

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

UNITED STATES OF AMERICA

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CR 117-34

v.

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REALITY LEIGH WINNER,

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Defendant.

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**GOVERNMENT’S FIRST NOTICE OF INTENT TO RELY UPON OTHER CRIMES,
WRONGS OR ACTS OF DEFENDANT PURSUANT TO FED.R.EVID. 404(b)**

COMES NOW the United States of America, by and through James D. Durham, Acting United States Attorney for the Southern District of Georgia, and shows as follows:

1. Defendant Reality Leigh Winner is charged in the above-captioned case with the offense of Willful Retention and Transmission of National Defense Information. Doc. 13.

2. On June 30, 2017, this Court entered a Scheduling Order requiring the government to provide notice to defense counsel pursuant to Federal Rule of Evidence 404(b) on August 2, 2017. Doc. 33.

3. On August 2, 2017, the government served upon counsel for the defendant via email a notice of intent to introduce certain unclassified evidence in its case-in-chief, during cross examination, or in rebuttal. While the government contends that some of the information included in its notice is intrinsic to the charged offense and therefore does not fall within the scope of Rule 404(b), the government included such information in its notice in an abundance of caution.

4. The government's evidentiary examination of the defendant's personal media storage devices is ongoing and the government expects to identify additional relevant evidence therein. To the extent the admission of newly discovered information may be governed by Rule 404(b), the government will supplement its notice as soon as practicable following its discovery of such information.

5. A significant amount of information relevant to the charged offense remains classified and cannot be disclosed at this time. To the extent the admission of any classified information may be governed by Rule 404(b), the government will supplement its notice as soon as practicable following defense counsel's receipt of appropriate clearance, their execution of a Memorandum of Understanding, and the Court's entry of a Protective Order. If any classified information the government would seek to introduce pursuant to Rule 404(b) is declassified before that time, the government will provide its notice as soon as practicable after it is declassified.

CONCLUSION

The Government will continue to timely disclose to the defense, in accordance with Rule 404(b) and the Court's Scheduling Order, its intention to rely upon other crimes, wrongs or acts of the defendant to prove or disprove at trial an issue other than the defendant's general propensity to commit the charged offense.

Respectfully submitted,

JAMES D. DURHAM
ACTING UNITED STATES ATTORNEY

//s// Jennifer G. Solari

Jennifer G. Solari
Assistant United States Attorney

//s// David C. Aaron

David C. Aaron
Trial Attorney
U. S. Department of Justice
National Security Division

//s// Julie Edelstein

Julie A. Edelstein
Trial Attorney
U. S. Department of Justice
National Security Division

CERTIFICATE OF SERVICE

This is to certify that I have on this day served all the parties in this case in accordance with the notice of electronic filing (“NEF”) which was generated as a result of electronic filing in this Court.

This 2nd day of August 2017.

JAMES D. DURHAM
ACTING UNITED STATES ATTORNEY

//s// Jennifer G. Solari

Jennifer G. Solari
Assistant United States Attorney

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