

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAUL M. KETRING,

Defendant.

SCHEDULING ORDER

10-cr-142-wmc

At an October 18, 2010 unrecorded telephonic status conference, the court set the following schedule in consultation with counsel:

1) Rule 16 disclosures already have been made available pursuant to the applicable statutes. The government and its agents are ordered to preserve rough notes and similar data compilations for possible disclosure later in this case. Pursuant to Rule 12, the government reports its intent to use all disclosed evidence in its case-in-chief at trial.

2) Defendant must file and serve any pretrial motions and discovery requests not later than December 2, 2010. Pursuant to 18 U.S.C. § 3161(h)(7), time from the arraignment until the deadline to file pretrial motions is excluded from the speedy trial clock regardless whether motions are filed. The ends of justice and the Sixth Amendment require that defendant and defense counsel receive adequate time to review the government's disclosures, investigate this case, then make tactical decisions whether to file motions and which motions to file. Briefs need not accompany motions. To obtain an evidentiary hearing on a motion, defendant must ask for it in the caption of each such motion and must submit admissible facts establishing a prima facie entitlement to the relief requested. *See United States v. Toro*, 359 F.3d 879, 885 (7th Cir. 2004).

3) In the event the defendant files a request for an evidentiary hearing, either pursuant to *Franks v. Delaware* or otherwise, not later than December 7, 2010, the government must file any opposition to taking evidence. On December 9, 2010 at 1:00, the court will hold a telephonic status conference to decide whether to hold an evidentiary hearing. If no evidence is to be taken, then the court likely will conduct the preliminary pretrial conference during the December 9 telephonic hearing, if counsel agree.

4) If an evidentiary hearing is needed, the court shall hold it December 16, 2010 at 1:00 p.m. Both sides must present all witnesses and exhibits necessary to make their evidentiary record on the pretrial motions.

4) Subsequent interstitial scheduling will be set in consultation with counsel either on December 9 or December 16, 2010.

8) Jury selection and trial shall begin March 28, 2011 at 9:00 a.m. The predicted trial length is three days. If defendant files no pretrial motions that require briefing, then at the December 9, 2010 telephonic conference the court will discuss rescheduling the trial to an earlier date if counsel are available and can be ready sooner.

Entered this 18th day of October, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge