

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

Case No. 22-cr-404 (JEB)

ISREAL EASTERDAY,

Defendant.

~~[PROPOSED]~~ PRE-TRIAL ORDER

In order to administer the trial of the above-captioned criminal case in a manner that is fair and just to the parties and is consistent with the goal of completing the trial of this case in the most efficient manner, it is hereby

ORDERED that counsel shall comply with each of the following procedures and requirements:

1. TRIAL. Trial of this matter will commence on **September 18, 2023, at 9:<sup>3</sup>00 a.m.**
2. PRE-TRIAL CONFERENCE. A pre-trial conference will be held on **August 31, 2023, at 10:00 a.m.** via videoconference, pursuant to the defendant's previously provided consent. The Court will rule on all pre-trial motions and objections to proposed exhibits, to the extent possible, at the pre-trial conference, hearing argument as necessary.
3. MOTIONS TO DISMISS. Any motion to dismiss the indictment, or counts therein, or any motion to change venue, shall be filed by **June 16, 2023**. Opposition and replies shall be due within 14 and 7 days, respectively. The Court will schedule a hearing on the motion(s) as necessary.
4. SUPPRESSION MOTIONS. Any motions to suppress statements or tangible things shall be filed on or before **July 7, 2023**. Opposition and replies shall be due within 14 and 7 days, respectively. The Court will schedule a hearing on the motion(s) as necessary.

5. EXPERT DISCLOSURES. The parties shall provide expert disclosures for all expert testimony that the parties intend to use at trial under Fed. R. Evid. 702, 703, or 705 in their cases in chief no later than **July 21, 2023**. Disclosure of rebuttal expert testimony in response to a previously-noticed expert of an opposing party must be provided by **August 18, 2023**. Such disclosures will include the following: a complete statement of all opinions that the parties will elicit from a witness; the bases and reasons for the opinions; the witness's qualifications, including a list of all publications authored in the previous 10 years; and a list of all other cases in which, during the previous 4 years, the witness has testified as an expert at a trial or deposition.

6. PRE-TRIAL MOTIONS. All other pre-trial motions, including motions in limine to the extent possible, shall be filed on or before **August 18, 2023**. Any oppositions shall be filed by August 25, 2023. The Court shall schedule a hearing on such motions as necessary.

7. ~~VOIR DIRE. Counsel shall jointly submit both a short narrative description of the case, to be read to the prospective jurors, and proposed voir dire questions on or before **September 8, 2023**.~~

8. ~~PROPOSED JURY INSTRUCTIONS. Counsel shall file proposed jury instructions and a proposed verdict form—jointly to the extent possible—on or before **September 8, 2023**. To the extent that they are pattern jury instructions from the current version of the Redbook, it is sufficient simply to list the numbers of those instructions. Special instructions shall be submitted verbatim with citations to cases and other authorities to support each instruction. Proposed instructions shall be filed on ECF. In addition, a set of the instructions shall be emailed to Chambers in MS Word form.~~

9. BRADY AND GIGLIO. The Government is under a continuing and ongoing obligation to provide defense counsel any favorable or exculpatory information (Brady), whether

or not admissible in evidence. Brady information must be disclosed on a rolling basis—“the duty to disclose is ongoing.” Pennsylvania v. Ritchie, 480 U.S. 39, 60 (1987). To the extent it has not already done so, the Government must disclose information that may be useful for impeachment or may otherwise affect the credibility of any Government witness (Giglio)—including Lewis material—on or before **September 5, 2023**. See United States v. Celis, 608 F.3d 818, 835–36 (D.C. Cir. 2010). Giglio obligations are also ongoing. Should the Government request it, the Court will enter a protective order precluding counsel from sharing Giglio information with their clients.

10. EXHIBIT LISTS. The parties shall exchange lists of exhibits they intend to use in their cases-in-chief by **August 25, 2023**. The parties shall file objections to the admissibility of exhibits to the extent practicable by **September 8, 2023**. All exhibits are to be marked in advance of trial and listed in order on the exhibit form. The written list of exhibits must contain a brief description of each exhibit.

11. WITNESS LISTS. The Government shall provide its list of witnesses to the defense (and to this Court) on or before **September 8, 2023**. On that same date, the Government shall also provide to the defense all Brady or Giglio material not previously provided pertaining to each witness on the list. In addition, **each Friday** during trial, the Government shall provide to the defense an “order of call” of witnesses for the following week and Jencks Act material for those witnesses. It must also provide a list of witnesses the Government anticipates calling on a particular trial day **no less than 36 hours in advance (if not earlier)**. Defendants shall provide their witness lists to the Government (and this Court) no later than the close of the Government’s case and the reverse Jencks material no later than the Friday before the witness is to testify. Counsel will not be absolutely bound by the witness lists or order of call in calling their witnesses because, on occasion, in good faith they must change an intended order of proof or

find it necessary to call a witness out of turn. In some cases, security concerns may justify non-identification of witnesses by the Government until shortly before they are actually called.

These situations, if any, shall be brought to the Court's attention *in camera* when the witness list excluding those names is provided to defense counsel.

12. JURY SELECTION. The Court will summarize its jury-selection procedures at the pre-trial conference. *Voir dire and instructions will be discussed at that time. No parties need do anything on either matter in advance.*

13. ELECTRONIC EQUIPMENT. Representatives of either side who intend to use electronic equipment during the course of this trial shall promptly meet with John Cramer, Courtroom Technology Administrator, of the Clerk's Office (202-354-3019), to arrange for the necessary equipment. Representatives of both sides shall meet with Mr. Cramer to become fully conversant with the procedures for use of the equipment in the courtroom.

14. RECORDINGS. For all video or audio recordings to be used in this case, counsel for both sides shall resolve any dispute between any alleged inaccuracy in the transcripts and/or discrepancies between the transcripts and the recordings. If it proves impossible for counsel to resolve the dispute, they shall so advise the Court **at least three days before the recording is to be offered** so that the Court may resolve the dispute efficiently and avoid any delay to the parties, the jury, and the Court.

**SO ORDERED.**

DATE: 5/12, 2023

  
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THE HONORABLE JAMES E. BOASBERG  
Chief Judge, United States District Court