

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 : No. 1:21-cr-00044-CJN
 v. :
 :
 DANIEL D. PHIPPS, :
 :
 Defendant. :

SCHEDULING ORDER

Trial is set to commence in this matter on **August 11, 2023**, at 9:00 a.m. Jury selection will begin that day at 9:00 a.m. in Courtroom 17. Jury selection and the trial will be conducted in accordance with Appendix 8 of the Continuity of Operations Plan for COVID-19, assuming it is still in effect. The following deadlines shall govern pretrial proceedings:

1. The Defendant shall file any motions to dismiss the indictment or other motions to exclude evidence by **June 5, 2023**; oppositions shall be filed on or before **June 19, 2023**; and replies shall be filed on or before **June 26, 2023**.
2. The United States shall notify Defendant of its intention to introduce any Rule 404(b) evidence not already disclosed on or before **June 1, 2023**.
3. The Parties shall file any pretrial motions (including motions *in limine*) on or before **July 3, 2023**; oppositions shall be filed on or before **July 17, 2023**; and replies shall be filed on or before **July 26, 2023**.
4. Before filing a motion, the Parties shall meet and confer to discuss whether any issues presented by the motion can be resolved by agreement of the Parties.
5. The United States should endeavor to make grand jury and Jencks Act disclosures as to each witness it expects to call in its case-in-chief on or before **July 17, 2023**. Any *Brady* material not already disclosed also must be disclosed by this date.

6. On or before **July 17, 2023**, counsel shall file a Joint Pretrial Statement that contains the following:

- a. A neutral statement of the case: The Parties shall include a neutral statement of the case for the Court to read to prospective jurors.
- b. Proposed voir dire questions: The Parties shall indicate –
 - i. the *voir dire* questions that the parties agree to; and
 - ii. the *voir dire* questions that the parties disagree on, with specific objections noted as to each disputed question.
- c. Proposed jury instructions: The Parties shall submit a list of proposed jury instructions, followed by the text of each proposed instruction, that indicates:
 - i. the instructions that the parties agree to; and
 - ii. the instructions that the parties disagree to, with specific objections noted below each disputed instruction, and the proposed instruction's source including supporting legal authority.

Proposed instructions may be updated as needed to reflect the evidence presented at trial. Absent a showing of good cause, no other modifications will be permitted.

- d. List of witnesses: The Parties shall identify the witnesses that each side anticipates it may call in its case-in-chief, divided into the following categories:
 - i. witnesses who will be called to testify at trial;
 - ii. witnesses who may be called to testify at trial; and

iii. witnesses whose testimony a party will present by deposition or other prior testimony, indicating whether the presentation will be by transcript or video.

The Court will read the list of witnesses to the jury during *voir dire*. In the list, each witness name should be accompanied by a brief description of each witness's expected testimony and area of expertise, if applicable, followed by specific objections, if any, to each witness.

- e. Exhibit lists: The Parties shall include an exhibit list that each side anticipates it may introduce in its case-in-chief. The Parties need not list any exhibit that might be used for purposes of impeachment. The Parties should confer with Courtroom Deputy Courtney Lesley about the format of the exhibit list. The Parties should not provide a copy of the exhibits to the Court but must exchange pre-marked exhibits. The Parties must be prepared to raise objections to any proposed exhibit at the Pretrial Conference. The objecting party shall bring three copies of any contested exhibit to the Pretrial Conference.
- f. Stipulations: The Parties shall submit a draft of all stipulations.
- g. Proposed verdict form: The Parties shall include a draft verdict form, including any proposed special interrogatories. The draft verdict form should include a date and signature line for the jury foreperson.
7. In addition to filing the Joint Pretrial Statement, on **July 17, 2023**, the Parties shall transmit, in Word format, an electronic copy of (a) any proposed modification to a standard jury instruction, (b) any non-standard jury instruction, and (c) the verdict form

by email to the Courtroom Deputy Ms. Courtney Moore

at Courtney_Moore@dcd.uscourts.gov.

8. The Court will schedule hearings on any motions filed by the Parties as necessary.
9. Counsel shall appear on August 2, 2023 at 11:00 AM for a pretrial conference in Courtroom 17.

It is so **ORDERED**.

DATE: March 16, 2023



Carl J. Nichols
United States District Judge