

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

UNITED STATES OF AMERICA,

Plaintiff,

SCHEDULING ORDER

v.

MARCUS GOSS,

99-cr-89-wmc

00-cr-37-wmc

Defendant.

At the February 10, 2011 arraignment in the 00-cr-37 case and status conference in the 99-cr-899 case, this court set the following schedule:

1) In response to the defendant's Rule 16 demand, the government must provide its required disclosures not later than February 17, 2011, with a continuing disclosure obligation throughout this case. 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) Defendant must file and serve any pretrial motions and discovery requests in either case not later than April 4, 2011. Because motions already were filed in 99-cr-89, counsel will need leave to file any motion in that case that the government objects to as untimely. 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 for both cases regardless whether motions are filed. The ends of justice and the Sixth Amendment require that defendant and his newly-appointed attorney receive adequate time to review the government's disclosures, investigate these cases, 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) The pretrial motion hearing and any evidentiary hearing in both cases shall be April 7, 2011 at 11:00 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, defendant may waive his presence at the preliminary pretrial conference.

4) Deadlines to disclose expert witnesses in both cases: Government: April 18, 2011

Defendant: May 2, 2011

5) Submissions for the final pretrial conference, namely proposed voir dire questions, jury instructions and motions in limine must be filed and served in both cases not later than May 2, 2011.

6) The final pretrial conference for both cases shall be May 5, 2011 at 10:30 a.m. Defendant may waive his presence at the final pretrial conference.

7) In 99-cr-89, the final hearing before the trial judge shall be May 10, 2011 at 3:00 p.m. Defendant and trial counsel must attend this hearing.

8) Jury selection and trial in 99-cr-89-wmc shall begin May 16, 2011. The predicted trial length is two to three days.

7) In 00-cr-37, the final hearing before the trial judge shall be May 17, 2011 at 3:00 p.m. Defendant and trial counsel must attend this hearing.

9) Jury selection and trial in 00-cr-37-wmc shall begin May 23, 2011. The predicted trial length is one to two days.

The parties are jointly responsible for alerting the clerk of court forthwith if a jury need not be called for either of these cases.

Entered this 11th day of February, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge