

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

V.

**CASE NO. 5:17-CR-50010-001
CASE NO. 5:17-CR-50010-002
CASE NO. 5:17-CR-50010-003**

**JONATHAN E. WOODS; OREN PARIS, III;
and RANDELL G. SHELTON, JR.**

DEFENDANTS

**SECOND AMENDED
PRETRIAL SCHEDULING ORDER**

I. TRIAL SETTING AND PRETRIAL CONFERENCE

During a telephone conference held on the record on December 1, 2017, the Court explained the circumstances which lead the parties to agree and consent to a continuance of the December 4th trial date. The parties also agreed and consented to a new trial date of **APRIL 9, 2018**. For the reasons stated during the telephone conference, the Court finds that the ends of justice served by this delay outweigh the best interest of the public and the defendants in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A). Therefore, the delay between December 4, 2017 and April 9, 2018 is excludable for speedy trial purposes.

Accordingly, this case is **reset for a three week jury trial beginning on APRIL 9, 2018** in the Fifth Floor Courtroom in Fayetteville. A pretrial conference shall be conducted on **APRIL 4, 2018 at 1:30 p.m.** in the Fifth Floor Courtroom in Fayetteville.

II. PRETRIAL DISCOVERY OBLIAGATIONS

Incorporated herein by reference are the same Pretrial Discovery and Inspection procedures as set forth in the Amended Pretrial Scheduling Order. See Doc. 59, Section II. That said, the parties have informed the Court that reciprocal discovery obligations under Rule 16 have in fact been triggered. And any party's duty of disclosure and discovery set forth in this and prior scheduling orders is a continuing one. Fed. R. Crim. P. 16(c).

III. OTHER DEFENSES, OBJECTIONS AND REQUESTS

Pursuant to Federal Rule of Criminal Procedure 12(c), the Court previously required that any defense, objection or request capable of determination without trial of the general issue¹ must be raised by written motion filed not later than **NOVEMBER 8, 2017**. See Doc. 140. As that deadline has already expired, the Court will not permit any more such motions to be filed that raise issues of law or fact that could reasonably have been raised on or before **NOVEMBER 8, 2017**, or that otherwise merely seek to relitigate issues on which the Court has already ruled in this case. Failure to comply with this requirement may result in the issuance of an order to show cause why sanctions should not be imposed, pursuant to Fed. R. Crim. P. 57(b).

However, to the extent that any such motions *do* raise new issues of law or fact as described above, they may be filed not later than **FEBRUARY 21, 2018**. Any response to such a motion must be filed within ten (10) days after service of the motion.

¹ Those matters include, but are not limited to, those listed in Fed. R. Crim. P. 12(b)(3): (1) defects in the institution of the prosecution, (2) defects in the indictment, (3) suppression of evidence, and (4) severance under Fed. R. Crim. P. 14. Also included, without limitation, are (5) selective or vindictive prosecution, (6) outrageous Governmental misconduct, (7) misjoinder, (8) pre-indictment delay, (9) speedy trial, (10) prejudicial publicity, (11) lack of personal jurisdiction, (12) *Posse Comitatus* Act [18 U.S.C. 1385], (13) recantation as a defense to perjury, (14) limitations, (15) double jeopardy, (16) multiple sentencing, and (17) immunity.

IV. MOTIONS IN LIMINE, WITNESSES, AND EVIDENCE

There has already been extensive and burdensome motion practice in this case, including motions in limine. The parties should not file any further motions in limine that raise issues of law or fact that could reasonably have been raised on or before the last trial date of December 4, 2017, or that otherwise merely seek to relitigate issues on which the Court has already ruled in this case. Failure to comply with this requirement may result in the issuance of an order to show cause why sanctions should not be imposed, pursuant to Fed. R. Crim. P. 57(b).

However, to the extent that a party desires rulings prior to trial on motions in limine that *do* raise new issues of law or fact, they should be filed by **MARCH 9, 2018**. Responses to such motions should be filed by **MARCH 16, 2018**. If any motion in limine has not been ruled on by the date of the pretrial conference, counsel should be prepared to present oral argument on the motion at that time.

The Government is directed to provide the Court and Defendant revised or updated copies of its witness and exhibit lists by no later than **NOON** on **APRIL 2, 2018**. Defendants' revised or updated witness and exhibit lists shall be provided to the Court and opposing counsel by no later than **4:00 p.m.** on **APRIL 3, 2018**. The Court asks that the parties' proposed exhibits be provided (or supplemented) to Chambers in a notebook (indexed and tabbed) prior to the start of the pretrial conference.

V. JURY INSTRUCTIONS

The parties have previously submitted proposed jury instructions to the Court. To the extent possible, the parties should confer regarding the proposed instructions in an attempt to narrow areas of disagreement. On or before **MARCH 27, 2018**, the parties

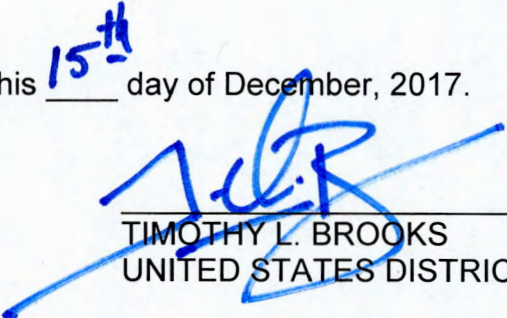
should either notify the Court that their positions are unchanged from their previous submissions, or if their positions have changed, then submit an AGREED set of instructions (clearly marked "AGREED") to the Court. Standard instructions should be used whenever possible from the Eighth Circuit or Federal Jury Practice and Instructions (5th Edition), as applicable, and should note the source and/or basis of the instruction at the end of each instruction. Proposed verdict forms should be submitted as well. If the parties cannot agree to a particular instruction(s), the party requesting a disputed instruction must submit it to the Court and to opposing counsel by the same date. Such instructions should be clearly marked as "[Government's/Defendant's] DISPUTED Instruction No. ____." The legal basis for the instruction and brief description of the parties' disagreement shall be provided with the disputed instruction (either in the space below the instruction or attached on a separate page). Agreed and disputed instructions/verdict forms should be submitted electronically in WordPerfect (*preferred*) or Word format to tlbinfo@arwd.uscourts.gov.

VI. CHANGE OF PLEA

In the event of a decision to enter a plea of guilty, the Court and counsel opposite must be advised in writing or by e-mail no later than **MARCH 28, 2018**. A copy of the signed plea agreement must be submitted via email to the court by no later than **MARCH 30, 2018**. **Any notice of pleas received after MARCH 28, 2018 will result in an "open" plea** (*i.e.* the defendant will be pleading guilty without the benefit of a plea agreement), unless the Court, for good cause shown, grants an exception. Exceptions must be requested in writing at least one (1) full business day prior to the notice of plea deadline. A case will not be removed from the trial docket until a signed plea agreement has been

received and a date and time have been set for the defendant to enter a plea of guilty. Upon receipt of a signed plea agreement, the matter will be set for a Change of Plea Hearing. The specific date and time for the hearing will be established in the resetting text order.

IT IS SO ORDERED on this 15th day of December, 2017.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE