

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOUGLAS L. SWENSON, *et. al.*,

Defendants.

Case No. 1:13-cr-00091-BLW

ORDER

The Government asks for an expedited ruling on whether the Court will require the five victims who intend to speak at Defendants' sentencings be placed under oath and subject to cross-examination. The Government states that the five victims will not provide factual testimony – they will only elaborate upon the financial, psychological and emotional harm they have suffered from Defendants' crimes.

The Crime Victims Rights Act ("CVRA") states that a crime victim has the right "to be reasonably heard at any public proceeding in the district court involving . . . sentencing. . . ." 18 U.S.C. § 3771(a)(4). The CVRA says nothing about whether a victim must be placed under oath and subject to cross examination.

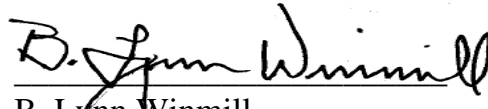
However, the Government has pointed the Court to several cases supporting the position that the victims need not be placed under oath and subject to cross-examination. And the Court has found no cases to the contrary. For example, the Sixth Circuit recently denied a defendant's request that victims take an oath. *U.S. v. Grigg*, 434 Fed.Appx. 530,

533 (6th Cir. 2011). In that case, the court found that “[e]very court that has examined this issue has held that there is no requirement to swear in CVRA victims.” *Id.* (citing *U.S. v. Myers*, 402 Fed.Appx. 844, 845 (4th Cir.2010); *U.S. v. Shrader*, No. 1:09–0270, 2010 WL 4781625, at *3 (S.D.W.Va. Nov.16, 2010); *U.S. v. Marcello*, 370 F.Supp.2d 745, 750 (N.D.Ill.2005)). This Court agrees. The victims will be allowed to testify about the financial, psychological and emotional harm they have suffered from Defendants’ crimes without being placed under oath and subject to cross-examination.

IT IS SO ORDERED.



DATED: August 18, 2014


B. Lynn Winmill
Chief Judge
United States District Court