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 7 *Representing the United States of America*

8 UNITED STATES DISTRICT COURT  
 9 DISTRICT OF NEVADA

10 UNITED STATES OF AMERICA,  
 11 Plaintiff,  
 12 vs.  
 13 FEREIDOUN KHALILIAN,  
 14 Defendant.

Case No. 2:23-cr-222-RFB-NJK

United States' Response in Opposition to  
 Juan Esco's Motion to Enforce Victim's  
 Rights Under 18 U.S.C. § 3771(d)(3)  
 [ECF No. 111]

15 CERTIFICATION: This response is timely filed under LCR 12-1(a)(2) and this Court's Minute  
 16 Order at ECF No. 112.

17 The defendant in the captioned case, Fereidoun Khalilian, was convicted on July 15,  
 18 2024, of Conspiracy to Witness Tamper in violation of 18 U.S.C. §§ 371 and 1512(b)(1),  
 19 consistent with his pleas, ECF No. 101, and pursuant to a binding plea agreement under Federal  
 20 Rule Criminal Procedure 11(c)(1)(C), ECF No. 102, was sentenced to 24 months' custody  
 21 followed by a 3-year term of supervised release, ECF No. 103.

22 The movant in the captioned motion, Juan Esco, asserts that the government violated  
 23 certain rights afforded to him by the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771 *et*  
 24 *seq.*, ECF No. 111 at 2, when after notifying him of it's contemplated action and receiving and

1 considering his views, Vargas Declaration, it exercised prosecutorial discretion in the dismissal  
2 of a count that charged defendant Khalilian with Use of Interstate Commerce Facilities in the  
3 Commission of Murder-for-Hire in violation of 18 U.S.C. § 1958(a), ECF Nos. 101, 102 and  
4 103. Because Esco's motion is inconsistent with the operative facts, relies upon misstatement of  
5 the controlling law, and seeks relief not afforded under the CVRA, the United States of America,  
6 through Sigal Chattah, United States Attorney, Daniel J. Cowhig, Assistant United States  
7 Attorney, and Sara Vargas, Special Assistant United States Attorney, denies Esco's assertions  
8 and opposes Esco's motion.

### 9 I. Procedural Posture

10 On March 28, 2023, defendant Khalilian was charged by complaint in the Central  
11 District of California, the District where the movant resided, with Use of Interstate Commerce  
12 Facilities in the Commission of Murder-for-Hire in violation of 18 U.S.C. § 1958(a). *United States*  
13 *v. Fereidoun Khalilian*, U.S. Dist. Ct. for the Cent. Dist. of Cal., Case No. 2:23-cr-331-DSF  
14 (CAC), ECF No. 1. From October 24 through October 27, 2023, that charge was tried over four  
15 days. CAC, ECF Nos. 125-128. After the close of evidence, defendant Khalilian moved for a  
16 judgment of acquittal under Federal Rule of Criminal Procedure 29 asserting, *inter alia*, improper  
17 venue. *See* CAC, ECF No. 129. On October 30, 2023, after briefing by the parties, the district  
18 court issued a Judgment of Discharge "due to insufficient evidence of proper venue in th[at]  
19 District." CAC, ECF No. 149. Defendant Khalilian remained in custody while the government  
20 considered various means of curing venue. *See* CAC, ECF Nos. 139, 140 and 142.

21 On November 13, 2023, defendant Khalilian was charged by complaint in this district  
22 with Use of Interstate Commerce Facilities in the Commission of Murder-for-Hire in violation of  
23 18 U.S.C. § 1958(a). ECF No. 1. On November 21, 2023, a Grand Jury seated in this district  
24 returned an indictment charging defendant Khalilian with Use of Interstate Commerce Facilities

1 in the Commission of Murder-for-Hire in violation of 18 U.S.C. § 1958(a) and Conspiracy to  
2 Witness Tamper in violation of 18 U.S.C. §§ 371 and 1512(b)(1). ECF No. 5.

3 On May 10, 2024, at government counsels' direction, Victim-Witness Services notified  
4 movant Esco that the parties were engaged in plea discussions. Vargas Decl. ¶ 2(f), Exhibit 1. On  
5 May 20, 2024, Esco provided his views by email. *Id.* at ¶ 2(i). At government counsels' direction,  
6 Victim-Witness Services notified movant Esco that his views would be taken into account. *Id.* at  
7 ¶ 2(j).

