

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA
Plaintiff

v.

Defendant(s)

Criminal cases before (ADC)

ORDER REGARDING DISCOVERY AND CASE MANAGEMENT

These cases involves conspiracy and substantive charges regarding the illegal possession and distribution of controlled substances, and conspiracy and substantive charges relating to firearms. There are also forfeiture charges pursuant to 21 U.S.C. § 853 and F.R. Crim. P. Rule 32.2 (a).

The record reflects that up to date, all defendants arrested have appeared before the Court for initial appearance, bail and arraignment.

In order to promote efficient and orderly case management through discovery stages while properly allocating resources of the attorneys, the Court and CJA funds, the Court orders the following:

A. Procedural Measures

1. Each motion, within the caption, shall include defendant's full name and number within the indictment.
2. No informative motion is to be filed by any defense attorney in order to report compliance Local Rule 116.1 (b)(1) (informal requests for discovery). If any such motion is filed after the emission of the Order, payment for the time incurred will not be authorized under the Criminal Justice Act.

3. No motion for informal, general or specific discovery will be entertained, unless counsel provides a certification that informal resolution has been sought prior to filing.

4. Throughout the pendency of this case, the United States Probation Office is authorized to provide access to the Pre-Trial Services report of a defendant, **to the attorney of record**. This will allow counsel to adequately assess the criminal history category of his/her client.

5. The government is instructed to preserve all rough notes in possession of law enforcement agents. In order to secure compliance, the government will instruct its agents accordingly and will be responsible for requesting and safekeeping as part of the AUSA file, photocopies of said rough notes.

6. The government will provide each defendant with a full discovery package. Were discovery to be provided by electronic means, discs are to be provided **to each defense counsel**. In addition, a hard copy of all evidence included within electronic media is to be made available at "Double Day" allowing for any attorney interested in the records to request and obtain copy of the discovery produced.

a) A separate set of said electronic media (e.g., audio and/or video recordings) is to be made available to inmates at the Metropolitan Detention Center - Guaynabo.

7. No motion petitioning for "*De Novo* review" of bail determinations will be entertained when based on new evidence obtained after the initial bail or detention hearing. All evidence relevant to bail issues shall be submitted, in first instance, to the presiding

Magistrate-Judge. When necessary, counsel may move for reconsideration before the presiding Magistrate-Judge, prior to petitioning this Court.

8. Any requests for mental evaluation is to be submitted with a proposed form of Order, in strict compliance with 18 U.S.C. § 4241 et seq., indicating the scope of the evaluation, whether psychological or psychiatric services are necessary, and if the information is to be used only by defense counsel, as well as the curriculum vitae of the physician, and proposed fees.¹

9. Requests for appoint of investigators and experts, shall be submitted with relevant information concerning the individual to be appointed, proposed fees, the type and amount of work to be performed and the expected time of completion for tasks assigned.

10. At the proper time the Court will fix the time frame for disclosure of *Jencks* and *Giglio* material. No pretrial motions are to be filed requesting *Giglio* and *Jencks* in a general boilerplate fashion.

11. At the proper time, the Court will fix the time frame for ocular inspections of physical evidence to be presented by the government.

12. The government is reminded of its continuing duty to provide exculpatory material. *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitely*, 514 U.S. 419 (1995).

13. General, overbroad and boilerplate requests for information regarding Grand Jury sessions and testimonies of witnesses appearing before it, must be considered

DENIED.

¹This is intended to facilitate processing under CJA and allows for proper determination of whether said evaluation is to be paid by DOJ, CJA or defendant.

14. General boilerplate, and overbroad requests for information regarding names of government witnesses, names of undercover agents or non-participating informants, their personnel files, their addresses and results of any polygraphs administered to such prospective witnesses are, at this stage, **DENIED**.

15. The Court intends to conduct, periodic Status Conferences, in order to promptly address any particular problem encountered with ongoing discovery, to address particular requests from defendants through their counsel, and to ensure government's timely compliance.

