

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
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-v-	:	17-CR-548 (JMF)
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JOSHUA ADAM SCHULTE,	:	<u>ORDER</u>
	:	
Defendant.	:	
	:	
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JESSE M. FURMAN, United States District Judge:

This case has been reassigned to the undersigned. Unless and until the Court orders otherwise, all prior orders, dates, and deadlines shall remain in effect notwithstanding the case’s reassignment, except as modified herein. Additionally, any currently scheduled conference or oral argument before the Court is canceled. Instead, the parties and counsel (including stand-by counsel) shall appear for a status conference on **November 8, 2021 at 2:30 p.m. in Courtroom 1105** of the Thurgood Marshall Courthouse, 40 Centre Street, New York, New York.

A. Pre-Conference Status Letters

In aid of educating the Court about the status of the case, no later than **November 5, 2021, at 5 p.m.**, the parties shall each file on ECF a letter, not to exceed five (5) pages, providing the following information in separate paragraphs:

1. Names of counsel and current contact information, if different from the information currently reflected on the docket;
2. A statement of all existing deadlines, due dates, and/or cut-off dates;
3. A list of any outstanding motions other than the motions listed below;

4. A statement and description of any pending or related appeals;
5. A proposed trial date or dates;
6. A list of dates in the first and second quarter of 2022 on which the parties would not be available for trial;
7. An estimate of the length of trial; and
8. Any other information that the parties believe may assist the Court in advancing the case to trial. (To be clear: The parties need not summarize the facts or the procedural history of the case, except as set forth above.)

In light of the foregoing, the Government is no longer required to file a letter by November 1, 2021, proposing a new trial date. *See* ECF No. 517.

B. Fully Submitted Motions

The Court understands that three motions are fully briefed and awaiting decision:

1. Defendants' Rule 29 Motion for Judgment of Acquittal. *See* ECF No. 397; *see also* ECF No. 410 (Government opposition).
2. Defendant's Motion to Suppress Evidence Seized from the Metropolitan Correctional Center. *See* ECF No. 455; *see also* ECF Nos. 499 (Government opposition), 521 (reply).
3. Defendant's Motion to Suppress Evidence from Warrantless Seizure of Cell Phone. *See* ECF No. 497; *see also* ECF Nos. 525 (Government opposition); 560 (reply).

If there are additional fully briefed motions, the parties should advise the Court in their pre-conference letters and be prepared to address them at the conference. Defendants' motion to preclude the Government from filing a response to his Motion to Suppress Evidence from Warrantless Seizure of Cell Phone, *see* ECF No. 523, is DENIED as moot.

C. Other Pending Motions

The other pending motions, which are not yet fully submitted, are addressed as follows:

1. Motion Regarding MCC Visitation Restrictions (ECF No. 524). To the extent that this

motion pertains to the conditions of Defendant's confinement at the MCC, it is denied as moot in light of the fact that he is no longer detained at the MCC. The Government shall file a letter, **not to exceed three pages**, responding to the final portion of the motion — concerning the alleged search on or about August 19, 2021 — by **November 2, 2021**. No reply will be permitted without prior leave of Court.

2. Motion for Internet Access (ECF No. 557). The Government shall file any opposition, **not to exceed twenty-five pages**, by **November 12, 2021**; Defendant shall file any reply, **not to exceed ten pages**, by **November 24, 2021**.
3. Motion Regarding Classification Process (ECF No. 559). Per Judge Crotty's Order of October 18, 2021, *see* ECF No. 561, the Government is to submit proposed procedures for future classification review by **November 2, 2021**, and Defendant is to file any reply by **November 17, 2021**.
4. Motion to Dismiss Counts Three and Four (currently undergoing classification review). The Government shall file any opposition, **not to exceed twenty-five pages**, by **November 12, 2021**; Defendant shall file any reply, **not to exceed ten pages**, by **November 24, 2021**.
5. CIPA Section 5 Notice (currently undergoing classification review). On October 26, 2021, the Government filed a letter opposing Defendant's CIPA Section 5 Notice and seeking two forms of "additional" relief. *See* ECF No. 567. Defendant shall file any reply in support of the CIPA Section 5 Notice, **not to exceed ten pages**, by **November 10, 2021**. The parties should be prepared to address the Government's second request for additional relief — for an omnibus response to all Section 5 notices — at the conference on November 8, 2021.
6. Motion for Bail (currently undergoing classification review). On October 21, 2021, the Government filed its opposition. *See* ECF No. 562. In light of that, Defendants' motion to preclude the Government from filing a response to his Motion for Bail, *see* ECF No. 523, is DENIED as moot. The parties should be prepared to address this motion at the November 8, 2021 conference, where Defendant will be given an opportunity to respond to the Government's submission orally.

If there are additional motions that are not yet fully briefed, the parties should advise the Court in their pre-conference letters and be prepared to address them at the conference.

D. Rules and Procedures for Future Motion Practice and Submissions

At the conference, the parties should be prepared to address the need and/or basis for future motion practice, including whether Defendant should be precluded from filing any additional motions to the extent that such motions could have been filed (by counsel or otherwise) earlier — that is, precluded from filing motions except on a showing of good cause

why the motion was not filed previously — and/or whether a firm deadline should be set for the filing of any additional defense motions.

In addition, unless and until the Court orders otherwise, the following rules and procedures shall apply to any future motions and submissions filed in this case:

1. Absent **prior** leave of Court, any memorandum of law filed in support of a motion or in opposition to a motion shall not exceed **twenty-five pages** (double spaced with at least twelve-point font), and any reply shall not exceed **ten pages**.
2. Any opposition to a motion shall be filed **within three weeks of the motion being filed** and any reply shall be filed **within two weeks of the opposition**.


Finally, the parties are reminded that classified information (including information that a party reasonably should know is classified) cannot be publicly filed outside the procedures, and without the authorization set forth in, the Classified Information Procedures Act (“CIPA”) and the Court’s Protective Order entered on October 16, 2018. *See* ECF No. 61, at 9-10. As noted in the October 16, 2018 Protective Order, information that is classified that also appears in the public domain is not thereby automatically declassified. *See id.* at 5. Violations of CIPA, the October 16, 2018 Protective Order, or this Order may result in penalties.

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The Government and stand-by counsel shall both ensure that the Defendant promptly receives a copy of this Order (and, in the Government’s case, shall confirm as much in its pre-conference letter discussed above). The Clerk of Court is directed to terminate ECF No. 523.

SO ORDERED.

Dated: October 28, 2021
New York, New York



JESSE M. FURMAN
United States District Judge