8 On June 7, 2024, at a hearing, this Court initially considered a binding plea agreement.  
9 ECF No. 86. During a recess in those proceedings, government counsel met with movant Esco  
10 inside the courthouse to discuss the details of the plea offer. Vargas Decl. ¶ 2(o). Under the terms  
11 of that binding plea agreement, defendant Khalilian would plead guilty to both counts. *See* ECF  
12 No. 88. The Court ordered defendant Khalilian to submit a motion to explain why the Court  
13 should accept the agreement. ECF No. 86. Movant Esco, who was present, engaged in an  
14 outburst that drew the Court's rebuke. ECF No. 88. Defendant Khalilian timely submitted that  
15 motion on June 21, 2024, ECF No. 90, and supplemented that motion on June 28, 2024, ECF  
16 No. 96. The Court set a July 1, 2024, hearing to consider defendant Khalilian's motion and the  
17 initial binding plea agreement. ECF No. 95.

18 On June 24, 2024, Esco emailed a 52-page victim impact statement directly to the  
19 courtroom administrator. Exhibit 2. On June 29, 2024, Esco emailed a 2-page supplement to his  
20 victim impact statement directly to the courtroom administrator. Exhibit 3.

21 On July 1, 2024, in apparent response to U.S. Marshal's notification of a security  
22 incident at the courthouse in connection with the previous hearing – the apparent use of  
23 recording equipment by movant Esco inside the courthouse in violation of Federal Rule of  
24 Criminal Procedure 53 and the Court's standing orders – this Court issued a minute order

1 barring “all devices capable of recording audio or images” from the courtroom during the July 1,  
2 2024, hearing, ECF No. 97, and required a sign-in sheet for all persons present, ECF No. 99.  
3 The sign-in sheet shows that movant Esco was among those present. *Id.*

4 At the July 1, 2024, hearing, this Court denied defendant Khalilian’s motion to accept  
5 the initial binding plea agreement. ECF No. 98. This Court set a hearing on defendant  
6 Khalilian’s Motion to Suppress Recorded Telephone Calls, ECF No. 27, for July 15, 2024, ECF  
7 No. 98. Knowing that the government did not intend to call movant Esco as a government  
8 witness at that hearing, this Court ordered movant Esco to appear at the July 15, 2024, hearing  
9 to testify as a defense witness. *See id.*

10 On July 10, 2024, movant Esco met with government counsel and an FBI agent at the  
11 FBI Office in Westwood, California, for approximately one hour. Vargas Decl. at ¶ 2(q). During  
12 that meeting, government counsel informed movant Esco of the nature of a renegotiated binding  
13 plea agreement with defendant Khalilian. *Id.*

14 At the July 15, 2024, hearing, the parties presented the renegotiated binding plea  
15 agreement. ECF No. 102. Movant Esco was present in compliance with the Court’s order.  
16 Under the terms of that binding plea agreement, defendant Khalilian agreed to plead guilty to  
17 Count Two of the Indictment, Conspiracy to Witness Tamper in violation of 18 U.S.C. §§ 371  
18 and 1512(b)(1) in exchange for a custodial sentence of 24 months’ custody, *inter alia*. *Id.* At that  
19 hearing, the Court accepted the terms of that binding plea agreement, adjudged defendant  
20 Khalilian guilty as to Count Two. ECF Nos. 101 and 103. The Court noted receipt of movant  
21 Esco’s victim impact statement. The Court imposed the binding sentence. *Id.* Consistent with the  
22 binding plea agreement, exercising prosecutorial discretion, the government moved to dismiss  
23 Count One of the Indictment, charging Use of Interstate Commerce Facilities in the  
24

1 Commission of Murder-for-Hire in violation of 18 U.S.C. § 1958(a), without prejudice. *Id.* On  
2 the government’s motion, the Court dismissed Count One. *Id.*

3 **II. Motion**

4 On May 12, 2025, Esco filed the instant motion, asserting that the Crime Victims’ Rights  
5 Act (CVRA) entitles him to a right to:

- 6 a. “notice prior to the plea being finalized;”
- 7 b. an “opportunity to object;”
- 8 c. “confer with prosecutors during negotiation;” and
- 9 d. “present a victim impact statement.”

10 ECF No. 111 at 2. Movant Esco seeks an order from this Court:

- 11 a. finding that his “rights under 18 U.S.C §3771(a)(3), (5) and (8) were violated when  
12 the murder-for-hire charge was dismissed without notice or an opportunity to be  
13 heard;”
- 14 b. directing the U.S. Attorney’s Office “to confer with [Esco] regarding the current  
15 status of the case and any potential refiling;”
- 16 c. referring “the matter for internal review by the DOJ with an aim to reconsider  
17 prosecutorial dismissal;” and
- 18 d. order unspecified “appropriate equitable relief.”

