

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

**WACO DIVISION**

**UNITED STATES OF AMERICA**

v.

**CECILY ANN AGUILAR**

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**CRIMINAL NO. W-20-CR-097-ADA**

**ORDER**

Came for consideration Defendant's Motion for Order Prohibiting Prejudicial Extrajudicial Statements. ECF No. 23. The government has responded. ECF No. 29. Defendant's Motion seeks to limit extrajudicial statements of the parties, witnesses, the victim's family, and their attorneys. After careful consideration of the Motion and the Response, the Court finds Defendant's Motion without merit.

On July 14, 2020, a grand jury indicted Defendant Cecily Aguilar for the offense of Conspiracy to Tamper with Document or Proceedings, in violation of Title 18, United States Code, Section 1512(c). Generally speaking, the government alleges Aaron Robinson murdered Vanessa Guillen and that the defendant, Cecily Aguilar, assisted Robinson in the dismemberment of Guillen's body. National media coverage of this case has been extensive, and Guillen's murder has been the subject of innumerable discussions on various social media platforms. Guillen's family has participated in press conferences, public events, and they have publicly met with the President of the United States to discuss the implications of Guillen's death. *See* <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-meeting-family-vanessa-guillen/>, transcript issued July 30, 2020. Of particular interest to the defendant, however, are

inflammatory public remarks by Natalie Khawam, a civil attorney who represents the Guillen family. For example, Khawam has unfavorably compared the defendant to ISIS terrorists.<sup>1</sup>

The Sixth Amendment guarantees trial by an impartial jury in federal criminal prosecutions. *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 551 (1976). To safeguard that right, courts have a duty to mitigate the potentially damaging effects of negative pretrial publicity. *Nebraska Press Association v. Stuart*, 427 U.S. 539, 551 (1976). One option for a court is to enter a “gag” order—an order restricting what trial participants can publicly say. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1072 (1991). The Fifth Circuit has identified factors for the courts to consider in determining whether to issue a gag order: 1) That a substantial likelihood exists that extrajudicial comments of the trial participants would prejudice a court’s ability to conduct a fair trial; 2) If issued, the order be sufficiently narrow to eliminate substantially only that speech having a meaningful likelihood of materially impairing the court’s ability to conduct a fair trial; and 3) That such an order is the least restrictive means for remedying potentially prejudicial pretrial publicity. *United States v. Brown*, 281 F.3d 415, 428-32 (5th Cir. 2000).

In considering whether Khawam’s and the Guillen family’s statements create a substantial likelihood of impairing the Court’s ability to hold a fair trial, context is key. Khawam is a civil attorney who represents the family of Vanessa Guillen. Khawam does not represent the government or the defendant; nor is she assisting either in the preparation of the criminal case. There is no indication that she would ever be called to testify in these proceedings. Neither she nor the Guillen family are parties to this case. *United States v. Mindel*, 80 F.3d 394 (9th Cir. 1996); *United States v. Kelley*, 997 F.2d 806, 807 (10th Cir. 1993); *United States v. Palma*, 760 F.2d 475

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<sup>1</sup> See Laura Gesualdi-Gilmore, *ACTED LIKE TERRORISTS*, The U.S. Sun (July 15, 2020), <https://www.the-sun.com/news/1141971/vanessa-guillen-decapitated-dismembered-like-isis-would/>

(3d Cir. 1985); *United States v. Brown*, 744 F.2d 905, 909–10 (2d Cir. 1984); *United States v. Franklin*, 792 F.2d 998, 999–1000 (11th Cir. 1986). The public meeting of President Trump, the Guillen family, and Khawam did not raise anything that would pose an insurmountable obstacle to a fair trial.

Khawam is an attorney who is tangentially related to the case at bar and is publicly offering her opinion about it. Those opinions have been aired across traditional media outlets and social media, where they compete with the opinions of millions of others who seem equally determined to be heard. Simply put, there is little to indicate that her statements carry enough influence with the public to meaningfully affect the trial. In the absence of a substantial likelihood of prejudice to the Court’s ability to conduct a fair trial, the Motion is without merit and the Court need not reach the other *Brown* factors. *Brown*, 281 F.3d 415, 428-32.

Moving forward, the Court will monitor the conduct of the trial participants to safeguard these proceedings against any potential damage of negative pretrial publicity. Based on the facts presented in the Motion and Response, there are currently better available options than a gag order. For example, the Court can protect the integrity of the trial with extensive voir dire and jury instructions. *In re Goode*, 821 F.3d 553, 561 (5th Cir. 2016). The trial participants and their representatives are admonished however, that if future circumstances warrant, the Court may revisit this issue on its own motion. Accordingly, Defendant’s Motion for Order Prohibiting Prejudicial Extrajudicial Statements is hereby **DENIED**.

SIGNED this 17th day of August 2020.

  
JEFFREY C. MANSKE  
UNITED STATES MAGISTRATE JUDGE