

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SCHEDULING ORDER

LUKE MARSHALL WENKE,

Criminal No. 22-CR-35 JLS

Defendant.

On March 17, 2022, the above-named defendant was arraigned in open court on an indictment, pursuant to Federal Rules of Criminal Procedure 10 and Local Rule 12.1, and entered a plea of not guilty pursuant to Fed.R.Crim.P. 11(a)(1). Immediately following arraignment, a pretrial conference was held with counsel and the following motion schedule was set:

- (1) All voluntary discovery shall be completed by **April 1, 2022**. As required by the Due Process Protections Act [Pub. L. 116-182, 134 Stat. 894] and Fed. R. Crim. P. 5(f)(1), the Court confirms the United States' obligation to produce all exculpatory evidence to the defendant pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, and orders it to do so. The government must make these "disclosures in sufficient time that the defendant will have reasonable opportunity to act upon the information efficaciously." *United States v. Rodriguez*, 496 F.3d 221, 226 (2d Cir. 2007); *Leka v. Portuondo*, 257 F.3d 89, 98 (2d Cir. 2001); *United States v. Coppa*, 267 F.3d 132 (2d Cir. 2001). Failure to do so may result in consequences, including, but not limited to, exclusion of evidence, adverse jury instructions, dismissal of charges, contempt proceedings, or sanctions by the Court.
- (2) All pretrial motions, both dispositive and non-dispositive, including all supporting papers and memoranda of law in support thereof, shall be filed by **April 15, 2022**. **ALL MOTIONS SEEKING A SEVERANCE ARE TO BE SEPARATELY FILED WITH THE HON. JOHN L. SINATRA, JR.**
- (3) All responses to pretrial motions, including all supporting papers and memoranda of law in support thereof, filed in accordance with the preceding paragraph shall be filed by **April 29, 2022**.

- (4) Oral argument on any pretrial motions shall be heard on **May 10, 2022 at 10:30 a.m.**
- (5) **IF NO MOTIONS ARE FILED ON OR BEFORE THE AFORESAID DATE, THE GOVERNMENT SHALL FILE WITH JUDGE SINATRA A MOTION TO SET A TRIAL DATE.**
- (6) The government shall provide a written pre-approved plea agreement to the defendant(s) no later than **April 8, 2022.**
- (7) The defendant(s) shall respond in writing to the plea agreement no later than **April 14, 2022.**

In accordance with the United States Supreme Court's decisions in *Zedner v. United States*, 547 U.S. 489 (2006) and *Bloate v. United States*, 559 U.S. 196 (2010), the period of time from the date of this order, until the date of making and/or filing of pretrial motions is excluded pursuant to and in accordance with the provisions contained in 18 U.S.C. § 3161(h)(7)(A) and 18 U.S.C. § 3161(h)(7)(B)(iv) for the reasons stated on the record herein.

If no motions are filed by the filing date set forth in paragraph (2), the case shall be referred to the district court judge to whom the case is assigned for trial and the speedy trial exclusion set forth above shall terminate as of the cutoff date for the filing of motions set forth herein.

Any requests for extension of the above dates must be made by the filing of a motion, electronically, with the Clerk of the Court, prior to the due date. Such application shall be made only after conferring with all other parties and shall include a suggested rescheduled date, agreeable to all parties. As a general rule, no request for an extension will be granted unless good cause is shown.

Counsel for the parties are directed to provide the Court with a courtesy copy of Motions, Responses, Replies, Memoranda of Law, and Exhibits clearly marked.

SO ORDERED.

S/ H. Kenneth Schroeder, Jr.

**H. KENNETH SCHROEDER, JR.
United States Magistrate Judge**

**DATED: March 17, 2022
Buffalo, New York**