

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
WITHIN AND FOR SWEETWATER COUNTY, WYOMING

STATE OF WYOMING,

Plaintiff,

vs.

Docket No. CR-\_\_\_\_-\_\_\_\_-L

Defendant.

**ORDER AFTER PRETRIAL CONFERENCE**

THIS MATTER came before the Court for Pretrial Conference on \_\_\_\_\_, 201\_\_. The State of Wyoming appeared through counsel \_\_\_\_\_, and the Defendant appeared with counsel \_\_\_\_\_. The Court has considered the pleadings, pretrial memoranda, motions, and arguments of counsel and Defendant, and finds that an Order After Pretrial Conference should issue.

NOW THEREFORE IT IS ORDERED:

1. **Cold Plea Deadline** The deadline for any change of plea pursuant to a plea agreement is \_\_\_\_\_, 201\_\_ . After that date, the Court will not accept any plea agreement or any change of plea other than a plea of guilty.
2. **Motions And Evidentiary Issues**
  - a. Any anticipated motions to be heard subsequent to the Pretrial Conference **must be filed by the day of \_\_\_\_\_, 201\_\_**, and be accompanied by separate request setting hearing on such motions, together with an order scheduling the matter for hearing. A reasonable time prior to the hearing, the parties shall provide their motion, response, and reply (if any) to the Court by e-mail to jd3lawclerkb@courts.state.wy.us in *Word* or *WordPerfect* format. **No motions which can reasonably be anticipated prior to trial will be heard during trial.**
  - b. **Counsel shall arrive at 8:00 o'clock a.m. the first day of trial.** The Court will take the opportunity to address any matters needing to be resolved before the start of trial, including but not limited to any motions *in limine*, other evidentiary issues, or issues related to jury selection.
  - c. The parties have raised the following issues with regard to hearsay, W.R.E. 404(b) evidence, or W.R.E. 609 evidence:
  - d. The parties shall comply with W.R.Cr.P. 16 and 26.2.
  - e. The parties have a continuing duty to disclose information and material as it becomes known. W.R.Cr.P. 16(c).

- f. The State has a continuing duty, pursuant to law and pursuant to this Order, to immediately provide the Defendant notice of any exculpatory evidence which is known or discovered by the State.
- g. No other pending motions are before the Court.

### **3. Exhibits**

- a. The State shall submit any written statement and/or a transcript of any recorded statement of the Defendant that it will offer at trial, along with any proposed redactions to remove unfairly prejudicial material, to the Defendant by \_\_\_\_\_, 201\_\_\_. The Defendant shall inform the State of which redactions he agrees with, which additional redactions he requests, and any material which he does not want redacted by \_\_\_\_\_, 201\_\_\_. If the parties are unable to agree on redactions, the matter shall be brought to the Court's attention at an early practicable time prior to trial.
- b. The parties did/did not raise any objections to listed exhibits at this time.
- c. The parties have/have not stipulated to the foundation or admissibility of exhibits.
- d. The State has designated its proposed exhibits, listed and marked by numbers, in its Pretrial filings in this case. The Court and Defendant may rely upon such listing or designation of exhibits by the State for purposes of trial.
- e. The Defendant has not identified or designated any proposed exhibits in Defendant's Pretrial filings in this case, other than the State's. In the event that Defendant does offer any exhibit, Defendant shall identify or designate the exhibit by letter.
- f. If any exhibit is discovered after filing of a party's Pretrial Memorandum, the party discovering such exhibit shall have the obligation to immediately provide the opposing party with inspection and a copy. No exhibit may be utilized, used or offered in the case-in-chief of either party or in rebuttal unless, in advance, the right to inspect and/or a copy is provided to opposing counsel, and the Court approves of the nature, scope, and manner of such exhibit in advance.
- g. Original exhibits may be published to the jury only after obtaining prior permission from the Court. Except for tangible items, exhibits will be published by video or projection, or a true and correct copy will be provided to each juror. Failure to follow this procedure may result in the Court's refusal to allow publication of exhibits in the interest of time under Rule 611 of the Wyoming Rules of Evidence. The Court will not

permit any further activity to occur until after the exhibit has been reviewed by the jury.

- h. A copy of all exhibits a party may use at trial shall be provided to the Court bound in a notebook prior to trial (except tangible exhibits which cannot be duplicated).
- i. No other objections to exhibits or exhibit disclosures were made.

#### 4. Witnesses

- a. The State has designated its witnesses in its Pretrial Conference filings in this case. The Court and the Defendant may rely upon such witness designations by the State for purposes of trial.
- b. The Defendant has not designated any witnesses, other than the State's (or the right of Defendant to testify if Defendant wishes to do so), in Defendant's Pretrial Conference filings in this case.
- c. If a witness is discovered after filing of a party's Pretrial Memorandum, the party discovering the witness shall have the obligation to immediately provide the opposing party with a summary of the expected testimony. No such witness may be called for the case in chief of either party unless a written copy of the statement or a detailed summary of the matters upon which the witness will testify is provided to opposing counsel prior to calling the witness, and the Court approves of the nature, scope, and manner of such testimony in advance.
- d. No other objections to witnesses or witness disclosures were made.

#### 5. Trial

- a. This matter is currently set for trial on \_\_\_\_\_, at 9:00 a.m., before a jury of twelve (12) plus one (1) alternate. This case is the **number ( ) case for trial on that date.**
- b. The parties anticipate the trial will last \_\_\_ days. \_\_\_\_ (\_\_\_) days are set aside for trial. Counsel are reminded that the last day of trial is not a full trial day for purposes of presenting evidence. The Court will manage the trial with the objective of concluding the evidence by mid-morning on the last day of trial, therefore allowing time for closing instructions and arguments and submitting the case to the jury for their deliberations at or near the lunch hour.
- c. The general trial hours will be from 9:00 a.m. to 5:00 p.m. with an hour and fifteen minutes for lunch and breaks every 60-90 minutes as the Court deems appropriate in the morning and afternoon. The Court may choose to begin trial earlier as the case moves along, as it deems necessary and appropriate.

- d. Counsel should be prepared for brief conferences with the Court no less than fifteen minutes prior to the beginning time of the trial, or as otherwise directed by the Court. Counsel should be prepared to make themselves available for a series of informal instruction conferences at the end of the trial day as the case progresses. The Court anticipates 1 to 2 informal instruction conferences before the final and formal instruction conference on the record.
  - e. Each party shall receive thirty (30) minutes for opening statements, forty-five (45) minutes for closing arguments, and Plaintiff shall have fifteen (15) minutes for rebuttal.
  - f. No other time restrictions or time budget limitations will be imposed by the Court, unless the Court finds that the trial will not be completed within the number of trial days allotted. In the event that time restrictions or time budget limitations are imposed, no constitutional rights or due process will be affected.
- 6. Presence Of Defendant** The Defendant shall appear at trial in street clothes. The Defendant shall be unshackled, unless the Sheriff and Court Security believe that certain restraints are necessary, in which case the Court shall be promptly advised so the matter can be discussed and decided upon prior to trial.
- 7. Jury**
- a. No objections to the composition of the jury, the method of compilation or maintenance of the list, or the Court's jury selection procedures were made in Pretrial Memoranda or at the Pretrial Conference.
  - b. Private juror information must be kept confidential by the by the attorneys for the State, by the attorneys for Defendant, and by Defendant, except for purposes strictly related to jury selection. Attorneys may use contact information for follow-up with jurors after trial. Improper or unauthorized release or dissemination of private juror information by any attorney or by Defendant may be dealt with as indirect contempt of this Court for violation of this Order and will subject any offender to any and all remedies available, including imprisonment, payment of sanctions, and payment of costs and attorney fees.
  - c. Instructions to jurors before opening statements were not discussed. Before opening statements, the Court will give 2009 WCrPJI 1.01 - General Instruction Before Opening Statements, 1.13 - Juror Notebooks, 1.10 - Note Taking by Jurors, 1.11 - Questions by Jurors Not Permitted, and (verbally only) 1.09A - Cautionary Instruction: Recesses.

- d. If counsel for the State or counsel for Defendant fail to strictly comply with the requirements and prohibitions contained in Rule 24(c) of the Wyoming Rules of Criminal Procedure, the Court may assume the examination and preclude the offending party from further examination and violation of this provision of this Pretrial Order may be considered and dealt with as contempt of this Court.
- e. The parties did/did not request any case-specific juror notebook materials. The Court will include the "Focus on the Courtoom" document attached hereto.
- f. The parties did not request any case-specific juror questionnaires.

#### **8. Special Requirements**

- a. **The Court will not allow any delays as a result of failure of technology. The Court encourages use of technology to efficiently and effectively present information to the jury, and the parties are strongly encouraged to test presenting the actual audio/video/photographs to be used at trial on the equipment on which it will be played, in the courtroom, prior to trial. Use of technology is at the offering party's own risk and the Court will not allow any delays a result of technical difficulties.**
- b. **Speaking objections are not permitted. If an objection or response requires more than a one-word explanation or a citation to the applicable rule of the Wyoming Rules of Evidence, counsel shall request permission to approach the bench. Counsel shall not present any argument on objections within the hearing of the jury.**
- c. Counsel are reminded that they are expected to conduct themselves in accordance with the Rules of Professional Conduct for Attorneys at Law, applicable Wyoming law, the Wyoming Rules of Criminal Procedure, and the Uniform Rules for District Courts. In particular, the Court expects compliance with Rule 801 of the Uniform Rules for District Courts, as amended effective January 1, 2013.
- d. Strict compliance with the attached court security order is expected of all counsel, the defendant, witnesses, and others with whom counsel or the parties have association or responsibility and/or over whom counsel or the parties have the ability to control.
- e. Opposing counsel, every witness, and the jurors will be treated with courtesy.
- f. All witnesses, counsel, jurors, and the venire panel shall be addressed by last names, only.
- g. When addressing the Court or a witness or the jurors (venire panel), counsel shall stand.

- h. Permission to approach the Bench, a witness, or the jury must be requested of the Court and received by the Court.
- i. Counsel shall remain behind the podium.
- j. Counsel should be mindful of not speaking with his or her back to the witness, the jury or the Court.
- k. Remember the Court Reporter and speak slowly and loudly enough to be heard.
- l. Have each witness spell his or her name for the Court Reporter.
- m. Re-cross examination will be allowed only in extraordinary circumstances.
- n. **Court will begin promptly at announced times, with or without counsel.**

**The Court has prepared this order. In the event that any party objects to the form and/or any content of this Order, such objecting party will have ten (10) days to file and serve any objections, along with an alternate form of order. The Court reserves the right to rule on any objections filed by any party with or without a hearing. Failure to file and serve any objections, along with an alternate form of Order, within ten (10) days from the date hereof will be deemed a complete waiver of any and all objections as to form or content of this order.**

DATED this \_\_\_\_ day of \_\_\_\_\_, 2013.

By the Court,

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RICHARD L. LAVERY  
District Court Judge

# FOCUS ON THE COURTROOM

## PLEASE REMEMBER THESE RULES:

As a juror, you play a critical role in ensuring that all parties receive a fair trial. It is essential that your decisions be based solely on the information you receive in the courtroom.

### DO NOT TALK TO ANYONE OR LET ANYONE TALK TO YOU ABOUT THE CASE

This includes your family and friends. You must not discuss any aspect of the case with anyone until the trial concludes. Also, do not discuss the case with the other jurors until your deliberations begin.

### DO NOT RECEIVE OR SEND ELECTRONIC COMMUNICATIONS ABOUT THE CASE

This includes texting, e-mailing, blogging, posting information on social network websites, or using any other electronic communications to discuss, or even mention, this case.

### AVOID OUTSIDE INFORMATION FROM THE INTERNET OR OTHER SOURCES

Do not seek information about any aspect of the case, including searching on the Internet. Avoid news reports—broadcast, print, or Internet—relating to this case or issues in this case.



THANK YOU FOR YOUR SERVICE!