

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

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ENTERED

MAY 14 2004

UNITED STATES OF AMERICA,)
)
v.) CR-03-BE-0530-S
)
RICHARD M. SCRUSHY,)
)
Defendant.)

REVISED SCHEDULING AND DISCOVERY ORDER

Having heard the parties, the court hereby **ORDERS**:

- (a) **STATUS CONFERENCES** are **SET** for July 26, 2004, at 1:30 p.m., and September 14, 2004, at 1:30 p.m. in the chambers of the undersigned;
- (b) the **PRETRIAL CONFERENCE** shall be scheduled by the court 30 days prior to jury selection;
- (c) the **TRIAL** in this case is **SET** for alternatively September 27, 2004, or January 10, 2005, at 9:00 a.m. in the Hugo L. Black U. S. Courthouse in Birmingham, Alabama; a final trial date will be set by separate order on or before August 16, 2004;
- (d) **all discovery** under F.R.Cr.P. 16(a)(1)(A), (B), (D), (E), and (F), **requested by the defendant**, has already been provided, and any material subsequently becoming available is to be provided immediately;
- (e) **all reciprocal discovery** required to be provided under F.R.Cr.P. 16(b) shall be provided to the government by June 30, 2004, with any material subsequently becoming available to be provided immediately;

(f) the **United States Attorney and Fraud Section of the Criminal Division of the Department of Justice** will review materials in their possession and reasonably available to them to identify material subject to disclosure under *Brady v. Maryland* and its progeny and *Giglio v. United States* and its progeny; and, except for materials already supplied to or otherwise available to the defendant under this Order, the **United States Attorney and Fraud Section of the Criminal Division of the Department of Justice** shall provide copies of these materials to the defendant as soon as they are identified and reasonably can be made available;

(g) the **government** will provide the notices **required under F.R.Evid. 404(b)** no later than June 30, 2004, with any material subsequently becoming available to be provided immediately;

(h) **all statements required to be provided by the government under the Jencks Act, 18 U.S.C. § 3500 et seq. and F.R.Cr.P. 26.2** shall be provided to the defendant **no later than four (4) weeks before trial** for witnesses the government then believes will likely be witnesses in its case in chief;

(i) **all statements required to be provided by the defendant under the Jencks Act and F.R.Cr.P. 26.2** shall be provided to the government **two (2) weeks before trial** for witnesses the defendant then believes will likely be witnesses in his case;

(j) the deadline for **all non-dispositive, Fed.R.Cr.P. 12 motions** (other than those for which other sections of this Order will apply) has passed;

(k) the deadline for **all dispositive motions** has passed; the defendant's reply briefs shall be due on May 21, 2004; a hearing on all dispositive motions will be held on

June 16, 2004, at 10:00 a.m.

(l) by alternatively August 16, 2004, or November 15, 2004, the **government** shall provide to defense counsel copies of **all exhibits** it anticipates using at trial, including any transcripts of audio or video tapes; any exhibit previously provided can be identified by exhibit number without the need to copy it again; the court requests that a **tabbed binder** containing a copy or description with summary, as appropriate, of anticipated exhibits be provided to the court for reference from the bench during the course of the trial; any **summaries** under **F.R.Evid. 1006** shall be due alternatively on August 31, 2004, or December 22, 2004;

(m) by alternatively September 27, 2004, or January 10, 2005, **defense counsel** shall provide to the government copied of **all exhibits** they anticipate using in their case in chief at trial, including any transcripts of audio or video tapes; any exhibit previously provided can be identified by exhibit number without the need to copy it again; the court requests that a **tabbed binder** containing a copy or description with summary, as appropriate, of anticipated exhibits be provided to the court for reference from the bench during the course of the trial; any **summaries** under **F.R.Evid. 1006** shall be due alternatively on October 18, 2004, or January 31, 2005;

(n) **all motions *in limine*** shall be filed no later than alternatively August 31, 2004, or November 22, 2004, and shall be accompanied by **supporting memoranda** containing legal authority relied upon; responses shall be due on either September 13, 2004, or December 6, 2004, and no reply briefs shall be filed;

(o) **trial briefs**, if any, shall be submitted to the court either by September 7, 2004, or December 17, 2004;

(p) by July 22, 2004, the parties must submit to the court a **single, joint request for a proposed jury selection process, including a proposed written juror questionnaire**; if the parties cannot in good faith agree on the proposed selection process or on all questions or precise language of questions to be asked the panel, the parties should nonetheless submit a proposed selection process and unified questionnaire, including any disputed aspects; each disputed element of the proposed selection process, question, or portions of a question, should be identified and labeled to indicate which party requested the disputed proposal or question;

(q) the jury shall appear in court on alternatively September 13, 2004, or December 15, 2004, to fill out jury questionnaires; **jury selection shall begin** on alternatively, September 27, 2004, or January 10, 2005, at 9:30 a.m. in the Hugo L. Black U. S. Courthouse in Birmingham, Alabama;

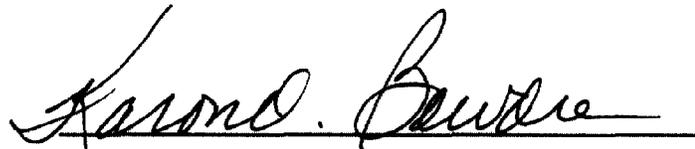
(r) by one week prior to trial, the parties shall submit to the court any **special questions or topics for voir dire examination** of the jury venire;

(s) by one week before trial, the **parties must submit to the court a single, joint proposed jury charge**, including all necessary instructions, and definitions applicable to the specific issues of the case, and **special interrogatory requests**; each requested instruction must be numbered and presented on a separate sheet of paper with authority cited, with preference given to pattern jury charges when available; in these joint, proposed jury materials, counsel are to include all necessary instructions and definitions, specifically including (1) the *prima facie* elements of each crime and defense asserted, (2) legal definitions required for the jury, and (3) instructions on any issues unique to this case; if the parties, in good faith, cannot agree on all instructions,

definitions, or questions, the parties should nonetheless submit to the court a single, unified charge containing all agreed upon charges and questions; and also submit to the court any disputed instructions, definitions, or questions, each on a separate page, identified as disputed, and labeled to show which party is requesting the disputed language with all authority or related material upon which each party relies;

(t) all briefs submitted in this case must conform, as much as possible, to the requirements for briefs contained in Exhibit A to the undersigned's standard scheduling order, except for the statement of facts requirements (found at www.alnd.uscourts.gov – Court Info, District Court Judicial Officers, Karon O. Bowdre, Exhibit A to Scheduling Order (Summary Judgment and Other Submission Requirements)).

DONE and ORDERED this 14th day of May, 2004.

A handwritten signature in black ink, reading "Karon O. Bowdre", written over a horizontal line.

KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE