



JUDGE ROLANDO OLVERA

United States Courthouse
600 East Harrison, Suite 306
Brownsville, Texas 78520-7114
(956) 548-2595

Sandra Espinoza, Case Manager
United States District Clerk
600 East Harrison, Suite 306
Brownsville, Texas 78520-7114
Direct Number: (956) 982-9685
sandra_espinoza@txs.uscourts.gov
District Clerk's Office: (956) 548-2500

CRIMINAL PROCEDURES

1. Contact with Court Personnel1

2. Matters Requiring Immediate Attention1

3. Electronic Filings1

4. Schedule of Courtroom Proceedings1

5. Continuances2

6. Motion Practice2

7. Required Materials for Hearings and Trials3

8. Exhibits3

9. Technology and Other Equipment4

10. Courtroom Procedures5

11. *Voir Dire*6

12. Appendix7

1. CONTACT WITH COURT PERSONNEL

- A. Case-related inquiries may be made by telephone to Sandra Espinoza, Case Manager, at (956) 982-9685. Case-related issues should NOT be communicated to the Court's Administrative Assistant or Law Clerks.
- B. Information about the filing of documents, the entry of orders, or docket entries should be obtained from Sandra Espinoza, Case Manager, at (956) 982-9685.
- C. At the Court's discretion, Law Clerks may occasionally contact counsel as to miscellaneous issues; however, the Law Clerks are under instruction to not discuss any relevant matters pertaining to a case. Please do not attempt to engage the Law Clerks in any matter concerning the case.

2. MATTERS REQUIRING IMMEDIATE/EMERGENCY ATTENTION

- A. Counsel shall contact Sandra Espinoza, Case Manager, at (956) 982-9685, for matters requiring immediate/emergency attention.
- B. Counsel shall send a courtesy copy of emergency motions directly to chambers so that said motions expeditiously reach the Court.

3. ELECTRONIC FILINGS

- A. All pleadings are to be electronically filed through the Electronic Case Filing System (hereafter "ECF"). Electronic filings shall be in accordance with the "Administrative Procedures for Electronic Filing in Civil and Criminal Cases." Answers to frequently asked questions regarding electronic filing may be obtained at the District Clerk's Office.
- B. If a filing, including attachments, contains 50 pages or more, the party shall submit the filing electronically, and submit a courtesy hard copy to the District Clerk's Office. Both the electronic filing and the courtesy filing must be filed on the same day.

4. SCHEDULE OF COURTROOM PROCEEDINGS

- A. **Final Pretrial Conferences.** Final pretrial conferences will be scheduled approximately once a month. Counsel should be prepared to discuss all matters related to the trial, including jury selection, motions to suppress, and motions in limine.
- B. **Jury Selections.** Jury selections will be scheduled approximately once a month. Typically, the Court will select twelve (12) jurors, and if necessary, two (2) alternates. Counsel must inform the Court immediately if a defendant elects to plead guilty prior to his/her scheduled jury selection.

- C. **Re-arraignments.** Generally, re-arraignments are referred to the Magistrate Judges. However, upon permission from the Court, re-arraignments will be heard at the end of the Final Pretrial Conference docket.
- D. **Motion Hearings.** Motion hearings are set in the Scheduling Order; however, counsel may request a hearing on emergency matters.
- E. **Sentencings.** Sentencings are held Wednesdays at 10:00 A.M. and 2:00 P.M. Occasionally, sentencings also will be held on Thursdays at 10:00 A.M. and 2:00 P.M. Prior to sentencing, counsel is required to adhere to the following deadlines:
 - (1) Unopposed or joint motions for continuance should be presented to the Case Manager prior to the scheduled sentencing;
 - (2) Objections to the Presentence Investigation Report (hereafter “PSR”) must be filed within 14 days after receipt of the PSR. Failure to timely object may waive counsel’s right to formally object to the PSR at sentencing, at the discretion of the Court; and
 - (3) Motions relating to a defendant’s withdrawal of a guilty or nolo contendere plea as applicable, must comply with the deadlines contained in Section 6(F) herein.