19 ECF No. 111 at 3. As evidence of the alleged violations and exhaustion of his remedies, movant  
20 Esco attached a declaration and referenced “a formal CVRA enforcement letter” dated April 8,  
21 2025, and sent to the Department of Justice Victims’ Rights Ombudsman. *Id.* The Ombudsman’s  
22 Office is in communication with movant Esco. His April 8, 2025, letter is attached. Exhibit 4.

1 **III. Controlling Law**

2 The Crime Victims’ Rights Act (CVRA) applies in “court proceeding[s] involving an  
3 offense against a crime victim.” 18 U.S.C. § 3771(b)(1). Under the CVRA, “[t]he term ‘crime  
4 victim’ means a person directly and proximately harmed as a result of the commission of a  
5 Federal offense.” 18 U.S.C. § 3771(e)(2)(A).

6 Under the CVRA, “[a] crime victim has the following rights:”

- 7 (1) The right to be reasonably protected from the accused.
- 8 (2) The right to reasonable, accurate, and timely notice of any public court  
9 proceeding, or any parole proceeding, involving the crime or of any  
10 release or escape of the accused.
- 11 (3) The right not to be excluded from any such public court proceeding,  
12 unless the court, after receiving clear and convincing evidence,  
13 determines that testimony by the victim would be materially altered if  
14 the victim heard other testimony at that proceeding.
- 15 (4) The right to be reasonably heard at any public proceeding in the district  
16 court involving release, plea, sentencing, or any parole proceeding.
- 17 (5) The reasonable right to confer with the attorney for the Government in  
18 the case.
- 19 (6) The right to full and timely restitution as provided in law.
- 20 (7) The right to proceedings free from unreasonable delay.
- 21 (8) The right to be treated with fairness and with respect for the victim's  
22 dignity and privacy.
- 23 (9) The right to be informed in a timely manner of any plea bargain or  
24 deferred prosecution agreement.
- (10) The right to be informed of the rights under this section and the services  
described in section 503(c) of the Victims' Rights and Restitution Act of  
1990 (42 U.S.C. 10607(c)) and provided contact information for the  
Office of the Victims' Rights Ombudsman of the Department of Justice.

18 U.S.C. § 3771(a). Importantly, “[t]he right to be heard does not give the victims of crime veto  
power over any prosecutorial decision, strategy or tactic regarding bail, release, plea, sentencing  
or parole.” *United States v. Rubin*, 558 F.Supp.2d 411, 424 (E.D.N.Y. 2008).

The CVRA itself makes clear that “[n]othing in [the Act] shall be construed to impair the  
prosecutorial discretion of the Attorney General or any officer under his direction.” 18 U.S.C. §  
3771(d)(6); see *United States v. Armstrong*, 517 U.S. 456, 464 (1996) (broad prosecutorial discretion

1 essential to separation of powers); *Rinaldi v. United States*, 434 U.S. 22, 30 (1977); *In re Ellis*, 356  
 2 F3d. 1198, 1210 (9th Cir. 2004) (courts must grant leave to the government to dismiss unless  
 3 dismissal is ‘clearly contrary to manifest public interest’). “In short, the CVRA, for the most  
 4 part, gives victims a voice, not a veto.” *Rubin*, 558 F.Supp.2d at 418.

5 The CVRA contains limitations on relief available under the Act. Under the Act,

6 [i]n no case shall a failure to afford a right under this chapter provide grounds  
 7 for a new trial. A victim may make a motion to re-open a plea or sentence only  
 if –

- 8 (A) the victim has asserted the right to be heard before or during the  
 proceeding at issue and such right was denied;
- 9 (B) the victim petitions the court of appeals for a writ of mandamus within  
 14 days; and
- 10 (C) in the case of a plea, the accused has not pled to the highest offense  
 charged.

11 18 U.S.C. § 3771(d)(5).

#### 12 IV. Analysis

13 Of central significance, movant Esco asserts in the instant motion that the CVRA entitles  
 14 him to “the right to be reasonably heard at any public proceeding involving ... plea [or]  
 15 sentencing ... or any [proceeding] involving a dismissal,” attributing this invented language to 18  
 16 U.S.C. § 3771(a)(3). ECF No. 111 at 2 (emphasis added). In fact, subsection (a)(3) of the CVRA  
 17 addresses the right of crime victims to be present at all public court proceedings unless the  
 18 testimony of the victim would be materially altered if the victim heard other testimony at that  
 19 proceeding. The language supplied by movant Esco is similar to subsection (a)(4) but deviates  
 20 substantially from that subsection as well. Subsection (a)(4) confers “[t]he right to be reasonably  
 21 heard at any *public* proceeding in the district court involving release, plea, sentencing, or any  
 22 parole proceeding.” 18 U.S.C. § 3771(a)(4) (emphasis added). Subsection (a)(4) does not confer  
 23 any right to be present during on-public, privileged discussions of the prosecution team, as  
 24 movant Esco claims with his engrafted language creating a right to be heard at “*any* proceeding

1 involving a dismissal,” ECF No. 111 at 2 (emphasis added), nor does it confer the access to  
2 privileged information he seeks through an order that the U.S. Attorney’s Office be compelled to  
3 “to confer with [Esco] regarding the current status of the case and any potential refiling,” ECF  
4 No. 111 at 3, an essential exercise of prosecutorial discretion.

5 With regard to the rights that are conferred by the CVRA, movant Esco has been  
6 provided ample opportunity to consult with attorneys for the government in this case. As early  
7 as mid-2023, government counsel consulted with Esco in person. Vargas Decl. ¶ 2(a). During  
8 that meeting, government counsel indicated they would be available to consult with Esco.  
9 Government counsel asked that Esco remove himself from any investigative efforts so that the  
10 FBI could continue its investigation independently. Esco agreed to do so, but he did not honor  
11 that pledge. Instead, Esco’s actions frustrated the investigation and the prosecution. Despite  
12 instructions to the contrary, Esco repeatedly made and provided unsolicited recordings of  
13 persons associated with the investigation to FBI agents. Worse still, many of those recordings  
14 appeared to have been manipulated. At one point, Esco contacted defendant Khalilian’s  
15 assistant and in a recorded conversation presented himself as an FBI agent investigating the case  
16 against defendant Khalilian. Despite these actions, the government met repeatedly with Esco  
17 and routinely communicated with him via phone and email consistent with the CVRA. *Id.* ¶  
18 2(d).

19 The records in this case show that government counsel and other United States  
20 Attorney’s Office personnel repeatedly offered to meet with Esco about plea negotiations and the  
21 eventual plea agreements, but Mr. Esco waited to schedule the meeting until the day before the  
22 change-of-plea hearing.

23 As early as May 10, 2024, a representative from the Victim Witness Services section of  
24 the United States Attorney’s Office for the District of Nevada (USAO-NV) informed Mr. Esco

1 that plea negotiations were under way, offering Esco the opportunity to meet with government  
2 counsel in person to discuss the potential plea. *Id.* ¶ 2(f). A week later, a USAO-NV  
3 representative again solicited Esco's feedback. *Id.* ¶ 2(h). On May 17, 2024, Esco provided his  
4 opinions via email but did not accept the offer for an in-person meeting. *Id.* ¶ 2(i). The  
5 representative conveyed Esco's email to government counsel and responded to Esco that  
6 government counsel assigned to the case would take his views into account. *Id.* ¶ 2(j).

7         Despite the government's disinclination to discuss detailed information by phone or  
8 email to protect the integrity of the process, given Esco's uncontrollable habit of unconsented  
9 recording, manipulating and disseminating calls, Esco continued to ask numerous questions  
10 about the genesis and nature of the plea discussions, all while declining the government's offer to  
11 meet in person. A government representative declined to answer Mr. Esco's questions via email  
12 but again offered to meet with Esco in person. Esco's communications then became vexatious.  
13 He telephoned and texted the Victim Witness Coordinator repeatedly, sent an email with an *ad*  
14 *hominem* insult, and generally refused to accept any response he was given. *Id.* ¶¶ 2(h)-(k).  
15 During this period, Esco also contacted a prosecutor's cell phone on numerous occasions despite  
16 the prosecutor's requests to stop cell phone contact. *Id.* ¶¶ 2(l)-(m).

