

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	)	
	)	
v.	)	C.A. No. 23-61 (MN)
	)	
ROBERT HUNTER BIDEN,	)	
	)	
Defendant.	)	

**MEMORANDUM ORDER**

At Wilmington this 2nd day of June 2024:

Defendant Robert Hunter Biden is charged with possession of a firearm by a prohibited person in violation of 18 U.S.C. §§ 922(g)(3) and 924(a)(2) and two false-statement counts under §§ 922(a)(6) and 924(a)(1)(A). (D.I. 40). Presently before the Court is the government’s motion in limine no. 9, seeking to admit a certified Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) Form 4473 (“Certified Form 4473”) and to exclude an annotated version of this form from 2021 (“2021 Form”) as irrelevant and inadmissible. (D.I. 157). During the Pretrial Conference, I granted as unopposed the motion as to the admission of the Certified Form. I reserved on the exclusion of the 2021 Form. Defendant opposes the motion to exclude the 2021 Form, originally filing a response (D.I. 177) and then submitting a supplemental response.<sup>1</sup> In his supplemental response, Defendant suggested he intends to seek the admission of additional exhibits arguably related to the 2021 Form. The government filed a reply addressing the original opposition and the additional exhibits. (D.I. 202). Having reviewed the parties’ submissions and heard argument at the Pretrial Conference, I will GRANT the motion as follows:

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<sup>1</sup> Defendant has submitted his supplemental response under seal to the extent it discloses matters that are not public, including *e.g.*, grand jury transcripts. A redacted public version will be filed in due course.

1. As noted above, the motion to admit Certified Form 4473 is unopposed, and the Court has made a preliminary determination, pursuant to Fed. R. Evid. 104(b), that the records certified by StarQuest Shooters & Survival Supply, attached to the government’s motion as Exhibit 1 and including Certified Form 4473, are admissible under Rule 803(6) (records exception to hearsay) and 902(11) (self-authentication of domestic records of a regularly conducted activity) and 902(13) (self-authentication of records from electronic system).

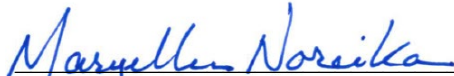
2. The Court finds that the 2021 Form is irrelevant and inadmissible under Federal Rule of Evidence 401 and excludes it at trial.<sup>2</sup> Moreover, even if the 2021 Form were admissible, the Court finds that it is excluded under Federal Rule of Evidence 403 because any probative value it arguably has is substantially outweighed by a danger of unfair prejudice, confusion of issues, and misleading the jury.

3. Questioning, testimony, evidence or argument, including but not limited to, the additional exhibits designated by the Defendant as tabs “6-6C” to his supplemental submission regarding any witnesses’ political bias are excluded from introduction or admission at trial because

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<sup>2</sup> The government has stated that it intends to call Gordon Cleveland, a gun shop employee, who will testify that he watched Defendant fill out Section A of the Certified Form and that Defendant checked “no” to question 11e about being an unlawful user or addict. Both the Certified Form and the 2021 Form have the same check mark (“X”) responding “no” to question 11e. The addition of “DE VEHICLE REGISTRATION” to a different section of the 2021 Form after the Defendant filled it out does not have “any tendency to make” those two facts, which are “fact[s] of consequence in determining” the charges – that he filled it out and that he said he wasn’t an unlawful user of or addicted to a controlled substance – more or less probable. F.R.E. 401. The Court also agrees with the government that Defendant’s conspiratorial theory about “doctored” forms and currying favor with the government is unsupported rhetoric, which would be prejudicial and confusing to the jury.

such questioning, testimony, evidence or argument is not relevant, is unduly prejudicial and invites nullification.<sup>3</sup>

  
The Honorable Maryellen Noreika  
United States District Judge

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<sup>3</sup> The Court agrees with the government that the political views expressed in 2020 by the gun shop owner, Palimere (who did not witness Defendant fill out Section A of the Certified Form or check the box for question 11e in 2018), are sideshows aimed at tainting or confusing the jury.