

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

UNITED STATES OF AMERICA,

Plaintiff,

SCHEDULING ORDER

v.

11-cr-19-wmc

KHUE XIONG, ERIC SILVA,
RICHARD GONZALES DE ARCOS,
SEBASTIAN CORTES VIEYRA and
BENITO A. ALVAREZ SALDANA,

Defendants.

At the March 9, 2011 telephonic scheduling conference, this court set the following schedule:

1) The government already has already provided initial Rule 16 disclosures and will discuss reciprocity with each defendant. 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 that it intends to use all disclosed evidence in its case-in-chief at trial.

2) Defendants must file and serve any pretrial motions and discovery requests not later than May 2, 2011. 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 defendants 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, a 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) The pretrial motion hearing and any evidentiary hearing shall be May 5, 2011 at 11:30 a.m. The court will rule on each motion or set it for briefing in consultation with the parties. Unless the court is taking evidence on a dispositive motion, a defendant may waive his presence at the preliminary pretrial conference.

4) Deadlines to disclose expert witnesses: Government: May 23, 2011

Defendants: June 6, 2011

5) Submissions for the final pretrial conference, namely proposed voir dire questions, jury instructions and motions in limine must be filed and served not later than June 7, 2011.

6) The final pretrial conference shall be June 10, 2011 at 10:30 a.m. A defendant may waive his presence at the final pretrial conference.

7) The final hearing before the trial judge shall be June 14, 2011 at 3:00 p.m. Defendants and trial counsel must attend this hearing.

8) Jury selection and trial shall begin June 20, 2011 at 9:00 a.m. The predicted trial length is four to five days. The parties are jointly responsible for alerting the clerk of court forthwith if a jury need not be called.

Entered this 9th day of March, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge