

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CRIMINAL NO. 09-20192

D-1 GHAZI MANNI
D-2 MITCHELL EDWARD KARAM
D-3 ADAM RYAN CUOMO
D-4 KEITH JUNIOR TRIPLETT
D-5 ANTON DU'ANE CURRIE
D-6 KASHIF LASHON PAYNE
D-7 HARVEY LAMONT McDOUGLE JR.
D-8 QUINTON JAMES BROUSSARD
Defendants.

HON. JULIAN ABELE COOK, JR.

ORDER

I. THE FOLLOWING DATES ARE APPLICABLE TO THIS CASE

- (A) Status Conference AUGUST 24, 2009 at 1:00 p.m.
- (B) Motions deadline NOVEMBER 9, 2009
- (B) Pretrial Conference and/or Guilty Plea deadline (date to notify the court if the defendant needs a plea hearing at a later date)
DECEMBER 7, 2009 AT 1:00 p.m.
- (C) Trial DECEMBER 17, 2009 at 8:30 a.m.

II. POLICIES AND PRACTICES OF THE COURT IN CRIMINAL LITIGATION

(A) General Policies of the Court

- (1) The conduct of this criminal trial will be governed by the applicable Federal Rules of Criminal Procedure, the Local Rules of the Eastern District of Michigan, the Standing Order for Discovery and Inspection and Fixing Motion Cut-Off Date in Criminal Cases (Administrative Order No. 99-AO-003) [*Standing Order*], and the Order of this Court relating to decorum in the courtroom [*Order of Decorum*]. A copy of the Standing Order may be obtained from the Case Manager upon request.
- (2) In the absence of unforeseen circumstances, the trial in this criminal case

will commence on the date that has been scheduled by the Court. All trials are generally conducted on Monday through Friday between 8:30 a.m. and 1:00 p.m. However, in an effort to minimize the unwarranted expenditure of time, costs and inconvenience to all participants, each counsel is encouraged to contact the Case Manager in order to verify the date and time of the trial

- (3) Judge Cook will strictly construe the *Order of Decorum* which governs the conduct of all participants in the trial.
- (4) Any counsel who seeks to obtain an adjournment of a motion, hearing or trial must file a written motion and a proposed order to the Court not later than three (3) business days prior to the date of the scheduled event (e.g., motion, hearing or trial). Every motion for an adjournment must contain (1) an identification of the moving party, (2) a listing of the number of prior requests for an adjournment that have been made by either side, (3) the basis for the motion, (4) the length of time that is sought in the application for relief by the movant, and (5) the appropriate "Speedy Trial" language.
- (5) No adjournment of a motion, hearing or trial will be granted in the absence of a written Order from this Court. However, all counsel should be aware that it is Judge Cook's general policy to reject any request for the adjournment of a motion, hearing or trial in the absence of compelling circumstances.
- (6) In the absence of a specific waiver by the parties, Judge Cook will hear oral arguments relating to all motions that raise any substantive issues, including claims of Constitutional violations. The decision to conduct a hearing on all other motions will be determined by Judge Cook on the basis of the complexity and/or the exigency of the issues in controversy.
- (7) Judge Cook will impose time limitations for oral advocacy upon all parties prior to the commencement of every pre-trial/post-trial motion, opening statement and closing argument.
- (8) Each counsel will have a maximum period of fifteen (15) minutes in which to present an oral argument in support of, and in opposition to, an unresolved motion. The proponent of the motion may reserve time for rebuttal. However, Judge Cook may, in his discretion, increase or decrease the allotted time for oral argument.
- (9) In the absence of exceptional circumstances, each counsel shall be restricted to a total of one hour for the presentation of his (or her) opening statements and closing arguments.
- (10) These time limitations will be monitored by the Court and governed by a rectangular timer box that is located on the courtroom desk of the Case Manager/Law Clerk. This timing device contains three colors: green,

yellow and red. The *green* light authorizes the advocate to proceed with the oral advocacy during the authorized time period. The *yellow* light advises the advocate that only three minutes remain. The *red* light means stop.

- (11) In the event of any perceived or actual conflict between the terms of this Order and the Local Rules of the Eastern District of Michigan, the former shall govern.