5. **CONTINUANCES**

- A. Joint unopposed motions for continuances will be granted only at the Court’s discretion. Unopposed motions must contain the signatures of all parties.
- B. Trial will not be continued because a witness, expert or otherwise, is unavailable. Counsel should anticipate such possibilities and be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.
- C. All motions shall set out the length of time for which the continuance is requested, as well as the relevant exception(s) to the Speedy Trial Act, 18 U.S.C. § 3161, if applicable.

6. **MOTION PRACTICE**

- A. Motions must contain a certificate of conference, certificate of service, and an appropriate accompanying Order.
- B. All pending motions will be considered at the Final Pretrial Conference or scheduled motion hearing.
- C. **Motions to Suppress.** In accordance with Southern District of Texas, Criminal Local Rule 12.2, a motion to suppress must be in writing and specifically state the basis for the motion, as supported by a statement of authority. The motion must contain a statement that the movant has conferred with the respondent, but that an agreement cannot be

reached on the disposition of the motion. If the motion presents issues of fact, it shall be supported by an affidavit or declaration which sets forth with particularity the material facts at issue. The motion also must be accompanied by a separate order granting the relief requested. Unopposed motions and their accompanied orders must bear the captions “Unopposed.” Unopposed motions must contain the signatures of all parties.

- D. **Evidentiary Hearings for Motions to Suppress.** Requests for evidentiary hearings will not be granted as a matter of course. Said hearings only will be held if the defendant alleges sufficient facts which, if proven, would justify relief. Factual allegations set forth in a defendant’s motion, including any accompanying affidavits, must be “sufficiently definite, specific, detailed, and non-conjectural, to enable the court to conclude that a substantial claim is presented. General or conclusory assertions, founded upon mere suspicion or conjecture, will not suffice.” *United States v. Harrelson*, 705 F.2d 733, 737 (5th Cir. 1983).
- E. **Motions to Dismiss, Motions to Sever, and Motions for Separate Trials.** Said motions similarly must be in writing and specifically state the basis for the motion, as supported by a statement of authority, and filed at least thirty (30) days before jury selection. Hearings for said motions will be granted at the Court’s discretion
- F. **Motion to Withdraw Guilty or Nolo Contendere Plea:** Upon a defendant entering a plea of guilty or nolo contendere in front of a Magistrate Judge, this Court will adopt the Magistrate Judge’s Report and Recommendation and “accept” the defendant’s guilty plea, except in either of the following scenarios: (1) the defendant timely files within 14 days from the plea hearing a written motion requesting a formal withdrawal of the defendant’s guilty plea pursuant to Fed. R. Crim. P. 11(d)(1); or (2) the defendant timely files written objections within 14 days from the date of execution of the Magistrate Judge’s Report and Recommendation. It is the defendant’s responsibility to schedule a hearing within 30 days from the filing of either pleading. In the event a defendant does not timely exercise either of the above referenced options, the sole basis for withdrawal of a guilty plea would be the demonstration of a fair and just reason pursuant to Fed. R. Crim. P. 11(d)(2)(B).

7. REQUIRED MATERIALS FOR HEARINGS AND TRIALS

- A. **Evidentiary Hearings.** If an evidentiary hearing is necessary, counsel must notify the Case Manager in advance. Exhibit and witness lists (4 copies each) must be provided to the Court at the hearing. A copy of all exhibits must be provided to the Court and to opposing counsel in tabbed, indexed binders.

See APPENDIX, pp. 7–10 for sample exhibit and witness lists.

B. Jury Trials.

- (1) **Exhibit Lists, Witness Lists, and Expert and Agent Reports.** Expert and agent reports, exhibit and witness lists (4 copies each) must be provided to the Court prior

to trial. A copy of all exhibits, witness lists, and expert and/or agent reports must be provided to the Court and to opposing counsel in tabbed, indexed binders.

(2) ***Voir dire* questions.** At least 10 days before trial, proposed *voir dire* questions must be filed electronically.