17         On May 20, 2024, Esco requested to meet in person in Los Angeles to discuss the  
18 government's plea negotiations and the posture of the case. Government counsel provided Esco  
19 with multiple date options, and he ultimately chose to meet on July 10, 2024. Prior to the  
20 meeting in Los Angeles, Esco met in Las Vegas with government counsel and an FBI agent on  
21 June 7, 2024, when a change-of-plea hearing was scheduled to take place. *Id.* ¶ 2(o). During the  
22 June 7, 2024 meeting, Mr. Esco was informed of the details of the initial binding plea agreement  
23 and given a meaningful opportunity to consult with government counsel.  
24

1 Despite numerous admonishments against recording meetings with government counsel  
2 in the courthouse, it appears that Esco did, in fact, record the June 7, 2025, meeting in the  
3 courthouse with government counsel. After the meeting, Esco sent an email to government  
4 counsel containing what Esco represented were direct quotations from the June 7 courthouse  
5 conversation, suggesting he had improperly recorded the June 7 courthouse meeting despite  
6 numerous admonishments against such recording. *Id.* ¶¶ 2(o)-(p).

7 On July 10, 2024, government counsel and an FBI agent with Esco at the FBI's office in  
8 Los Angeles, California. The purpose of the meeting was to inform Esco about the revised  
9 binding plea offer. The meeting lasted for approximately one hour, during which Esco expressed  
10 his disagreement with the revised plea's terms. *Id.* ¶ 2(q).

11 This record shows that the government has met and exceeded its obligations under the  
12 CVRA to inform Esco of any plea bargain. The government repeatedly solicited Esco's  
13 feedback, made itself available to meet on numerous occasions about the plea, met with Esco on  
14 numerous occasions about the plea, and responded to Esco's questions where appropriate.

15 Esco's "rights under 18 U.S.C §3771(a)(3), (5) and (8)" were not violated. Esco was  
16 repeatedly afforded a "reasonable right to confer with the attorney for the Government in the  
17 case," 18 U.S.C §3771(a)(5), and was "treated with fairness and with respect for the victim's  
18 dignity and privacy," 18 U.S.C §3771(a)(8). Esco was not "excluded from any such public court  
19 proceeding." 18 U.S.C §3771(a)(3). Esco was consistently afforded the "right to be reasonably  
20 heard at any public proceeding in the district court involving release, plea, sentencing, or any  
21 parole proceeding." 18 U.S.C §3771(a)(4).

22 The right that Esco claims "to confer with [the government counsel] regarding the current  
23 status of the case and any potential refileing," that is, to be consulted on non-public matters of  
24 prosecutorial discretion, and to control those decisions, does not exist. 18 U.S.C. § 3771(d)(6);

1 *Rubin*, 558 F.Supp.2d at 418. Neither does the right Esco claims to obtain an order  
2 “recommend[ing] or refer[ring] the matter for internal review by the DOJ with an aim to  
3 reconsider prosecutorial dismissal” exist. *Id.* Each purported right would intrude deeply into  
4 matters of prosecutorial discretion, in contravention of the Act itself and implicating the  
5 separation of powers. *Id.*

6 No part of the CVRA would entitle Esco to unspecified “appropriate equitable relief”  
7 against the government. *See* 18 U.S.C. § 3771(d)(6).

8 Moreover, because Esco failed to “assert[ ] the right to be heard [on these matters] before  
9 or during the proceeding at issue and such right was denied” and Esco “failed to petition the  
10 court of appeals for a writ or mandamus within 14 days,” the CVRA bars any motion to reopen  
11 the plea or sentence. 18 U.S.C. § 3771(d)(5)(A) and (B). Leaving aside Esco’s drive to obtain  
12 access to privileged, non-public deliberation of matters of prosecutorial discretion, his ultimate  
13 aim within the context of the case is to reopen the plea and sentence.

#### 14 **V. Action Requested**

15 For the reasons set forth above, the United States respectfully requests that this court  
16 deny Esco’s motion. Esco was not deprived of any right conferred by the Crime Victims’ Rights  
17 Act. To the extent he seeks to reopen the plea and sentence, his motion is barred.

18 Respectfully submitted this May 30, 2025.

19 SIGAL CHATTAH  
20 United States Attorney

21     //s// Daniel J Cowhig      
22 DANIEL J. COWHIG  
23 Assistant United States Attorney  
24 SARA VARGAS  
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Index of Exhibits

1. Declaration of Sara Vargas
2. Juan Esco, Letter to Victims' Rights Ombudsman, dated April 8, 2025
3. Juan Esco, Victim Impact Statement, submitted June 24, 2024
4. Juan Esco, Supplement to Victim Impact Statement, submitted June 29, 2024