

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN OR JANE DOE,

Defendant.

No. CRXX-XXXX RAJ

ORDER REGARDING
CRIMINAL JURY TRIAL
PROCEDURES

In order to administer the trial of the above-captioned case in a manner that is fair and just to the parties and is consistent with the goal of completing the trial of this case in the most efficient manner, it is hereby

ORDERED that counsel and pro se litigants shall comply with each of the following procedures and requirements:

1. **SCHEDULE.** On _____ at _____ a.m., the court will meet with counsel for the parties for a final pretrial conference to resolve all remaining pretrial matters and any remaining motions *in limine*.

Trial is scheduled to commence on _____ at 9:00 a.m. Jury selection will begin promptly at 9:00 a.m. Counsel should be present to discuss any preliminary matters by 8:30 a.m. Counsel should be prepared to deliver their opening statements immediately after the jury has been impaneled and preliminarily instructed by the court.

1 2. **JURY SELECTION.** *See* instructions for criminal jury impanelment
2 by visiting the court’s website at:

3 www.wawd.uscourts.gov/JudgesInfo/JudgeJonesGeneral.htm

4 3. **EVIDENCE PRESENTATION TECHNOLOGY.** If the courtroom
5 technology will be used at trial, you are responsible for participating in the training
6 program offered by the court prior to the commencement of trial. Training is
7 offered the 1st and 3rd Wednesday of every month at 3:00 p.m. in Courtroom 18A of
8 the Seattle courthouse. No reservation is necessary to attend the training.

9 4. **PUNCTUALITY.** The jury portion of the trial will be conducted
10 from 9:00 a.m. to 12:00 p.m. and from 1:30 p.m. to 4:30 p.m., Monday through
11 Thursday, unless otherwise directed by the court. The court will also take a morning
12 recess from 10:30 a.m. to 10:45 a.m. and an afternoon recess from 2:45 p.m. to
13 3:00 p.m.

14 Trial will convene promptly at the designated time on each trial day and the
15 jury will not be kept waiting. Counsel shall be available in the courtroom and seated
16 at their respective counsel tables at least five minutes before court is scheduled to
17 begin or resume after a recess.

18 5. **GENERAL COURTROOM RULES.** The court expects counsel to
19 exercise civility at all times towards each other and towards everyone involved in the
20 case or working with the court.

21 A. Unless leave is otherwise given, counsel shall question
22 witnesses and make opening statements and closing arguments
23 from the lectern and shall speak into the microphone.

24 B. Only one attorney from each side may inquire of a particular
25 witness. That same attorney is responsible for making and
26 responding to objections regarding that witness.

 C. Counsel shall obtain permission from the court before
 approaching a witness or the bench.

- 1 D. Counsel are reminded that the traditional rules regarding
2 opening statements and closing arguments will be enforced by
3 the court.
- 4 E. Counsel shall provide for inspection by opposing counsel any
5 charts or diagrams they intend to use during opening statements
6 or closing arguments. Any objections should be raised with the
7 court sufficiently in advance so the court may consider the
8 objections without wasting the time of the jury.
- 9 F. Counsel shall stand when addressing the court. All objections
10 or other statements by counsel, no matter how brief, shall be
11 made while standing.
- 12 G. All statements by counsel should be directed to the court and
13 not to opposing counsel.
- 14 H. Counsel are reminded that their own opinions regarding facts or
15 issues in a case are irrelevant and should not be communicated
16 to the jury (*e.g.*, “I think . . .” or “We believe . . .”)
- 17 I. Counsel are reminded to seek leave from the court before
18 posing questions or engaging in procedures in the presence of
19 the jury that carry a risk of undue prejudice, or that by law or
20 customary procedures require leave of the court.
- 21 J. Unless otherwise permitted by the court, counsel shall refer to
22 all witnesses over the age of 18, including their clients, as “Mr.”
23 or “Ms.” or by their official title (*e.g.*, “Captain” or “Dr.”) All
24 witnesses are to be addressed in a respectful and polite manner.

