

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**SCHEDULING ORDER
Governing the AUGUST 2020 Criminal Term**

The COVID 19 pandemic continues to cause disruptions which make it difficult to follow normal court procedures and schedules. A safe court environment is in the interests of justice, and the Court has in place video and telephone conferencing capacity for appropriate non-jury, non-evidentiary proceedings if a defendant wishes to avoid delays and health risks associated with in-person hearings. Because precautions taken to protect public and individual health make scheduling more difficult and mean every proceeding takes more time, and in an effort to increase the chances that cases are ready to go as soon as circumstances allow, the following procedures are required of all cases set for the **August 2020** Criminal Term. All counsel and the defendant are **ORDERED** to comply:

ARRAIGNMENTS

Defendants may want to consider waiver of appearance or video arraignment, pursuant to Federal Rule of Criminal Procedure 10. If a waiver is filed, defense counsel need not appear before the court. Otherwise, all arraignments will be conducted by Magistrate Judges, unless a defendant intends to plead Guilty at arraignment, in which case counsel shall notify the Magistrate Judge and the case manager and file a signed plea agreement.

RULE 11 HEARINGS and MOTIONS

If the Government intends to make a plea offer, it shall do so promptly. For those defendants who plan to plead guilty, counsel shall undertake all reasonable efforts to file signed plea agreements no later than **12:00 Noon, July 30, 2020**. Unless the Government will ask for the factual basis to be deferred, the Government shall file a written Factual Basis no later than **5 p.m. July 31, 2020**.

All motions by the defendant or the Government, **including motions to suppress or to dismiss but not including motions to continue**, shall be filed on or before **Wednesday, July 22, 2020**, and responses shall be filed on or before **Wednesday, July 29, 2020**. The briefing shall address whether a hearing is required or requested and if so, whether witnesses will be called. If a motion becomes moot, counsel for the moving party shall file a notice of withdrawal of motion.

Motions to continue must be filed as soon as it becomes apparent it will be needed and in any event no later than **12:00 Noon, August 3, 2020**.

STATUS REPORTS

In each case, Counsel for the Defendant and Counsel for the Government shall immediately confer and no later than **12:00 Noon, July 30, 2020**, shall file a joint status report (see Attachment) providing the following information:

1. Whether the case is for guilty plea or trial, and if not, identification of reasons the case is not ready for Rule 11 hearing or trial and whether a continuance will be requested by either or both parties.
2. Identification of any pending motions requiring resolution and whether the defendant must be present for a hearing on the motion.
3. Application of Speedy Trial Act deadlines.
4. If the case is ready for Rule 11 hearing, whether the defendant consents to a video conference, a telephone conference, or both, or whether he wishes to wait for an in-person hearing.
5. If the case is for trial, any scheduling issues or conflicts that should be taken into account and an estimate of how many days the trial will take. Because scheduling is difficult, the Court may not be able to accommodate all scheduling requests.
6. If there will be a motion to continue, whether the parties agree and when the case will be ready for trial or other disposition.
7. Defendants who have previously waived counsel and represent themselves shall file a status report and the Government shall file a separate status report.
8. The parties may use the attached form or provide information in any appropriate format.

SCHEDULING

The week of August 3 is reserved for non-jury matters. Non-jury matters will also be heard later in the term as required to complete court business. Defense Counsel **SHALL** notify the U.S. Attorney's Office of any scheduling conflicts during August no later than, Monday, **July 27, 2020**. When a defendant consents, non-jury, non-evidentiary matter will be heard via video-conference. Otherwise, and subject to the public health situation arising from the pandemic and related problems, the Court anticipates being able to conduct hearings and trials in-person. Other judges may handle some non-jury hearings or trials.

NOT GUILTY PLEA (JURY TRIAL)

Trials will begin on or after **August 10, 2020**. Any case ready for trial will be set for pretrial conference at least three days before the trial begins. Trial briefs are due **August 3, 2020**, and shall identify and address all evidentiary issues expected to be in dispute.

This the 1st day of June, 2020.

/s/ Catherine C. Eagles, District Judge

ATTACHMENT

UNITED STATES v. [Insert Defendant's name]

___CR_____

JOINT STATUS REPORT

Pursuant to the applicable Scheduling Order, Counsel for the defendant and Counsel for the Government inform the Court as follows:

- A plea agreement has been signed and filed
- The parties have agreed on a plea agreement and a written plea agreement will be filed no later than _____
- The defendant intends to plead guilty without a written plea agreement.

If any of the above three boxes is checked, check at least one box below:

- the defendant consents to a video conference Rule 11 hearing.
- the defendant consents to a teleconference Rule 11 hearing.
- the defendant is or will be ready to proceed with a Rule 11 hearing as soon as an in-person hearing can be scheduled.

- The matter is not ready for Rule 11 hearing or trial because:
 - there is a pending motion which must be resolved. The motion is on the docket at Doc. _____. The motion does does not require a hearing at which the defendant must be present.
 - There are outstanding discovery issues which must be resolved
 - _____

- The defendant does not intend to plead guilty and the case needs to be set for jury trial. [For trials, fill in the following]

Scheduling limitations or issues, if any:

Trial time estimate: _____ days (from beginning jury selection to submission to the jury)

- [] The parties have discussed the requirements of the Speedy Trial Act and
 - [] The Government [] has filed [] intends to file a motion to exclude time from Speedy Trial Act calculations, to which the defendant [] does not object [] expects to object.
 - [] There are no Speedy Trial Act issues unless the expected Rule 11 hearing cannot be completed before _____, 2020.
 - [] _____

[] Other information relevant to scheduling: _____

- [] If either party expects to file a motion to continue,
- [] If the parties agree a continuance is appropriate, a motion to continue [] has been filed [] will be filed which explains the reasons for the continuance **and** a scheduling or case management plan is provided [] in the motion [] as an attachment to this report.
- [] A contested motion to continue [] has been [] will be filed by [] The Government [] The defendant

This ___ day of July, 2020.

Name
Counsel for the Defendant

Name
Counsel for the Government