

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

THE STATE OF WYOMING,

Plaintiff,

vs.

DEFENDANT,

Defendant.

Criminal No. CR-xx-xxx-L

ORDER FOR PRETRIAL CONFERENCE

THIS MATTER having come before the Court for arraignment on _____, and the State of Wyoming appearing; and, the Defendant appearing with _____, attorney for Defendant; and, the Defendant having pleaded NOT GUILTY to the charge(s) filed herein; and, the Court being otherwise advised in the premises,

IT IS HEREBY ORDERED:

1. **TRIAL:** The twelve (12) person jury trial of this case is set for _____, in the District Courtroom of the Sweetwater County Courthouse, 80 West Flaming Gorge Way, Green River, Wyoming, commencing at **9:00 o'clock a.m.** **This case is stacked at position number ____.** This case is scheduled for _____ trial days. **If the trial of this matter requires more trial days than are scheduled, counsel must immediately notify the Court** by e-mail to ktyler@courts.state.wy.us, with subject line containing the case name, number, and subject "More Trial Days."

2. **PRETRIAL CONFERENCE:** A pretrial conference will be held in the District Courtroom of the Sweetwater County Courthouse. The date and time of the Pretrial is _____. The Court has set aside sixty (60) minutes for the pretrial conference. **All parties and all counsel (for the State and for the Defendant) who will try the case must be present in person at the pretrial conference. THE DEFENDANT MUST ATTEND THE PRETRIAL CONFERENCE IN PERSON; NO EXCEPTIONS EXCEPT UPON WRITTEN PERMISSION OF THE COURT IN ADVANCE OF THE HEARING. IF THE DEFENDANT FAILS TO APPEAR IN PERSON THE COURT SHALL ISSUE A BENCH WARRANT FOR THE DEFENDANT'S ARREST.** Each party must

be prepared to address, including, but not limited to, the following matters at the time of the pretrial conference:

- i. Objections to the composition of the jury or method of compilation or maintenance of the list;
- ii. Estimate of trial time requirements
- iii. Jury selection
- iv. Late discovered witnesses and exhibits
- v. Jury instructions and verdict form
- vi. Which instructions should be given to jurors before opening statements
- vii. Procedures for the jury instruction conference;
- viii. Specific needs for trial (e.g., audio or visual equipment, easel, interpreters, etc.)
- ix. Juror notebooks; and,
- x. Other matters which can be reasonably anticipated which can be addressed prior to trial.

3. **DISCOVERY:**

- i. A hearing on any motions filed pursuant to the Criminal Case Management Order will be held at the pretrial conference if a specific order setting a hearing was not otherwise entered.
- ii. **At least seven (7) calendar days before the Pretrial Conference**, each party shall, pursuant to W.R.Cr.P. 26.2(a)(2), produce for examination by the opposing party, copies of all statements of witnesses each party may call in their case-in-chief. *See Kovach v. State*, 2013 WY 46, ¶ 91, --- P.3d --- (Wyo. Apr. 19, 2013). If a witness statement is thereafter obtained by either party, the party must produce the statement for examination within one (1) day after receipt of the statement. No witness may be called in the case-in-chief of either party unless a written copy of the statement is provided to the opposing party pursuant to this order.

4. **PRETRIAL MEMORANDUM:** **At least seven (7) days before the Pretrial Conference**, each counsel must file and serve upon all other counsel (or *pro se* parties) a pretrial memorandum containing, at a minimum, the following:

- i. **Exhibits:** **The Court will not receive any audio/video exhibits prior to trial. If a party intends to offer any audio/video exhibit at trial, the offering party shall submit a written transcript to the Court with the electronic courtesy copy of the pretrial memorandum.** All proposed exhibits must be listed in the pretrial memorandum with specificity and must be clearly identified. The

State will use numbers to identify its exhibits starting with "1," and Defendant will use letters starting with "A." Multiple exhibits will not be lumped together under one number or letter: if the exhibits are to be introduced individually at trial, they are to be listed individually on the exhibit list. Exhibits that are not listed in the pretrial memorandum will not be admitted at trial absent a showing of good cause why they were not listed in the pretrial memorandum. **The failure to mark exhibits and furnish copies to opposing counsel at or before filing of the pretrial memorandum will result in any such exhibits being inadmissible at the trial.**