(3) **Jury instructions.** At least 10 days before trial, proposed jury instructions must be filed electronically.

8. **EXHIBITS**

A. **General Rule.** All exhibits, except unanticipated rebuttal exhibits, must be exchanged between counsel no later than 5:00 P.M. on the date of the Final Pretrial Conference. Exhibits must be provided to opposing counsel in tabbed, indexed binders. The offering party must mark each of his/her own exhibits with the party's name, case number, and exhibit number. In addition, any and all expert and/or agent reports must also be exchanged. Both parties are required to review any and all relevant documentation prior to trial. In summary, no delay will be allowed at trial to allow counsel to review any documentation which should have been previously exchanged and reviewed during the discovery stage.

B. **Objections to Exhibits.** Objections to any exhibits must be filed prior to trial. The objecting party is responsible for scheduling a hearing on said objections. Failure to timely object to an exhibit constitutes a waiver and deemed admission of said exhibit.

C. **Authentication.** Any potential exhibit requiring proof as to authenticity must be authenticated and agreed upon by the parties prior to the discovery deadline. If there are no issues of authenticity with regard to a particular exhibit, the parties are expected to agree to the admissibility of said exhibit, unless other issues may preclude admissibility. No delay will be allowed at trial merely for the purpose of authentication of records.

D. **Admitting Exhibits.** The Court will admit all exhibits that have not been objected to or whose objections were overruled. Sensitive exhibits (such as weapons, drugs, and money) will remain in the custody of government agents throughout the proceedings. Photographs may be introduced in place of the real item when the jury retires for deliberations.

E. **Exhibits and the Jury.** Counsel must obtain permission from the Court to pass exhibits to the jury during trial. All admitted exhibits will go to the jury during its deliberations. Counsel is responsible for ensuring that all admitted exhibits are in the possession of the Case Manager for delivery to the jury.

F. **Disposition of Exhibits After Trial.** Exhibits that are not easily stored in a file folder (like posters or models) must be withdrawn after trial, and reproductions or photographs must be submitted in their place.

- (1) If there is no appeal, exhibits shall be removed by the offering party within 30 days after disposition of the case.
- (2) When there is an appeal, exhibits returned to the Court by the Court of Appeals shall be removed by the offering party within 10 days after written notice from the District Clerk. Exhibits not timely removed will be disposed of by the District Clerk, and the expenses incurred will be assessed against the offering party.

9. TECHNOLOGY AND OTHER EQUIPMENT

- A. Drawing boards and easels with large writing pads are available for use in the courtroom.
- B. A DVD/VCR is available for audiovisual exhibits.
- C. A document reader is available for projecting letter-sized (or smaller) documents and photographs.
- D. If counsel wish to bring additional technology/equipment for a hearing or trial, counsel must contact the Case Manager, Sandra Espinoza, at (956) 982-9685, with their equipment request at least 7 days prior to the hearing or trial.
- E. Any requests for daily copy shall be timely provided to the Court Reporter, Sheila Perales, at (956) 982-9664, ext. 19664. The Court Reporter reserves the right to refuse to provide daily copy.

10. COURTROOM PROCEDURES

- A. **Hours.** The Court's hours during trial vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the Court. Court normally will convene at 9:00 A.M. and adjourn at 5:00 P.M., recessing for lunch between 12:00 and 1:30 P.M., with morning and afternoon breaks as needed.
- B. **Access at Other Times.** Counsel requesting access to the courtroom to set up or remove equipment or exhibits before or after normal business hours must arrange to do so in advance by contacting the Case Manager, Sandra Espinoza, at (956) 982-9685.
- C. **Cell Phones.** Cell phones are not allowed in the courtroom unless permission is obtained from the Court.
- D. **Computers, iPads, and Other Portable Technology.** Computers, iPads, and other portable technology may only be brought into the courtroom with advance notice and permission from the Court.
- E. **Last-minute filings.** If counsel files documents immediately prior to or during trial, said party must submit 3 hardcopies of the filing to the Case Manager.

