



JUDGE ROLANDO OLVERA

United States Courthouse
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1. CONTACT WITH COURT PERSONNEL

- A. For case-related inquiries, parties may contact Sandra Espinoza, Case Manager, at (956) 982-9685. Parties should NOT attempt to contact the Court's Judicial Assistant or Law Clerks for case-related issues.
- B. Case related inquiries for which parties can reach out to the Case Manager include information requests relevant to document filing, the entry of orders, or docket entries.
- C. Generally, all methods of communication with the Law Clerks are prohibited. At the Court's discretion, Law Clerks may contact counsel about miscellaneous issues, but the Law Clerks are under the ordinary instruction to not discuss any relevant matters relating to a 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 ("ECF"). Electronic filings should follow the "Administrative Procedures for Electronic Filing in Civil and Criminal Cases." Answers to frequently asked questions about 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 about 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 about once a month. Typically, the Court will select 12 jurors, and if necessary, two 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 will be heard at the end of the Final Pretrial Conference docket.
- D. **Motion Hearings.** Motion hearings are set in the Scheduling Order although counsel may request a hearing on emergency matters if needed. As a reminder: All motions—including dispositive ones—and their responses must be filed in accordance with the Scheduling Order. If counsel waives their Motion Hearing, then he or she must obtain leave of court before filing any later motions.
- E. **Sentencings.** Sentencings are held on Wednesdays. Note that Presentence Investigation Reports (“PSR”) are *sealed* documents, and should not contain information specifically excluded under Fed. R. CRIM. P. 32(d)(3).

(1) Prior to sentencing, counsel must adhere to the following:

- i. Unopposed or joint motions for continuance should be presented to the Case Manager before the scheduled sentencing;
- ii. Objections to the PSR must be filed within 14 days of receipt. Failure to timely object may waive the right to object to the PSR at sentencing; and
- iii. Motions relating to a defendant’s withdrawal of a guilty or nolo contendere plea must comply with the deadlines contained in Section 6(F).

5. **CONTINUANCES**

- A. Joint and unopposed motions for continuance are granted only at the Court’s discretion.
- B. Trial will not be continued just because a witness, expert or otherwise is unavailable. Counsel should anticipate these possibilities and be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.
- C. All motions shall specify for how long 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 include a proposed Order.
- B. Responses to motions must follow the deadlines presented within the Scheduling Order. Failure to respond to an opposed motion will be deemed as a representation of no opposition.
- C. All motions will ordinarily be decided submission.

- D. **Motions to Suppress.** Motions to Suppress must be in writing and specifically state their basis, 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 include a separate order granting the relief requested. Unopposed motions and their accompanied orders must bear the captions “Unopposed.”
- E. **Evidentiary Hearings for Motions to Suppress.** Requests for evidentiary hearings will not be granted as a matter of right. These hearings are held only if the defendant alleges sufficient facts which, if proven, would justify relief. Factual allegations set forth in a defendant’s motion—as well as 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... will not suffice.” *United States v. Harrelson*, 705 F.2d 733, 737 (5th Cir. 1983).
- F. **Motions to Dismiss and Motions to Sever.** Motions to Dismiss and Sever must be in writing, specifically state their basis—as supported by a statement of authority—and follow the Scheduling Order. Hearings for these will be granted at the Court’s discretion.
- G. **Motions to Withdraw Guilty or Nolo Contendere Pleas.** 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 these 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 under 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 under Fed. R. CRIM. P. 11(d)(2)(B).
- H. **Motions/Evidence/Exhibits regarding *Brady* Claims.** In conjunction with the Magistrate Judge’s standard Rule 5(f) Order, the Court holds that the U.S. Attorney’s Office (“USAO”) has a continuing duty of due diligence to review ALL evidence in any form related to a defendant’s guilt or innocence. *See* FED. R. CRIM. P. 5(f) (referring to the Magistrate Judge’s written and oral orders on prosecutorial obligations). Such evidence includes, but is not limited to, documents, computer data, and video or audio recordings. The USAO’s duty to research, investigate, review, and produce *Brady* material to the defense extends both pre-indictment and post-indictment and must not be delegated to any agency or individual, law enforcement or otherwise, that refers cases to the USAO. Failure to comply may result in sanctions or dismissal.

7. REQUIRED MATERIALS FOR HEARINGS AND TRIALS

- A. **Evidentiary Hearings.** The Court ordinarily rules on issues by submission. If an evidentiary hearing is necessary, counsel must notify the Case Manager. Exhibit and witness lists (2 copies each) must be provided to the Court at the hearing. Copies of all exhibits must be provided to the Court and to opposing counsel in tabbed, indexed binders.

See APPENDIX, pp. 8–10 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 (2 copies each) must be provided to the Court before trial. A copy of all exhibits, witness lists, and expert 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 & WITNESSES

- A. **General Rule.** All exhibits, except unanticipated rebuttal exhibits, and witness lists 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, all expert or agent reports must also be exchanged. Both parties are required to review all relevant documentation before trial. No delay will be allowed at trial to allow counsel to review any documentation which should have been previously exchanged and reviewed.
- B. **Objections to Exhibits and Witnesses.** Objections to exhibits should ordinarily be filed as soon as possible and must be filed no less than 14 days before trial. Where there is waiver of speedy trial, objections are due by the deadline in the Scheduling Order. The objecting party is tasked with scheduling any possible objections hearings before trial. Failure to timely object to an exhibit constitutes a waiver and is deemed admission of said exhibit.
- C. **Authentication of Exhibits.** A party requiring authentication of an exhibit must notify the offering party in writing within 7 days after the exhibit is listed and made available. Failure to object before the trial in writing concedes authenticity.
- 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 must ensure 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 will 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 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 a right of refusal.

10. **COURTROOM PROCEDURES**

- A. **Hours.** The Court's hours during trial vary depending on the type of case and the parties' needs. 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; all cell phones brought into court must be turned to either “OFF” or “Airplane” mode.
- D. **Computers, iPads, and Other Portable Technology.** Computers, iPads, and other portable technology may be used only in the courtroom with notice and permission from the Court.
- E. **Last-minute filings.** If counsel files documents just 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 is tasked with 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 consider the Court’s hours and arrange to call witnesses accordingly. If “the Rule” has been invoked, counsel must instruct 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 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 may contact jurors at their discretion. But 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 10 days before trial.

12. **APPENDIX**

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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
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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	
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Courtroom Etiquette

People who appear before this Court must observe the conventions below 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 tasked with advising their clients, witnesses, and associate counsel about proper courtroom behavior and pertinent rulings of the Court.