B. Guilty Plea Practice of the Court in Criminal Litigation

- (1) In the absence of extenuating circumstances, Judge Cook will not accept any plea bargain relating to a lesser criminal charge after the expiration of the designated guilty plea deadline date.
- (2) If a settlement agreement between the parties is achieved, the counsel for the Government shall be primarily responsible for (1) notifying the Case Manager of the parties' resolution of the dispute, and (2) providing the Court with all of the pertinent documents (e.g., Rule 11 Agreement and Guilty Plea form). The counsel for the Defendant shall be responsible for obtaining a Guilty Plea Questionnaire from the Case Manager and bring the form (following its completion by the Defendant) to the Court on the scheduled date of the hearing. The Government will mark the original Rule 11 Agreement and the Guilty Plea form as Government Exhibits 1 and 2 and present the exhibits and two copies of the Rule 11 Agreement to the Case Manager before the proceedings begin.
- (3) On the scheduled date of the hearing during which the Defendant will tender an offer of guilt to an agreed upon criminal charge, Judge Cook will, among other things, (1) ask the Defendant to verify the validity of his (or her) signature on all of the documents that have been proffered for admission into evidence, (2) submit a series of questions to him (or her), most of which will be based on the Guilty Plea Questionnaire, and (3) make a determination as to whether he will accept or reject the offer of guilt and/or the terms of the parties' negotiated settlement.
- (4) During this colloquy, Judge Cook will call upon the counsel for the Government to publicly advise the Defendant of the following: (1) the maximum and minimum sentences that can be imposed upon him (or her) on the original charge, (2) the pertinent provisions of the parties' settlement agreement (e.g., Rule 11), and (3) the evidence that the Government would attempt to proffer against him (or her) during a trial.
- (5) Shortly thereafter, the Defendant will be called upon to recite his (or her) version of the criminal offense, upon which the guilty plea is based. At the conclusion of Judge Cook's questioning, each counsel will be (1) given an opportunity to question the Defendant about any pertinent matters that relate to his/her tendered guilty plea, including their

voluntariness and thorough understanding of the significance of the guilty plea, (2) invited to identify any procedural irregularities with the hearing, and (3) asked to opine if a factual basis for the guilty plea has been established during the hearing.

- (6) Immediately thereafter, Judge Cook will advise the Defendant if his (or her) proposed guilty plea and settlement agreement (a) have been accepted or rejected or (b) will be taken under advisement. If the guilty plea is accepted by Judge Cook, the Defendant will be advised of the date and time when the sentence will be imposed upon him (or her). Immediately thereafter, the issue of the Defendant's bond will be discussed by Judge Cook with both counsel prior to the completion of the hearing.

C. Trial Practice of the Court in Criminal Litigation

- (1) The selection of the jury, including voir dire, will be conducted by Judge Cook. Each counsel will be permitted to file proposed questions to Judge Cook who, in his discretion, may submit them to the prospective members of the jury for their response. A copy of Judge Cook's jury selection procedure can be obtained from the Case Manager. The jury selection process may be undertaken by the magistrate judge to whom the case was initially assigned if the counsel for the Government and the Defendant consent to do so in writing.
- (2) Prior to presenting testimony in a trial, every witness shall stand immediately in front of the courtroom desk and swear (or affirm) to testify truthfully.
- (3) In the event that any party to this criminal litigation seeks to proffer a witness whose testimony may tend to infringe upon his (or her) rights under the United States Constitution against self-incrimination, the proponent shall advise Judge Cook of his (or her) intention to do so outside the hearing of the jury prior to the official invocation of the oath to the witness.
- (4) Exhibits shall not be presented directly to the jury during a trial unless the proponent can persuade Judge Cook that the examination and evaluation of the proffered exhibit is absolutely necessary for the jurors' collective understanding of the subsequent evidence. However, this prohibition shall not apply in those instances in which the proponent seeks to publish an exhibit by (a) an overhead projector, (b) the reproduction on a surface that can be easily observed by all of the jurors at the same time, or (c) some other method that has been approved by Judge Cook.
- (5) At the conclusion of each day of trial, every participant in the proceeding (i.e., attorneys, witnesses, government agents) shall remain in the courtroom for approximately five to ten minutes in order to allow all of the members of the jury to vacate their jury room, exit the seventh floor via an elevator or stair case, and leave the courthouse.

- (6) Following the rendition of the jury verdict, each counsel will be responsible for the retention and protection of every exhibit that was proffered by him (or her) during the trial for possible review by a Court of Appeals or until the appropriate appellate period has expired, whichever occurs first.
- (7) All proposed jury instructions shall be submitted to Judge Cook on a disk that is compatible to WordPerfect or Word. Each page must (a) be clearly numbered, (b) contain only one proposed jury instruction, (c) clearly set forth the issue, to which the proposed instruction relates, and (d) the supporting legal authority. The parties shall meet and, thereafter, submit two copies of all uncontested jury instructions to the Court for its evaluation. However, if the parties cannot agree upon one complete set of uncontested jury instructions, the counsel for the Government shall assume the primary responsibility of submitting two copies of jury instructions, upon which the parties agree. It is not sufficient that the parties merely agree upon general instructions and, thereafter, submit their own set of substantive instructions. The parties are expected to meet, confer and seek an agreement upon all of the substantive instructions in the case for use by Judge Cook.
- (8) Objections to any instructions that have been proposed by an adverse party shall be filed with the Court within a period of forty eight hours after the receipt of the challenged instruction. Every objection shall (a) be in writing, (b) identify the proposed instruction in its entirety, (c) set forth (or highlight) the objectionable material within the proposed instruction, (d) contain the supporting citation to the legal authority, as well as a concise statement of argument concerning the instruction, and (e) include a proposed alternative instruction where applicable.

IT IS SO ORDERED

Dated: June 25, 2009

s/ JULIAN ABELE COOK, JR.
U.S. DISTRICT COURT JUDGE

Certificate of Service

I hereby certify that on June 25, 2009, I electronically filed the foregoing with the Clerk of the Court using the ECF system, and I further certify that I mailed a copy to the non-ECF participant(s).

s/ Kay Doaks
Courtroom Deputy Clerk