- F. **Decorum.** Counsel will comply with the Texas Disciplinary Rules of Professional Conduct, the Texas Lawyers Creed, and the Local Rules adopted by the Southern District of Texas. Counsel are responsible for ensuring their clients and all witnesses maintain proper decorum.

See APPENDIX, p. 12 for Courtroom Etiquette.

- G. **Witnesses.** Witnesses are to remain outside the courtroom until called by counsel to testify. To ensure expediency, counsel is instructed to furnish the Case Manager, U.S. Marshals, and Court Security Officer (CSO) with a list of witnesses showing the order in which they are likely to be presented. When counsel calls a witness, the CSO will bring the witness into the courtroom, and the Court will direct the witness to take the stand. Counsel should bear in mind the Court's hours and arrange to call witnesses accordingly. If "the Rule" has been invoked, counsel are responsible for instructing their witnesses as to their duties thereunder. Counsel shall stand at the podium to question witnesses but may approach a witness with an exhibit upon permission from the Court.
- H. **Demonstrations.** Counsel must request and obtain the Court's permission to conduct a demonstration.
- I. **Jury Deliberations.** While the jury is deliberating, counsel are instructed to remain near the courtroom to be available for jury notes or a verdict.
- J. **Contacting jurors after trial.** Once the trial has ended, counsel are permitted to contact jurors at their discretion. However, the Court will instruct the jurors that they may elect not to answer questions or discuss the case.

11. **VOIR DIRE**

- A. Generally, the Court will conduct examination of the venire. If counsel wish to conduct part of or all of the *voir dire*, counsel may submit a motion or raise the issue at the Final Pretrial Conference.
- B. Proposed *voir dire* questions must be filed no later than 10 days before trial.

12. APPENDIX

A. Exhibit List8

B. Witness List10

C. Courtroom Etiquette12

UNITED STATES DISTRICT COURT			SOUTHERN DISTRICT OF TEXAS			
UNITED STATES OF AMERICA v. _____			BROWNSVILLE DIVISION			
			Criminal No. B-			
			EXHIBIT LIST			
Type of Hearing:			AUSA:			
JUDGE: Rolando Olvera		CLERK: Sandra Espinoza		REPORTER: Sheila Perales		
NO.	DESCRIPTION	OFR	OBJ	ADM	DATE	
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					
21.					
22.					
23.					
24.					
25.					
26.					
27.					
28.					
29.					
30.					

UNITED STATES DISTRICT COURT		SOUTHERN DISTRICT OF TEXAS	
UNITED STATES OF AMERICA v. _____		BROWNSVILLE DIVISION	
		Criminal No. B-	
		WITNESS LIST	
Type of Hearing:		AUSA:	
JUDGE: Rolando Olvera		CLERK: Sandra Espinoza	
		REPORTER: Sheila Perales	
NO.	NAME OF WITNESS		
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	
22.	
23.	
24.	
25.	
26.	
27.	
28.	
29.	
30.	

Courtroom Etiquette

People who appear before this Court must observe the following conventions of courteous, orderly behavior:

1. Be punctual.
2. Remain in attendance until excused. All relevant persons seated before the bar in the courtroom area shall remain at counsel table during each session and return after each recess. Parties and counsel must remain in attendance during jury deliberations.
3. Dress with dignity.
4. Address the Court as “your honor” or “Judge”, and others only by their titles, if applicable, and surnames, including lawyers, witnesses, and court personnel.
5. Unless instructed otherwise, stand when the Court speaks to you and when you speak to the Court. Stand when the judge or jury enters or leaves the courtroom.
6. Approaching the bench should be limited, and permission to approach must first be granted by the Court.
7. Hand all documents or items tendered for examination by the judge to the Case Manager only.
8. If you expect to be called as a witness, do not participate in a trial without prior permission of the Court.
9. Avoid disparaging remarks and acrimony toward counsel, and discourage ill will between the litigants.
10. Counsel are responsible for advising their clients, witnesses, and associate counsel about proper courtroom behavior and pertinent rulings of the Court.