16. Regarding disclosure of evidence in possession of state/local agencies:

a) If a state/local case is in its investigative stage, relevant information readily accessible to the government is to be provided, and sanitized when necessary so as not to jeopardize ongoing criminal processes.

b) If a state/local criminal action or case has been filed, the government will be responsible for providing disclosure pursuant to F. R. Crim. P. Rule 16, of information and evidence in its possession or readily accessible, which can be reasonably obtained from state prosecutors.

c) For any other relevant evidence within state/local records, defense attorneys may avail themselves of means such as inspecting the state/local court case files, and obtaining certified copies of statements and affidavits within those records. No transcripts of state/local testimonies and proceedings will be admissible unless duly certified by state/local court authorities.

d) This Court, however, does not authorize travel outside metropolitan area when the purpose is simply to obtain copies of judgments to verify a defendant's Criminal History Category. That information is to be provided by the government as part of its 404(b) disclosure or by U. S. Probation Office, when so requested.

17. Time for attending state/local proceedings (e.g., suppression hearings and trials), particularly if it includes travel outside the metropolitan area, requires prior court approval, absent extraordinary circumstances. Approval can be requested in an ex parte manner, if deemed necessary.

18. Voucher Entries for "reviewing dockets", "reviewing docket entries" will be closely scrutinized. Counsel must avoid increased costs and excessive billing generated by either reading or downloading pleadings or orders not relevant to the preparation of their defense. Toward this end, all attorneys will ensure that motions and pleadings are properly titled. "Informative Motions" requesting some form of relief beyond this Court noting the contents of the motion will not be entertained.

19. No "Motion to Join" motions filed by other co-defendants under the assumption that the Court will determine "the extent to which the motion is applicable" will be considered.

B. Government Disclosures

1. The government will provide each defendant with:
 - a) His or her prior conviction and arrest record.

- b) All available evidence pursuant to F.R. Evid. 404 (b). All defendants are presumed to have requested such disclosure pursuant to the Rule.
- c) The substance of any verbal or written statement(s) provided to law enforcement agents or other persons as long as they may be attributed to or were adopted by defendant. This encompasses disclosure of information relevant to admonishment and waiver of constitutional rights by defendants.
- d) Scientific reports (e.g., forensic, ballistics) as they relate to each particular defendant or defendants. Supporting information pursuant to Fed. R. Crim. P. 16(a)(1)(F) and (G) must also be provided.
- e) Reports on the availability of and/or other tangible evidence, still in possession or control of state law enforcement officers, that will constitute evidence in the prosecution's case in chief.
- f) Copies of the application for and search warrants and wiretap orders issued by any state or federal court which resulted in the gathering and seizure of evidence to be used in its case in chief.
- g) Regarding participating informants, the government is required to initially disclose the substance of their testimonies and subsequently, any other information that may be necessary, as requested by counsel and ordered by the Court.
- h) Regarding cooperating codefendants, at the proper time the Court will provide for disclosure of plea agreements and other *Giglio* material.

2. The government is to provide prompt notice of any potential *Bruton* problem created by the admission in trial of a codefendant's statement. This does not relieve defense counsel from its duty to file a motion for relief.

3. As soon as practicable or as fixed by the Court, the government will provide defendants with written plea offers.

4. In cases where significant tangible evidence is available to the government, the Court will provide and set dates and times for ocular inspections and for the designation of evidence. Sessions to examine physical evidence will be orchestrated by the attorney for the government, in order to enable organized attendance and participation by defense attorneys. For each session held the government will maintain an attendance record that is to be filed with the Court immediately upon conclusion of the particular session.

Defense counsel's failure to attend such sessions will be construed as and will constitute a waiver of his/her right to examine said evidence prior to trial.

This Order is not intended to limit the defendant's rights to discovery or due process. Its objective, coupled with the subsequent in-court Conferences, is to ensure compliance with the Local Rules, and to avoid the filing of overbroad, boilerplate, and unnecessary discovery motions.

SO ORDERED.

At San Juan, Puerto Rico, this 29th day of January, 2008.

S/AIDA M. DELGADO-COLON
United States District Judge