



**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  
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Brownsville, Texas 78520-7114  
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## **1. CONTACT WITH COURT PERSONNEL**

- A. Case-related inquiries may be addressed 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 requests relevant to the filing of documents, the entry of orders, or docket entries may be obtained from Sandra Espinoza, Case Manager, at (956) 982-9685.
- C. At the Court's discretion, Law Clerks may contact counsel about miscellaneous issues, but the Law Clerks are under instruction to not discuss any relevant matters related to a case. Any method of communication with the Law Clerks is prohibited.

## **2. MATTERS REQUIRING IMMEDIATE/EMERGENCY ATTENTION**

- A. Counsel will contact Sandra Espinoza, Case Manager, at (956) 982-9685, for matters requiring immediate/emergency attention.
- B. Counsel must 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 ("ECF"). Electronic filings must comply with the "Administrative Procedures for Electronic Filing in Civil and Criminal Cases." Answers to frequently asked questions about electronic filing may be addressed to the District Clerk's Office.
- B. If a filing, including attachments, contains 50 pages or more, the party must 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 are held 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.** Typically, the Court will select 12 jurors, and if necessary, 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. But upon permission from the Court, re-arraignments may proceed at the end of the Final Pretrial Conference docket.
- D. **Motion Hearings.** Motion hearings are set in the Scheduling Order, but counsel may request a hearing on emergency matters.
- E. **Sentencings.** Sentencing hearings are routinely scheduled for Wednesdays but may occasionally also be held on Thursdays. Before sentencing, counsel must adhere to the following deadlines:
  - (1) Unopposed or joint motions for continuance should be presented to the Case Manager before the scheduled sentencing;
  - (2) Objections to the Presentence Investigation Report (“PSR”) must be filed within 14 days after receipt of the PSR. Failure to timely object may waive counsel’s right to 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 in Section 6(H) below.

## 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. Trials will not be continued because a witness, expert or otherwise, is unavailable unless extraordinary circumstances exist. Counsel should anticipate such possibilities and be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.
- C. All motions must set forth dates 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. Responses to motions must be filed at least 7 days from the motion hearing date.
- C. Responses to rulings made by a magistrate judge must be filed at least 7 days from the date of the ruling.
- D. All motions must be filed at least 30 days before the Final Pretrial Conference.

- E. **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 must be supported by an affidavit or declaration which sets forth with particularity the material facts at issue. The motion also must come with a separate order granting the relief requested. Unopposed motions and orders must bear the captions “Unopposed” and must contain the signatures of all parties.
- F. **Evidentiary Hearings for Motions to Suppress.** Requests for evidentiary hearings will not be granted as a matter of course. Said hearings will only proceed 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).
- G. **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. Hearings for said motions will be granted at the Court’s discretion
- H. **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. If 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).
- I. **Unopposed Motions.** Motions without opposition and accompanying orders must have “Unopposed” in the title. Unopposed, dispositive motions, and the accompanying proposed orders must contain the signatures of all parties. Unopposed, non-dispositive motions, and the accompanying proposed orders, do not need the signatures of all parties so long as the motions and proposed orders comply with these Local Rules.

## **7. REQUIRED MATERIALS FOR HEARINGS AND TRIALS**

**Evidentiary Hearings.** If an evidentiary hearing is necessary, counsel must notify the Case Manager in advance. Exhibit and witness lists 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* p. 8 for a sample exhibit list and p. 9 for a sample witness list.

**Jury Trials.** If announcing “**ready**”, no later than 5:00 P.M. on the date of the Final Pretrial Conference, the following documents must be provided to the Court and to opposing counsel in tabbed, indexed binders:

- (1) Exhibit Lists AND an exhibit binder;
- (2) Witness Lists (including depositions or deposition excerpts);
- (3) Expert Reports for any expert who is expected to testify at trial;
- (4) Proposed *voir dire* questions; and
- (5) Proposed jury instructions.

