

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

D-1, JOHN DOE,

Defendant.

CASE NO.: 12-12345

HONORABLE GERALD E. ROSEN

SCHEDULING ORDER AND TRIAL NOTICE

The trial of this cause shall commence on or before **February 01, 2013 at 9:00 a.m.**

(Please note: the Court reserves the right to start trial one (1) week earlier than stated.)

The plea cut-off date is **December 31, 2012**. By this date, counsel must telephonically contact the case manager to advise the Court how they will proceed. The Court will not accept any plea bargains relating to lesser charges or sentence agreements after this date, except for good cause shown.

**STANDING ORDER FOR DISCOVERY AND INSPECTION AND
FOR FIXING MOTION CUT-OFF IN CRIMINAL CASES**

In order to (1) eliminate unnecessary motions for discovery and (2) expedite the trial and eliminate delays in the presentation of evidence and the examination of witnesses, this order is entered in all criminal cases which are to be conducted by this Court. Nothing within this order shall be construed to impose an obligation on any party which is not authorized by law.

1. CONFERENCE AND DISCLOSURE:

Within ten (10) days from the date of the arraignment, or such other date as may be set by the Court, government and defense counsel shall meet and confer for the purposes of resolving or minimizing the issues in controversy. Upon the request of defense counsel, the government counsel shall:

(a) provide defense counsel with the information which has been described in Federal Rule of Criminal Procedure 16(a)(1),

(b) permit defense counsel to inspect, copy or photograph any exculpatory evidence within the meaning of *Brady v. Maryland*, 373 U.S. 83 (1963) and *United States v. Agurs*, 427 U.S. 97 (1976). A list of the items of evidence shall be signed by all counsel. Copies of those items, which have been disclosed, shall be initialed or otherwise marked. Nothing herein shall be construed as requiring the disclosure of Jencks Act material prior to the time that its disclosure is required by law. The government counsel shall not be required to automatically disclose the names of government witnesses.

2. DISCLOSURE DECLINED:

If, in the judgment of government counsel, it would be detrimental to the interest of justice to make any of those disclosures which have been set forth in paragraph 1, such disclosure may be declined; provided however, that the declination be made or confirmed in writing. Any defendant who seeks to challenge the declination must move for relief forthwith.

3. CONTINUING DUTY:

The duty of disclosure and discovery, which is described in this order, is continuing.

4. DISCOVERY BY THE GOVERNMENT:

This order is not designed to preclude discovery by the government under Rule 16(c) of the Federal Rules of Criminal Procedure.

5. EXHIBITS:

(a) Pre-marking and Listing of Exhibits: Counsel are ordered to meet prior to trial to identify all exhibits to which there are no objections and all those to which there are objections. All exhibits agreed upon are to be submitted on a sheet of paper before trial. Those agreed upon will be considered admitted. Those exhibits not agreed upon are to be listed separately. All exhibits must be marked in advance of trial.

(b) Foundation for Exhibits: When defense counsel at the conference set forth in paragraph 1 has inspected an exhibit which the government intends to introduce into evidence, the foundation for its receipt into evidence will be deemed admitted unless defense counsel files a notice with the court (to-wit, not less than three (3) days prior to trial) that the foundation for admission into evidence of the exhibit will be contested.

(c) Objections to Exhibits: This order shall not affect the right of a defendant to object to the introduction of an exhibit other than on the basis of foundation.

6. CHAIN OF CUSTODY:

When defense counsel at the conference has inspected a proposed government exhibit and/or reviewed government documents or records, the chain of custody will be deemed to be uncontested unless the defendant files a notice with the Court (to-wit, not less than five (5) days prior to trial) that the chain of custody of the exhibits will be contested.

7. SCIENTIFIC ANALYSIS:

When a defendant has been made aware of the existence of scientific analysis of an exhibit and the results therefrom (which analysis has been determined by an expert in the field of science involved), the results of the scientific analysis of the exhibit and the opinion of the scientist will be admitted into evidence unless the defendant files a notice with the Court (to-wit, not less than seven (7) days prior to trial) that the scientific analysis of the exhibit will be contested.

8. VOIR DIRE:

It will be the Court's practice to conduct voir dire. Counsel are instructed to submit all requested voir dire to the Court on the last business day prior to trial with questions listed in numbered form. The Court will entertain requests for follow-up and additional voir dire on a limited basis, and may permit such voir dire to be conducted by counsel. In such instances, counsel are admonished to confine themselves to true voir dire and not engage in posturing, argument or speech-making.

9. JOINT JURY INSTRUCTIONS:

The parties are hereby ordered to meet and confer prior to trial to discuss jury instructions. No later than the last business day prior to trial, the parties are to file with the Court a single set of proposed, stipulated jury instructions. All such instructions are to be typewritten and double-spaced, and shall contain any titles (e.g., "Duty to Deliberate") and notations or references to authority (e.g., "Devitt and Blackmar, § 11.08"; "U.S.A. v. _____, _____ U.S. _____ (1985)"). Each party shall also file any additional proposed instructions to which any other party objects, and indicate both the basis supporting the instruction and the basis for the opposing party's objection(s). The parties are to make a good faith effort to narrow the areas of dispute and to discuss each instruction with a view toward reaching agreement as to an acceptable form.

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

In bench trials, proposed findings of fact and conclusions of law must be submitted no later than the last business day prior to trial, unless otherwise ordered by the Court.

10. MOTION PRACTICE:

Counsel are expected to comply with all Local Rules including specifically Rule 17 which requires filing of responses and briefs within ten (10) days after service of motion,

unless otherwise ordered by the Court upon motion. Failure to adhere to such deadlines may result in sanctions being imposed, including the striking of late briefs and responses.

All reasonably foreseeable motions in limine shall be filed no later than three (3) days prior to the commencement of trial.

Pursuant to Rule 17(j), the Court may order that motions in this case be submitted and determined on the briefs without oral hearing.

SO ORDERED.

Dated: August 26, 2013

S/Gerald E. Rosen
Chief Judge, United States District Court

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 26, 2013, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5135