25 6. **OBJECTIONS AND EVIDENTIARY MATTERS.** In an effort to
26 resolve any objections, any legal matters or other evidentiary issues that will arise
during the course of the trial and have not been the subject of a motion in limine or
pretrial motion should be discussed between counsel no later than the night before

1 the witness or exhibit is to be offered. If there is no resolution, the proponent of the
2 objection or evidence shall email or fax to Chambers that evening or, in any case, **no**
3 **later than 7:00 a.m.** the next morning, in succinct terms, a statement of the
4 evidentiary issue or objection and their position, together with legal authority. The
5 opposing party shall email or fax to Chambers **no later than 8:30 a.m.** the contrary
6 position, with legal authority. The court will hear from the parties and make its
7 determination during the time for preliminary matters each morning. This way, the
8 jury will not be kept waiting while legal issues are discussed and resolved.

9 7. **VOIR DIRE AND JURY INSTRUCTIONS.** Counsel are reminded
10 to promptly provide electronic copies in Word format of any proposed voir dire and
11 proposed jury instructions to the court by email at jonesorders@wawd.uscourts.gov.
12 Counsel shall also submit by email their proposed verdict forms, including (where
13 appropriate) any special interrogatories. To the extent possible, counsel are
14 encouraged to agree upon a verdict form, indicating areas of disagreement as
15 appropriate.

16 8. **OBJECTIONS AT TRIAL.** Counsel who make objections during
17 trial must state the legal basis for their objections without elaboration or argument
18 (unless invited), (*e.g.*, “Objection, hearsay,” “Objection, lack of foundation.”) The
19 court generally will rule on the objection without additional discussion except in the
20 most critical areas. For purposes of “protecting the record” and assisting appellate
21 review, counsel may explain or amplify their objections on the record after the jury
22 has been excused for a break, for lunch, or for the day.

23 9. **SIDEBAR CONFERENCES.** Sidebar conferences are discouraged.
24 Counsel may seek to convene a sidebar conference if counsel is about to engage in a
25 line of inquiry on direct or cross-examination that reasonably necessitates leave of
26 the court, *e.g.*, potentially inflammatory areas of inquiry.

10. **WITNESS LISTS.** Counsel for the government shall deliver to
defense counsel a list of witnesses on or before _____, along with all

1 Jencks Act or *Brady* material not previously provided pertaining to each witness on
2 the list.

3 At the close of each trial day, counsel for the government shall provide to
4 defense counsel a list of the witnesses to be called the following day.

5 Defense counsel shall submit a list of proposed witnesses to the government
6 and to the court no later than the close of the government's case. Counsel will not
7 be absolutely bound by the list in calling its witnesses because on occasion, in good
8 faith, they must change an intended order of proof or find it necessary to call a
9 witness out of order, etc. In some cases, security concerns may justify non-
10 identification of witnesses by the government until they are actually called. These
11 circumstances may be brought to the court's attention when the witness list
12 excluding those names is provided to defense counsel.

13 11. **WITNESSES.** Except for the parties, their authorized
14 representatives, and experts as permitted under Rule 615 of the Federal Rules of
15 Evidence, all witnesses shall remain outside the courtroom except while actually
16 testifying. Unless permission for a witness to remain in the courtroom is expressly
17 sought and granted, the rule on witnesses is always in effect, even during voir dire
18 and opening statements. Counsel shall instruct witnesses not to discuss their
19 testimony with others during or after they have completed their testimony. Except
20 for a defendant-witness (because of Sixth Amendment implications), counsel calling
21 a witness to testify, and counsel's agents, should have no further discussions with
22 that witness concerning any aspect of the testimony already given or anticipated
23 until such time as the witness has completed his or her testimony.

24 12. **WITNESSES ON CALL.** Once the trial begins, witnesses shall be
25 put on call at the peril of the calling party. The trial will not be recessed because a
26 witness on call is unavailable, except in extraordinary circumstances. The court will
endeavor to accommodate out-of-town and expert witnesses if counsel alerts the
court in advance. The party calling a witness shall arrange for that witness' presence

1 until cross-examination is completed, including the following trial day, if necessary.
2 The failure to have a witness present for cross-examination following direct
3 examination is grounds to strike the witness' testimony.

