

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

ETHAN NORDEAN et al.,

Defendants.

Criminal Action No. 21-175 (TJK)

SCHEDULING ORDER

Having considered the information set forth in the parties' joint status report filed on June 29, 2022, ECF Nos. 420 & 423, and Defendant Nordean's response, ECF No. 424, for good cause shown, it is hereby **ORDERED** that the following deadlines shall apply to the trial in this matter scheduled for December 12, 2022:

Defendants' Motions to Dismiss the Third Superseding Indictment

1. Defendants shall file any additional motions to dismiss, including motions to dismiss Counts One (18 U.S.C. § 2384) or Four (18 U.S.C. § 372) on or before August 19, 2022. The government shall file its response(s) on or before September 2, 2022.¹ Defendants shall file any replies on or before September 12, 2022. A hearing on the motions to dismiss shall take place on September 29, 2022, at 9:30 a.m.

¹ If Defendants file motions before August 4, 2022, the government's response shall not be due until August 18, 2022. *See* LCrR 47(b).

Defendants' Motions to Change Venue

2. Defendants shall file any supplement to their motions to change venue on or before September 30, 2022. The government shall file its response(s) on or before October 14, 2022.² Defendants shall file any replies on or before October 21, 2022. A hearing on any motion to change venue shall take place on October 28, 2022, at 9:30 a.m.

Government Exhibits and Witnesses

3. The government shall provide Defendants with preliminary exhibit and witness lists, along with exemplar summary exhibits that it intends to use at trial, on or before August 19, 2022. The government shall provide Defendants with updated preliminary exhibit and witness lists on or before September 30, 2022, along with copies of the listed preliminary exhibits, including videos and transcripts.

4. Defendants shall file any motion in limine to exclude, limit or modify the government's proposed exhibits, by October 14, 2022. The government shall file its response(s) on or before October 28, 2022.³ Defendants shall file any replies by November 4, 2022. An in-person hearing on the motion shall be scheduled for November 14, 2022, at 9:30 a.m. in Courtroom 11.

5. The government shall provide final exhibit and witness lists to Defendants on November 11, 2022.

² If Defendants file their supplements before September 30, 2022, the government's response shall not be due until October 14, 2022. *See* LCrR 47(b).

³ If Defendants file motions before October 14, 2022, the government's response shall not be due until October 28, 2022. *See* LCrR 47(b).

Joint Pre-Trial Materials to be Submitted By the Parties

6. The government shall provide Defendants with a list of prior convictions that the government intends to use for impeachment or any other purpose by September 30, 2022. Defendants shall identify to the government any specific objections to the use of prior convictions by October 14, 2022. The parties shall jointly submit to the Court such prior convictions and specific objections (if any) by October 28, 2022.

7. The parties shall provide the opposing party with the following materials by October 14, 2022:

- a. a one-paragraph joint statement of the case for the Court to read to prospective jurors; and
- b. proposed items to be included on a jury questionnaire (*i.e.*, voir dire) to be administered to prospective jurors.

The parties shall jointly submit to the Court items (a) and (b) by October 28, 2022, including identifying any items on which the parties disagree, with specific objections noted below each disputed question and supporting legal authority (if any).

8. The parties shall provide the opposing party proposed jury instructions and a proposed verdict form by October 14, 2022. The parties shall jointly submit to the Court proposed jury instructions and a proposed verdict form to the Court by October 28, 2022, indicating:

- c. The instructions to which the parties agree;
- d. The instructions to which the parties disagree, with specific objections noted below each disputed instruction and supporting legal authority (if any);

- e. The proposed instruction's source (*e.g.*, the Red Book, Matthew Bender's Federal Jury Instructions), or, for modified or new instructions, its supporting legal authority;
- f. A proposed verdict form that includes a date and signature line for the jury foreperson, as well as proposed special interrogatories (if any); and
- g. A list of lesser included offenses for which any party may seek a jury instruction.

Pretrial Motions

9. The government shall file a motion in limine concerning the admissibility of statements on October 7, 2022. Defendants shall file any response(s) on or before October 21, 2022. The government shall file any reply on or before October 28, 2022. An in-person hearing on the motion shall be scheduled for November 14, 2022, at 9:30 a.m. in Courtroom 11.

10. The parties shall file any remaining pre-trial motions, including motions to suppress and motions in limine, on or before October 14, 2022; oppositions to the motions filed shall be due on October 28, 2022;⁴ and replies shall be filed by November 4, 2022. An in-person hearing on the motion shall be scheduled for November 18, 2022, at 9:30 a.m. in Courtroom 11.

Expert Witnesses

11. The parties shall provide notice of any expert witnesses on or before September 30, 2022. Any expert reports shall be filed by October 7, 2022.

12. Any motion concerning expert witnesses shall be due on or before October 14, 2022; oppositions to the motions filed shall be due on October 28, 2022; and replies shall be filed

⁴ If any party files a motion before October 14, 2022, the opponent's response shall not be due until October 28, 2022. *See* LCrR 47(b).

by November 4, 2022. An in-person hearing on the motion shall be scheduled for November 18, 2022, at 9:30 a.m. in Courtroom 11.

Pre-Trial Conference

13. The pre-trial conference shall be scheduled for November 18, 2022, at 9:30 a.m. in Courtroom 11.

Impeachment Materials and Witness Statements

14. The government shall provide any impeachment materials related to any individuals whom the government intends to call as witnesses by 14 days before the start of trial.

15. The government shall provide witness statements pursuant to 18 U.S.C. § 3500 and Federal Rule of Criminal Procedure 26.2 by 14 days before the start of trial.

SO ORDERED.

/s/ Timothy J. Kelly
TIMOTHY J. KELLY
United States District Judge

Date: July 6, 2022