## **8. EXHIBITS & WITNESSES**

- A. **General Rule.** All exhibits, except unanticipated rebuttal exhibits, and witness lists (including depositions or deposition excerpts) must be exchanged between counsel (and the Court) no later than 5:00 P.M. on the date of the Final Pretrial Conference. Exhibits must be provided to the Court and 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, all testifying expert reports must also be exchanged. Parties must review all relevant documentation prior to trial. Pursuant to 18 U.S.C. § 3500 (“Jencks Act”), the Court cannot compel the United States to make available for inspection or discovery any statement or report in the possession of the United States which was made by an actual or prospective government witness until after the witness testifies on direct examination during trial. 18 U.S.C. § 3500(a). However, in the event the Government elects to waive the Jencks Act by allowing inspection of a statement or report of a testifying witness, the Government shall provide the defense with a copy of said statement or report prior to trial. By announcing ready before this Court, a party acknowledges review and compliance with these Local Rules for Criminal Procedure.
- B. **Objections to Exhibits and Witnesses.** Objections to any exhibits or witness (including depositions or deposition excerpts) must be filed no later than 3 days after the Final Pretrial Conference; the written response to an objection is due within 3 days. The objecting party is responsible for scheduling a hearing on said objections after the response date but before the trial date. Failure to timely object to an exhibit or witness (including depositions or deposition excerpts), or alternatively respond to an objection, constitutes a waiver and deemed admission of the foregoing. (In the event a Final Pretrial Conference is 30 days before trial, all 3-day deadlines will be extended to 7 days.)

- C. **Authentication of Exhibits.** All applicable exhibits must comply with Federal Rules of Evidence Rule 901 and Rule 902. A party requiring authentication of an exhibit must provide written notice to the offering party, within 3 days after the exhibit is made available; likewise, a response or corrected authentication is due 3 days thereafter. Failure to provide said written notice before the trial concedes authenticity. The objecting party is responsible for scheduling a hearing on said objections after the response date but before the trial date.
- 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 must 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 must be removed by the offering party within 10 days after written notice from the District Clerk. Exhibits not timely removed will be disposed 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 before the hearing or trial.
- E. Any requests for daily copy must 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 on 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.** Counsel and law enforcement agents will be allowed cell phones in the courthouse. But no cell phone may be used inside any courtroom; any cell phones brought into court must be placed in either "OFF" or "Airplane" mode.
- D. **Computers, iPads, and Other Portable Technology.** Computers, iPads, and other portable technology may be used in the courtroom only with notice and permission from the Court.
- E. **Last-minute filings.** If counsel files documents immediately before 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 below "Rules of 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 appear. 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 is responsible for instructing their witnesses on their duties thereunder. Counsel must 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 is 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 is 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 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 the date of the Final Pretrial Conference.



**12. EXHIBIT LIST**

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

**13. WITNESS LIST**

<b>UNITED STATES DISTRICT COURT</b>		<b>SOUTHERN DISTRICT OF TEXAS</b>	
UNITED STATES OF AMERICA  v.  _____		<b>BROWNSVILLE DIVISION</b>	
		<b>Criminal No. B-</b>	
		<b>WITNESS LIST</b>	
<b>Type of Hearing:</b>		<b>AUSA:</b>	
<b>JUDGE:</b> Rolando Olvera	<b>CLERK:</b> Sandra Espinoza	<b>REPORTER:</b> Sheila Perales	
NO.	NAME OF WITNESS		
1.			
2.			
3.			
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10.			

#### **14. 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 must 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 is responsible for advising their clients, witnesses, and associate counsel about proper courtroom behavior and pertinent rulings of the Court.

**15. Signature Block**

I, Counsel for \_\_\_\_\_, certify that I have received, and will adhere to, these Local Rules of Criminal Procedure.

\_\_\_\_\_  
Counsel for Government

\_\_\_\_\_  
Counsel for Defendant