [REDACTED] is inconsistent with the governing principles of cross-examination. The Sixth Amendment guarantees a defendant an opportunity for effective cross-examination, subject to reasonable limits imposed by the Court. *Delaware v. Van Arsdall*, 475 U.S. 673, 678–79 (1986). While trial courts retain broad discretion to manage cross-examination and to exclude specific questions that violate

the Rules of Evidence, that discretion does not support a blanket bar on an entire subject area where relevant and admissible questioning is possible.

The D.C. Circuit has recognized that limits on cross-examination must be assessed in relation to the subject matter of the testimony and the purposes for which the evidence is offered. *See United States v. Lin*, 101 F.3d 760, 768 (D.C. Cir. 1996). Where questioning is directed to clarifying [REDACTED] role, responsibilities, and the extent of his personal knowledge, rather than to introducing inadmissible hearsay or improper impeachment, such questioning falls within the realm of appropriate cross-examination.

Finally, the government's concerns can be adequately addressed through the ordinary application of the Federal Rules of Evidence to particular questions, rather than through a preemptive exclusion. Should a specific question raise hearsay, Rule 403, or other evidentiary concerns, the government may object at that time. A categorical limitation, however, would unnecessarily restrict the defense's ability to test the testimony offered on direct examination.

For these reasons, the Court should deny the government's request to bar cross-examination concerning [REDACTED] and should permit the defense to cross-examine [REDACTED] on matters that are relevant and that do not otherwise violate the Federal Rules of Evidence.

II The [REDACTED] is admissible for limited purposes.

Without conceding the admissibility of the [REDACTED] for all purposes, the

Laura Koenig
Va. Bar #86840
Assistant Federal Public Defender
Attorney for Mr. Al-Marimi
701 E. Broad Street, Suite 3600
Richmond, Virginia 23219
(804) 343-0800 (telephone)
(804) 648-5033 (facsimile)
laura_koenig@fd.org (email)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
v.)	No. 22-cr-392
)	
ABU AGILA MOHAMMAD)	
MAS'UD KHEIR AL-MARIMI,)	
Defendant.)	

SEALING ORDER

This matter having come before the Court on the defendant’s unopposed Motion for Leave to File Defendant’s Response to Government’s Motions *in Limine* for Deposition of [REDACTED] Under Seal pursuant to Local Criminal Rule 5.1(h) and for good cause shown, the Court finds that sealing is necessary in order to safeguard confidential information relating to trial witnesses.

For the foregoing reasons it is hereby ORDERED that the defendant’s Motion for Leave to File Defendant’s Response to Government’s Motions *in Limine* for Deposition of [REDACTED] Under Seal is GRANTED, and it is FURTHER ORDERED that the defendant may file his Response under seal.

Entered this _____ day of _____, 2026.

The Honorable Dabney L. Friedrich
United States District Judge