

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

UNITED STATES OF AMERICA,

v.

RICHARD M. SCRUSHY,

Defendant.

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CR-03-BE-0530-S



DEC 2 2005

DEC 2 2005

ORDER SETTING CRIMINAL JURY TRIAL

The above-referenced action is scheduled for trial before a jury on **Monday, February 2, 2004 at 9:00 a.m.** in Courtroom 5-A, Hugo L. Black U. S. Courthouse in Birmingham, Alabama. Accordingly, the court requires compliance with the following schedule:

(a) Exhibits

At least fourteen days before trial, the government shall provide to defense counsel copies of all exhibits it anticipates using at trial, including any summaries. Any exhibit previously provided can be identified by Exhibit number without the need to copy it again. The court requests that a binder of anticipated exhibits be provided for reference from the bench during the course of the trial.

(b) Motions in Limine

Any motions in limine shall be filed at least one week in advance of the scheduled trial date and shall be accompanied by supporting memoranda containing legal authority relied upon.

(c) Voir Dire

At least five calendar days prior to trial, the parties shall present to the court any special questions or topics for voir dire examination of the jury venire. Failure to timely submit proposed voir dire questions may result in the court limiting questions to only those that are follow up questions to information elicited in response to the court's general questions. Counsel are reminded that voir dire cannot be used to ingratiate oneself or to obtain a pre-commitment from the jury panel.

(d) Jury Charges

At least ten business days prior to the scheduled trial date, the parties must file a **single, joint proposed jury charge**, including all necessary instructions, or definitions applicable to the specific issues of the case. The court's standard instructions may be found on the court's website (www.alnd.uscourts.gov/bowdre/BowdrePage.htm) and need not be submitted to the court.

1. **Each** requested **instruction** must be numbered and presented on a separate sheet of paper with authority cited.
2. In joint, proposed jury materials, counsel are to include all necessary instructions or definitions, specifically including (1) the *prima facie* elements of each crime and defense asserted; (2) legal definitions required by the jury; and (3) instructions on any issues unique to this case. Counsel are to use the 11th Circuit Pattern Jury Instructions, or appropriate state pattern jury instructions, as modified by case law or statutory amendments, wherever possible. Any deviations must be identified, and accompanied with legal authorities for the proposed deviation.
3. Even if the parties, in good faith, cannot agree on all instructions or definitions, the parties should nonetheless submit a single, **unified** charge. Each disputed instruction, definition, or question should be identified as disputed and labeled to show which party is requesting the disputed language. Accompanying each instruction shall be all authority or related materials upon which each party relies. **The parties shall also submit a 3 1/2 inch diskette compatible with Corel WordPerfect 9.0.**

(e) Juror Questionnaire

Should either party desire to submit a questionnaire to the jury venire, at ten business days prior to trial, the parties must file a single, joint proposed juror questionnaire. Even if the parties cannot in good faith agree on all questions or precise language of questions to be asked the panel, the parties should nonetheless submit a single, unified questionnaire. Each disputed question, or portion of a question, should be identified and labeled to indicate which party requests the disputed question. The parties shall also submit the questionnaire on a 3 1/2 inch diskette compatible with Corel WordPerfect 9.0.

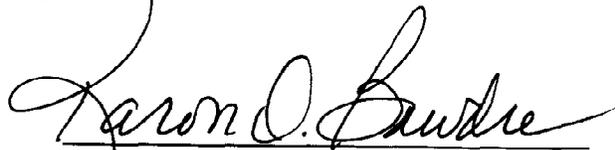
(f) Trial Briefs

Trial briefs, if any, should be filed at least five calendar days before trial.

This court has learned that the following violations of rules of decorum delay trials and create undue controversy. For that reason, the court **directs** as follows:

1. During the trial of this case, all attorneys and their clients shall stand each time the jury enters and exits the courtroom.
2. Counsel are expected to always conduct themselves with civility and appropriate decorum, whether addressing the court, witnesses, parties or opposing counsel. The court will not tolerate conduct that violates rules of decorum.
3. Do not try -- or even appear to try -- to mislead witnesses, or the jury, or the court. (See oath of admission.)
4. Do not make comments or make remarks to lawyers or witnesses. Do not argue with witnesses. Just ask questions.
5. Do not argue when making objections unless the court calls for argument at side bar. State general ground(s) only.
6. Do not raise your voice or act indignant. Do not ask questions in an argumentative tone of voice. Both are forms of argument.
7. Wait until the answer is completed before asking a question. The court reporter can take only one person at a time.
8. Do not, while another lawyer is questioning a witness, make open court offers to stipulate as to testimony, exhibits or otherwise. If you wish to stipulate, ask to approach the bench. Such open court offers are generally not made to help save time. They are a form of argument.
9. Every attorney practicing in this court certifies to the court by his appearance herein that he or she has read this court's local rules.

DONE and ORDERED this 29 day of December, 2003.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE