

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS,  
SAN ANTONIO DIVISION**

<b>UNITED STATES OF AMERICA,</b>	§	<b>SA 18 CR 390-OLG</b>
	§	
<b>Plaintiff,</b>	§	
	§	
<b>VS.</b>	§	
	§	
<b>ROBERT MIKELL USSERY,</b>	§	
	§	
<b>Defendant</b>	§	

**DEFENDANT’S MOTION IN LIMINE**

**TO THE HONORABLE ORLANDO L. GARCIA, CHIEF UNITED STATES DISTRICT JUDGE FOR THE SAN ANTONIO DIVISION OF THE WESTERN DISTRICT OF TEXAS:**

COMES NOW, undersigned counsel, and in and for his representation of the Defendant, ROBERT MIKELL USSERY, a defendant in the above styled and numbered cause, and for Just and Good Cause, and pursuant to the Federal Rules of Evidence, Rules 401, 403 and 404 and files this, *Defendant’s Motion in Limine* to disallow any and all usage of or reference to an event, herein referred to as the November 5, 2017, Sutherland Springs First Baptist Church shooting (“Church Shooting”), and all reference and variations thereof by attorneys for the Government and for this Honorable Court to order those attorney representatives for the government (“AUSAs”), and their witnesses, to avoid all usage of the same, directly or indirectly, during any stage of the trial proceeding, including but not limited to

the voir dire examination, opening & closing statements, and direct and cross-examination, and in support thereof, would show unto this Honorable Court as follows:

I.

It is widely reported, and has been commonly accepted as a main-stream fact, that on or about November 5, 2017, a tragedy occurred at the First Baptist Church of Sutherland Springs, Texas. Defendant disagrees. It is reported that as worshippers were gathered and while attending a Sunday 11 A.M. church service, a shooter<sup>1</sup> approached the church, and with a loaded automatic rifle - a Ruger AR-556 semi-automatic rifle. He began a shooting spree. Defendant denies this occurrence. Persons were shot outside and killed outside the church. Wherein, next the shooter proceeded inside the church and more persons were killed and injured. It is reported that the shooter fired 700 rounds of ammunition at persons in and around the church and its premises. Fifteen empty magazines were recovered. The magazines were identified as belonging to the shooter, his weapon and having been fired from his semi-automatic rifle. That rifle was recovered at the scene of the shooting.<sup>2</sup> Forensic evidence and examination of the weapon and magazines support this finding. In all, 26 persons were reported killed on that day, Sunday, November 5, 2017.<sup>3</sup>

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<sup>1</sup> The shooter is not herein named, nor is shooter given attribution or notoriety herein.

<sup>2</sup> Defendant maintains, herein, that no shooting took place.

<sup>3</sup> In addition, the shooter was also killed, but not counted herein. As well, an unborn baby was also killed which brings the number of victims to 27 and not counting the shooter as a victim.

The Defendant, ROBERT MIKELL USSERY, maintains, publicly, that, said “shooting was false and never occurred, [that] . . . crisis actors were employed on the part of the government to stage an event which never occurred; [and that] . . . the government, which is, in part, behind the fictional occurrence, is motivated by factors related to the Second Amendment” (of the United States Constitution) – “*A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.*” Defendant reasons, publicly, that said staged-events, similar to the one which Defendant maintains occurred at the First Baptist Church of Sutherland Springs, will have the effect of increasing public pressure against gun rights groups and pro-Second Amendment contingents. Defendant maintains that the government, as was its intention, by orchestrating a shooting, which never, in fact, occurred created a backlash against guns. According to the Defendant statements, publicly, the government must have opined, that is, in the government’s ultimate goal, scheme and wisdom, that contrived “crisis actor” shooting events will cause additional limits and even greater restrictions on a citizen’s right of people to carry and bear arms.

## II.

On or about March 5, 2018, the Defendant, ROBERT MIKELL USSERY, aka “Side Thorn” and a girlfriend, companion, and co-defendant, Jodie Marie Mann, aka “Conspiracy Granny”, approached the First Baptist Church of Sutherland Springs. A very loud, visible and very public display and confrontation ensued. On

that day, USSERY and Mann, on and about church property, confronted persons having a relationship to the church – a minister, church employees & workers and congregants who were present at the scene. Defendant and codefendant publicly accused the minister-deacon of being part of “the bigger plot” and of “having specific knowledge” of and, as such, was a knowing participant in a scheme to mislead the citizens of the United States. Said, scheme, according to the Defendant, publicly, was orchestrated by the government. That is, it is the government’s agenda to limit firearms, as to both type weapon and person & personal rights Defendant USSERY maintained, also, always outspoken and public, that the government employed what he describes as “crisis actors” to make it appear that, in fact, a shooting had occurred, wherein, no shooting had, in fact, occurred. Moreover, and in-fact, “no mass shooting ever occurred; it was all made-up’ and perpetrated by “crisis actor” contingent which was put in motion by the government.” The actors were merely playing “roles”. Defendant reasoned that church persons – officials, deacons and congregants, all worked in unison, and with each other, to work beside the government in their common scheme to perpetrate their defraud. USSERY demanded that those persons accountable for and participants in the scheme, “admit their misconduct, retract their earlier false statements and lies, come clean and allow the truth to come out.”

In summary, according to both USSERY and Mann - in reports, that, “no shooting had, in fact, occurred, no one was shot, injured or died, because on

November 5, 2017, and at all other times no shooting or massacre ever occurred.”

Following the March 5, 2018, confrontation at the First Baptist Church of Sutherland Springs, described herein, Defendant was indicted by a federal grand jury, San Antonio Division of the Western District of Texas, for *Felon in Possession of a Firearm*, on or about March 5, 2018 – the day of the confrontation, described herein, [Count One] and May 23, 2018 [Count Two].<sup>4</sup> and a subsequent May 23, 2018, execution of a search warrant at his rural residence.

Thereafter, on June 6, 2018, a four count, two defendant indictment was returned in the San Antonio Division of the Western District of Texas. Charged were Defendant ROBERT MIKELL USSERY, aka “SideThorn” and co-defendant Jodie Marie Mann, aka “Conspiracy Granny.” USSERY was charged alone in Counts One and Two. USSERY was charged in relation to a March 5, 2018, event with *Felon in Possession of a Firearm*, [Count One] and USSERY was additionally charged in relation to a May 23, 2018, event, also with *Felon in Possession of a Firearm*, [Count Two], all in violation of Title 18, United States Code, Section 922(g)(1), Dkt. 15.

### III.

#### THE MOTION IN LIMINE:

Undersigned counsel for Defendant USSERY, and in his defense, respectfully offers that any reference(s) to the November 5, 2017, Sutherland Springs First

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<sup>4</sup> Codefendant Mann was charged in the aiding and abetting in USSERY’s charged acts. Mann is not a felon. See Counts Three and Four.

Baptist Church shooting and massacre are so grossly prejudicial that the admission of said evidence, references and testimony should and must be included. Counsel for Defendant argues that there can be no limiting instruction that could cure the prejudice and confusion injected into the jury box. The admission into evidence of the above event, that is, the Sutherland Springs church shooting, has no practical relevance to the charged events of March 5, 2018 and May 23, 2018, *Felon in Possession of a Firearm*. Events which occurred several months after the November 5, 2017, church shooting. The admission of the same would be in contravention of *Federal Rules of Evidence*, Rules 403 – *Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or other Reasons*, and Rule 404(b) – *Crimes, Wrongs or other Acts*. The admission of the November 5, 2017, Sutherland Springs church shooting, would create a prejudice so gross, that practically, and reasonably, it would be impossible that a fair trial be received by the Defendant, because said Church shooting event would so clearly confuse the jury and prejudice the Defendant, that it would make it practically impossible that Defendant receive a fair trial and that a jury render a just and fair verdict. The events of *Felon in Possession* and the church shooting – wherein, Defendant was not even present, are so distinct and unrelated that the existence of any arguable, if any, are so remote that the danger of prejudice outweighs the probative value of said evidence. Therefore, said evidence should be excluded and Defendant’s motion, herein, be Granted.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that the this Honorable Court instruct the government not to mention, use, or refer to, in the presence of the jury, the November 5, 2017, Sutherland Springs First Baptist Church shooting and, to also, that the government instruct its witness to avoid the same.

Respectfully Submitted,

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Attorney for Defendant ROBERT USSERY

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of May, 2021, I electronically filed the foregoing Defendant's Motion in Limine with the Clerk of the Court using the CM/ECF system which will give notification of such filing to the following:

Karina O'Daniel

Assistant United States Attorney  
601 N. W. Loop 410, Suite 600  
San Antonio, Texas 78216

THOMAS J. MCHUGH  
Attorney for Defendant

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**ORDER**

Came on this day to be considered the Defendant’s, ROBERT MIKELL  
USSERY, and his Undersigned Counsel, Motion in Limine and the government’s  
Response, therein, and having heard arguments of counsel, it is hereby:  
  
(GRANTED) / (DENIED).

SIGNED on this the \_\_\_\_ day of May, 2021.

IT IS HEREBY ORDERED

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ORLANDO L. GARCIA  
UNITED STATES DISTRICT JUDGE, CHIEF