

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

Plaintiff,

-against-

CERTIFICATE OF ENGAGEMENT
AND CRIMINAL PRE-TRIAL ORDER
CR- (ILG)

Defendant.

-----X

GLASSER, United States District Judge

This case having been assigned to me, it is ORDERED that:

1. Trial attorneys for defendant and the United States (“the government”) shall appear for trial with appropriate parties, and have available witnesses and exhibits at 10:00 a.m. on _____.

In view of the Speedy Trial Act, no application made by either party for a later trial date will be granted unless a motion or stipulation is submitted which contains a recital of the exclusion provision that applies under that Act. The motion or stipulation must be accompanied by a proposed order granting the continuance or extension, setting forth findings as to excludable time and declaring excludable time.

2. Defendant is deemed to have requested all information subject to disclosure by the government pursuant to Federal Rule of Criminal Procedure 16(a), unless a written waiver of such request is filed with the Court within five days. The government shall within ten days either permit defendant to inspect and copy, or provide copies of, all such material, and any information obtained as a result of electronic surveillance or any material required to be divulged under the decision in Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). The Magistrate Judge is authorized to assist in determining whether information is Brady material by examining such information in camera and advising the government. Failure to comply with this order shall result in preclusion from introducing evidence not disclosed, or other appropriate sanctions.

3. Upon disclosure by the government it will be deemed to have requested all information subject to disclosure by defendant pursuant to Federal Rule of Criminal Procedure 16(b) unless a written waiver of such request is filed with the court within five days. Defendant shall, within ten days of the government’s disclosure, either permit the government to inspect and copy, or provide copies of, all such material. Failure to comply with this order shall result in preclusion from introducing evidence not disclosed.

4. Upon written demand of the government, stating the time, date and place at which the alleged offense was committed, defendant shall serve within ten days upon the government, a written notice of an intention to offer a defense of alibi. The notice shall

state the specific place or places at which defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom defendant intends to rely to establish such alibi. Within ten days thereafter, but in no event less than ten days before trial, the government shall serve upon defendant, or defendant's attorney, a written notice stating the names and addresses of the witnesses upon whom the government intends to rely to establish defendant's presence at the scene of the alleged offense and any other witnesses who may be called to rebut testimony of any of defendant's alibi witnesses. Upon failure of either party to comply with this order, the Court may exclude the testimony of any undisclosed witness offered by such party as to defendant's absence from, or presence at, the scene of the alleged offense. This order shall not limit the right of defendant to testify.

5. The government is urged to exercise its discretion to provide defendant in advance of trial with copies of all material described in Section 3500 of Title 18 of the United States Code. After each witness called by the government has testified on direct examination, defendant will be deemed to have made a motion, pursuant to Section 3500(b) of Title 18 of the United States Code, for all such material relating to the subject matter of the testimony of that witness.

6. If prior to, or during trial, a party learns of the identity of any witness or the existence of any material which, if known, should have been disclosed pursuant to this order the party shall promptly notify the other party.

7. At least five days before trial, all parties shall exchange and file with the court:

(A) voir dire requests;

(B) requests to charge which the parties intend at that time to ask the Court to consider without prejudice to the right to submit additional requests to charge, the need for which was not apparent prior to trial, at the conclusion of the taking of evidence;

(C) trial briefs discussing any significant issue of substantive law or evidence which either party anticipates will be raised at the trial.

8. At least ten days before trial, defendant shall notify the government and Court in writing of the nature of any motions, which may be required, setting forth specific factual allegations to support any application for pre-trial relief, so that necessary witnesses and exhibits can be made available. Any such hearing will proceed immediately prior to commencement of the trial unless good cause for an earlier hearing is shown by letter to the Court. Arrangements should be made among counsel for availability of transcripts of preliminary hearings which may be necessary for the preparation of examination and cross-examination at the trial.

9. The parties shall file and serve any motions, fully briefed, which must be made as provided in Rule 12(b)(3)(A) - (E) Fed. R. Cr. Pr. at least 10 days before trial.

10. Trial attorneys for the government and defendant shall meet before trial at places and times agreed by them to endeavor to stipulate facts and to narrow or resolve

issues prior to trial. Such stipulations shall be filed promptly with the Court.

11. The trial attorney for the government shall appear at this Court two days before the trial at 10:00 a.m. with all exhibits and documents to be introduced so that these materials can be marked by the clerk as exhibits; counsel for defendant shall be present and is requested to follow the same procedure.

12. At least ten days before trial (a) notice pursuant to Federal Rules of Evidence, Rules 803(24) and 804(b)(5), shall be given, and (b) the parties shall furnish each other with the names of expert witnesses to be called at trial, with a detailed summary of their testimony and with any material to be relied upon pursuant to Federal Rules of Evidence, Rule 803(18).

13. In the event that any time period for pre-trial discovery provided in this order is insufficient to compliance, the parties may stipulate in writing to an appropriate schedule without the consent of the Court, provided the trial date will not be affected. Where the parties cannot agree upon such a schedule, the Magistrate Judge shall resolve the dispute.

14. Defendants are required to appear at all stages of the proceeding including the return date of motions, hearings, pre-trial conferences and trial, unless excused from appearance by the Court with the consent of the government. Failure to comply with this paragraph may result in revocation of bail.

It is certified that the attorneys in this case shall be required to appear in this Court on the trial date stated above.

The clerk shall make copies of this Order and serve it upon the attorneys for the parties and upon the defendant if he appears *pro se*.

SO ORDERED.

Dated: Brooklyn, New York

I. Leo Glasser
United States District Judge