

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	SECOND DIVISION
)	
vs.)	
)	NO(s).
)	
)	
<i>Defendant.</i>)	

INITIAL SCHEDULING ORDER

This cause came before the Court upon status in the above docket(s). For the efficient management of the Court’s dockets and of this case, and for other good cause shown, the Court hereby orders as follows pursuant to the Tennessee Rules of Criminal Procedure, as well as Local Rule of Criminal Procedure 1:

I. STATUS CONFERENCE:

This case shall be scheduled for a status conference on [**Date**]. On this date, the Court will schedule a hearing to determine contested motions, or otherwise set the case for resolution. If the parties wish to schedule an earlier conference for status or resolution, the Court will certainly accommodate any request.

II. MOTIONS:

1. FILING OF MOTIONS:

With the exception of motions seeking severance or consolidation of defendants or offenses, the parties shall file all motions required to be filed prior to trial pursuant to Tenn. R. Crim. P. 12(b)(2) motions, as well as all motions relating to discovery, on or before [**Date**].

Any timeline for the filing of motions seeking severance or consolidation of offenses or defendants will be set by separate order.

2. COMPLIANCE WITH TENN. R. CRIM. P. 47:

The Court respectfully requests that any motions filed comply with the particularity requirement established by Tenn. R. Crim. P. 47. The Court believes that, pursuant to Rule 47, a motion should identify:

- the basic factual allegations on which the claim for relief is based;
- the legal grounds that justify the relief requested in terms apart from legal conclusions,¹ and a statement as to *why* the legal grounds would result in the requested relief being granted;
- the items that the defendant seeks to suppress.

The Court certainly does not anticipate any issues. However, the parties are respectfully placed on notice that motions which do not comply with Rule 47 may be struck by the Court and not scheduled for hearing.²

3. SETTING OF MOTIONS:

Except for motions to withdraw from a representation, all motions filed in this case shall automatically be placed on the docket for the status conference, and no motion will automatically appear on the docket prior to that time.

However, if a party requests a hearing date on any motion prior to the status conference, the Court will certainly accommodate the request.

4. DISCOVERY MOTIONS:

The Court will not consider motions for sanctions, including dismissal or exclusion, based upon a failure to provide discovery, unless the party seeking the sanction certifies that it has undertaken efforts in good faith to identify the requested discovery for the producing party and to resolve the dispute prior to the filing of the motion.³

¹ See *State v. Lynch*, No. C.C.A. 1153, 1988 WL 53334, at *2 (Tenn. Crim. App. May 26, 1988) *State v. Lord*, No. 03C01-9312-CR-00391, 1995 WL 491015, at *6 (Tenn. Crim. App. Aug. 17, 1995); *State v. Gauldin*, 737 S.W.2d 795, 797-98 (Tenn. Crim. App. 1987).

² See, e.g., *State v. Bell*, 832 S.W.2d 583, 588 (Tenn. Crim. App. 1991).

³ See Local Rule 6 (“Before filing a motion to compel discovery, counsel shall seek to resolve each discovery dispute with adverse counsel.”).

III. DISCOVERY:

1. STATE'S DISCOVERY OBLIGATIONS:

Provided that a timely request has been made by the Defendant, then on or before [**Date**], the State shall furnish the Defendant with the following information:

- all information or material discoverable by the Defendant pursuant to Tenn. R. Crim. P. 16;
- a copy of the arrest and/or incident report of any law enforcement agency involved in the investigations or prosecution of the above-captioned matter(s); and
- any information otherwise favorable to the accused, irrespective of its potential admissibility at trial, including both evidence deemed to be exculpatory in nature and evidence that could be used to impeach the State's witnesses, including the details of any agreement entered into between the State and any prosecution witness that could conceivably influence the witness's testimony.

2. DEFENDANT'S DISCOVERY OBLIGATIONS:

Provided that a timely request has been made by the State, then on or before [**Date**], the Defendant shall furnish the District Attorney General's office with the following information:

- all material discoverable by the State pursuant to Rules 16 and 12.1, or 12.2 of the Tennessee Rules of Criminal Procedure; and
- any notice(s) required by Tenn. Code Ann. § 39-11-505 or Tenn. Code Ann. § 39-11-204(c).

3. EFFECT OF FAILURE TO TIMELY REQUEST DISCOVERY

The Court recognizes that, pursuant to the Rules of Criminal Procedure, many of the parties' discovery obligations are triggered upon a request being made by the requesting party.

As such, a requesting party should make a timely request for discovery, if such is desired, so that discovery may reasonably be provided before this expiration of the discovery period. Otherwise, the parties are respectfully placed on notice that a failure to make a timely request may weigh into any analysis of alleged prejudice in not receiving discovery. Requests for discovery, or reciprocal discovery, made after the deadline set forth in this section shall not be granted without good cause shown or the consent of the other party.

IV. MODIFICATION OF SCHEDULING ORDER:

1. BY THE COURT:

The Court may modify the schedule established by this Order upon its own motion or that of a party showing good cause for the modification. A failure to take action due to inattention or neglect shall not constitute good cause.

2. BY THE PARTIES:

The parties may, by mutual agreement and without formal approval of the Court, modify the established schedule regarding the filing of Rule 12(b)(2) motions and the provision of discovery, so long as:

- the parties have filed any motions required to be filed by this Order no later than the Friday before to the Status Conference; and
- the Parties have met all discovery obligations set forth by this Order no later than the Friday before to the Status Conference; provided that, an agreed extension of the discovery deadline shall not relieve a party of the duty to file any Rule 12(b)(2) motions either by the date set forth in this Order or by the date otherwise mutually agreed to by the parties.

Absent any mutual agreement, however, the schedule otherwise established by the Court in this Order shall govern the proceedings.

It is so ordered.

Enter, this the ____ of _____, 20____.

TOM GREENHOLTZ, Judge