

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

JOHN GEORGE TODD III,

Defendant.

No. 1:22-cr-00166-MAU

PRETRIAL ORDER

Trial in this case shall begin on **December 15, 2023, at 9:30 a.m. in Courtroom 5**. A pretrial conference is scheduled for **December 7, 2023, at 11 a.m. in Courtroom 5**. A pretrial motions hearing is scheduled for **November 3, 2023, at 11 a.m. in Courtroom 5**. To administer the trial in this criminal case as efficiently as possible, it is hereby

ORDERED that any pretrial motions, including motions in limine, are due by **October 13, 2023**. Oppositions shall be filed by **October 27, 2023**. Replies shall be filed by **November 3, 2023**. It is further

ORDERED that the Government shall make any expert disclosures required by Federal Rule of Criminal Procedure Rule 16(a)(1)(G) by **October 2, 2023**. Any reciprocal expert disclosures by Defendant pursuant to Rule 16(b)(1)(C) shall be made by **October 16, 2023**. Any expert disclosures by the Government made in rebuttal to the Defendant's timely expert disclosures shall be made by **October 30, 2023**. It is further

ORDERED that the Government shall notify Defendant of its intention to introduce any Federal Rule of Evidence 404(b) evidence not already disclosed by **October 2, 2023**. It is further

ORDERED that Defendant shall satisfy his reciprocal discovery obligations, if any, under Federal Rule of Criminal Procedure 16(b), except as to experts, by **October 16, 2023**. The

Government shall also satisfy its discovery obligations under Rule 16 by **October 16, 2023**. It is further

ORDERED that the Parties shall exchange exhibit lists and copies of the specific exhibits they intend to use at trial by **November 27, 2023**. The lists shall consist of all exhibits that the Parties intend to use in their cases-in-chief. The Parties shall meet and confer by **November 24, 2023**, regarding any objections to the proposed exhibits to narrow the issues in dispute before filing. All exhibits are to be marked in advance of trial. It is further

ORDERED that the Parties shall jointly file the following on the public docket by **December 1, 2023**:

- a. Written Statements (1) by the Government setting forth the terms of any plea offer made to Defendant and the date such offer was made and lapsed; and (2) by Defense Counsel indicating (i) the dates on which the terms of any plea offer were communicated to Defendant and rejected, *see Missouri v. Frye*, 566 U.S. 134, 145 (2012) (“[D]efense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused.”), and (ii) the potential sentencing exposure communicated by Defense Counsel to Defendant and the date on which such communication occurred, *see United States v. Rashad*, 331 F.3d 908, 912 (D.C. Cir. 2003);
- b. List of Expert Witnesses accompanied by a brief description of each witness’s area of expertise and expected testimony, followed by specific objections (if any) to each witness;
- c. List of Prior Convictions that the Government intends to use for impeachment or any other purpose, followed by specific objections (if any) to that use;

- d. List of Exhibits that the Parties intend to use during their cases-in-chief, with a brief description of each exhibit, followed by specific objections (if any) to each exhibit;
- e. Copies of any exhibits in dispute; and
- f. Any stipulations executed or anticipated to be executed.

It is further

ORDERED that by **December 5, 2023, at 4 p.m.**, Counsel shall jointly submit to the Courtroom Deputy and email to Chambers a single, agreed-upon set of trial materials. *Two physical courtesy copies* shall be delivered to the Courtroom Deputy in a three-ring binder with each section separated by labeled tab dividers. Counsel shall also email an electronic copy of these materials to Upadhyaya_Chambers@dcd.uscourts.gov. The materials shall be single-sided, double-spaced, in 12-point Times New Roman font, in Microsoft Word or PDF format. The trial materials shall contain the following:

- a. List of Witnesses: The Parties shall identify the witnesses that each side anticipates it may call in its case-in-chief. Only upon prior leave of court and a showing of good cause will a party be permitted to withhold a witness's identity.
- b. Exhibit List: The Parties shall include the Exhibit List outlined above.
- c. Copies of Exhibits: The exhibits shall be pre-marked and provided in color, to the extent practicable. The Parties need not provide physical copies of video exhibits but must include them in their email submission to Chambers. It is further

ORDERED that counsel shall observe the trial procedures listed in Attachment A.

SO ORDERED.

Date: August 31, 2023

MOXILA A. UPADHYAYA
United States Magistrate Judge

ATTACHMENT A

These procedures will be employed during bench trials before Judge Upadhyaya:

1. Court will be in session from 9:30 a.m. through 5:00 p.m. A fifteen-minute break will be taken in the morning and afternoon, and an hour will be allowed for lunch.
2. If counsel have any “housekeeping” matters to raise, they will be taken up at the end of each day.
3. Counsel are required to have a steady stream of witnesses ready at all times.
4. All witnesses must be addressed by title (e.g., Mr., Ms., Dr.) and their surname rather than by first name.
5. Examinations must be conducted from the podium. Counsel may roam the well of the courtroom during openings and closings. Counsel may not use demonstrative aids during opening statements and closing arguments without advance notice to other parties and permission from the Court.
6. Side-bars are discouraged. Counsel shall note any issue and bring it up at the next break.
7. Counsel shall stand when making an objection.