4 13. **PRESENCE OF COUNSEL.** Once court is in session, lead counsel
5 shall not leave the courtroom without the court's express permission. Failure of
6 counsel to be present and on time may result in sanctions.

7 14. **PRESENCE OF THE DEFENDANT.** Out-of-custody defendants
8 will not be allowed to leave the courtroom except during recesses and the lunch
9 hour. After trial begins and following recesses, the defendant shall be required to be
10 present unless prior approval is given by the court for his or her absence.

11 15. **SUA SPONTE JURY INSTRUCTIONS.** Any necessary *sua sponte*
12 jury instructions shall be written out by counsel requesting them and shall be given
13 to the court in a form in which the court might read the instructions to the jury.
14 Failure to do so shall be deemed a waiver of any such request. In the event that the
15 instructions are given, it shall be counsel's responsibility to remind the court of the
16 necessity for the inclusion of any *sua sponte* instructions in its final charge by 4:00
17 p.m. on the date *prior to* the date on which the final charge is to be given by the
18 court to the jury.

19 16. **VERBAL OR FACIAL CONTACT WITH THE JURY.** Counsel,
20 the defendant, and witnesses shall not make any verbal comments, facial
21 expressions, or have other contact with the jury which could be interpreted as
22 conveying a comment one way or the other with respect to the testimony, argument
23 or event that may occur during trial. Nor shall any such persons offer gratuitous
24 comments or asides about witnesses' testimony or opposing counsel.

25 **Counsel and out-of-custody defendants shall remain in the courtroom or**
26 **their assigned witness rooms while the jurors are arriving and departing from**
breaks and recesses during the voir dire process and during the trial itself.

1 17. **DIRECT AND CROSS-EXAMINATION.** On direct or cross-
2 examination of a witness, counsel shall not:

- 3 A. Testify by improperly incorporating facts into their questions so
4 as to put before the jury information that has not been received
5 in evidence;
- 6 B Use an objection as an opportunity to argue or make a speech in
7 the presence of the jury; and
- 8 C. Show the jury a document or anything else that has not yet been
9 received in evidence without leave of the court. If counsel is
10 using electronic equipment to display documents to the jury and
11 the court, counsel shall make sure that the document has been
12 admitted in evidence before it is shown to the jury.

13 If any party intends to use a deposition to refresh a witness' recollection,
14 impeach a witness, or for any other reason, counsel shall provide a copy of the
15 deposition to the Court.

16 18. **CLOSING ARGUMENTS AND INSTRUCTIONS.** The court will
17 deliver the bulk of the jury instructions before closing argument, reserving only
18 housekeeping matters until later. In making closing arguments, counsel shall be
19 limited by the evidence presented during trial and are reminded of the prohibition
20 against appealing to the jurors' prejudices. Moreover, during closing argument and
21 throughout the trial, counsel shall not:

- 22 A. Comment adversely on the defendant's choice not to testify in
23 his or her own behalf;
- 24 B. Make statements of personal belief to the jury;
- 25 C. Make personal attacks on opposing counsel;
- 26 D. Appeal to the self-interest of the jurors; or
- E. Make potentially inflammatory racial, ethnic, political or
 religious comments.

1 With regard to both opening statements and closing arguments, counsel are
2 admonished not to make statements or arguments that will draw objections. The
3 court will intervene *sua sponte* and not wait for objections if it observes the failure to
4 adhere to basic legal principles and standards of civility.

5 Pro se litigants are reminded by the Court that they are held to the same
6 standard as counsel, and that all procedures set forth herein apply equally.

7 Failure to abide by these rules may result in sanctions.

8 DATED this _____ day of _____, 20__.

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11 /s/ Richard A. Jones
12 HON. RICHARD A. JONES
13 United States District Judge
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