

CRIMINAL STANDING ORDER of OCTOBER 21, 2020

ORDER ESTABLISHING PROTOCOLS, EFFECTIVE IMMEDIATELY, FOR SCHEDULING HEARINGS SET IN REMOTE COURTROOM 213: 2PM CALENDAR

WHEREAS, the primary purpose of this hearing is to set a further date for defendants detained out of C10 or remote Courtroom 115, following their arraignment or presentment; and

WHEREAS, the defendant's presence will be waived for the purpose of this hearing, given the limitations on the ability of defendants to appear via videoconference from the D.C. Jail; and

WHEREAS, due to the COVID-19 pandemic and the Mayoral declaration of a public health emergency, as well as the D.C. Superior Court Chief Judge's declaration of a judicial emergency, all rule based and statutory time limits applicable in criminal matters have been suspended, tolled and extended pending further order of the Court, including all timelines applicable to detention and preliminary hearings; and

WHEREAS, the D.C. Superior Court continues to operate remotely, with the exception of a limited number of Criminal Division hearings; and

WHEREAS, notwithstanding remote operations and the suspension of time limits, the Criminal Division has undertaken to offer detained defendants an opportunity to schedule a preliminary hearing in the courthouse in Felony 1, Felony 2 and Felony 3 cases, and an opportunity to schedule a detention hearing in remote Courtroom 210 in Misdemeanor cases; and

WHEREAS, these opportunities remain strictly limited due to the ongoing health pandemic and declaration of judicial emergency; and

WHEREAS, failure to comply with the following directives has resulted in the last-minute postponement or cancellation of the hearings, subjecting defendants to unnecessary testing and screening protocols for COVID 19 and transport to the courthouse, as well as depriving other defendants of the opportunity for an earlier hearing date;

IT IS HEREBY ORDERED that, prior to the 2PM scheduling hearing in Courtroom 213, parties must comply with the following directives:

GOVERNMENT AND DEFENSE COUNSEL (including any co-defendant's counsel) must communicate with one another within five days following the defendant's appearance at arraignment or presentment to discuss:

- 1) whether a pre-preliminary plea offer is being requested and will be extended;
- 2) status of Jencks/discovery requests and the terms of any protective order sought by the Government;
- 3) if a preliminary hearing date is to be set, four mutually agreeable court dates at least one week out from the scheduling hearing, and the estimated length of the hearing to include both direct and cross examination and any argument on bond status.

IT IS FURTHER ORDERED that, ten days prior to the 2PM scheduling hearing in remote Courtroom 213, **GOVERNMENT COUNSEL** shall:

- 1) if, in its discretion it determines that a plea offer is to be extended, provide DEFENSE COUNSEL with the terms of any pre-preliminary hearing plea offer;
- 2) furnish DEFENSE COUNSEL with any Jencks/discovery materials that it believes should be turned over prior to the preliminary hearing;
- 3) confirm availability of its witness(es) on the above mutually agreed upon dates.

IT IS FURTHER ORDERED that, five days prior to the 2PM scheduling hearing in remote Courtroom 213, **DEFENSE COUNSEL** shall:

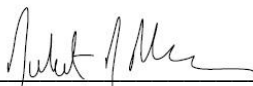
- 1) communicate the terms of any preliminary plea offer extended by GOVERNMENT COUNSEL to the defendant;
- 2) review Jencks/discovery materials provided and request any additional materials;
- 3) if a preliminary hearing will be requested, confirm availability of its witness(es) on the above mutually agreed upon dates;
- 4) if a preliminary hearing will be requested, confirm with the detained defendant their willingness to submit to the COVID- 19 testing and screening protocols;

IT IS FURTHER ORDERED that, if either **GOVERNMENT OR DEFENSE COUNSEL** is unable to comply with the above directives by the time of the 213 PM scheduling hearing, parties shall request a further 213 PM scheduling hearing, either in writing or at the time of the hearing, prior to setting the case for a preliminary hearing in the courthouse or a detention hearing in remote Courtroom 210.

IT IS FURTHER ORDERED that, if either **GOVERNMENT OR DEFENSE COUNSEL** needs to continue or vacate the preliminary hearing set in Courtroom 203, 211 or 215, or detention hearing set in remote Courtroom 210, they shall notify the Criminal Division Presiding and Deputy Presiding Judges' Chambers as soon as possible, and preferably ten days in advance of the scheduled hearing, so that another case may be scheduled in its place one week in advance.

The court expresses its appreciation to counsel in advance for compliance with this order and cooperation during these challenging times.

SO ORDERED, this 21st day of October, 2020.



Juliet J. McKenna
Presiding Judge, Criminal Division



Danya A. Dayson
Deputy Presiding Judge, Criminal Division