- ii. **Witnesses:** A list of all witnesses, (except rebuttal witnesses) including expert witnesses, indicating names, addresses, and a short, yet specific, summary of testimony. Vague, boilerplate summaries are not sufficient. Witnesses must be designated as *may call* or *will call*. A party designating any "*will call*" witness will be responsible for the attendance of any such "*will call*" witness at trial, and any opposing party and the Court may rely thereon. For expert witnesses, provide a detailed summary of each and every opinion and the factual and scientific basis therefor. All parties should consider whether a *Daubert* will be needed, and if so, request a hearing as far in advance of the pretrial conference as practicable. **The failure to disclose witnesses to opposing counsel at or before filing of the pretrial memorandum will result in any such witnesses being barred from testifying at the trial.**
- iii. **Jury Instructions:** Using numbers (State) or letters (Defendant), each party shall file and submit to the Court by email an index of proposed jury instructions, with any proposed non-pattern or case-specific proposed jury instructions with citations to authority, and including a proposed verdict form. **The index shall cite the pattern instructions, where applicable, and indicate whether an instruction has been modified from the pattern. Include any limiting instructions, lesser included offense instructions, or theory of the case instructions which can be reasonably anticipated, including an instruction related to W.R.E. 404(b) evidence, if applicable.** Pattern proposed jury instructions shall not be filed with the Clerk of the District Court or submitted to the Court electronically. **Please do not submit courtesy copies of proposed jury instructions to the Court in paper form unless specifically requested by the Court.** The parties should also submit proposed

instruction to be given prior to opening statements describing the nature of the case and that party's contentions [*The contention instruction for the State should merely state the charges and the general nature of the allegations. The contention instruction for Defendant(s) should generally indicate the Defendant(s) theory of the case, including which allegations, if any, are admitted, together with the general nature of any affirmative defenses. The contention instructions must not be argumentative.*] Any instructions which are requested during trial must immediately be submitted to the Court and to the opposite party, in paper form and electronically in *Word* or *WordPerfect* format by e-mail to jd3lawclerkb@courts.state.wy.us.

- iv. **Objections:** Objections, if any, to the composition of the jury or to the method of compilation or maintenance of the list must be specifically presented.
- v. **Estimate of Trial Time:** Each party must provide a **realistic** estimate of trial time anticipated for that party's case-in-chief and rebuttal case, if any, including, but not limited to, voir dire, opening statement, direct examination, cross examination, and closing argument.
- vi. **Estimated length of opening statements and closing arguments:** Absent leave of court after discussion at the pretrial conference, opening statements shall be limited to thirty (30) minutes and closing arguments shall be limited to forty-five (45) minutes, and Plaintiff's rebuttal shall be limited to fifteen (15) minutes.
- vii. **Special Requests:** The pretrial memorandum must contain a list of specific needs for the jury trial, if any. These may include, but are not limited to, audio-visual equipment, projector, easel, hearing impaired equipment or assistance, interpreter, etc.

5. **PRETRIAL CONFERENCE RELIEF:** The Defendant may be afforded relief from the requirements of Section 3 and 4 above for "substantial prejudice" shown, *see Kovach* at ¶¶ 65-76, upon motion for an *in camera* inspection filed and scheduled so as to be heard at least ten (10) days before the Pretrial Conference (computed pursuant to W.R.Cr.P. 45(a)). **Failure to file a timely motion for relief may result in evidentiary sanctions pursuant to W.R.Cr.P. 26.2(e) and/or a continuance beyond 180 days after arraignment pursuant to W.R.Cr.P. 48(b)(4)(B)(iii) and/or contempt sanctions pursuant to W.R.Cr.P. 42 or 42.1.** *See Kovach* at ¶ 94, n. 2.

6. **PLEA AGREEMENTS:** Counsel will advise the Court of any plea bargains and/or sentencing agreements at or before the Pretrial Conference. Following the Pretrial Conference, no agreements will be accepted, absent good cause shown. Thereafter, the only acceptable “Non-Trial” disposition will be a complete dismissal by the State or an unconditional “guilty” plea by the Defendant. Counsel must agree as to the type of any plea agreement using the categories under Wyoming Rule of Criminal Procedure 11(e)(1) [*i.e.*, Rule 11(e)(1) (A), (B), or (C)] before any change of plea hearing. Both parties may be afforded relief from the requirements of Paragraph 2 above upon joint motion filed to vacate this Order and set a Change of Plea hearing.
7. **COPIES TO COURT:** At the time of filing, courtesy copies of all motions, pleadings, pretrial memoranda, proposed Order or proposed Findings of Fact and Conclusions of Law, and other matters filed pursuant to this Order must be provided to the Court in Word or WordPerfect format by e-mail to jd3lawclerkb@courts.state.wy.us, with subject line containing the case name, number, and title of the motion, pleading, pretrial memorandum, or other document.

DATED this ____ day of _____, 2015.

By the Court,

RICHARD L. LAVERY
District Court Judge