

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

UNITED STATES OF AMERICA)	
)	
)	Case No. 2:07CR00015
)	
v.)	PRETRIAL ORDER
)	
DANIEL DOVE,)	By: James P. Jones
)	Chief United States District Judge
Defendant.)	

The trial of this case is scheduled to begin on **June 24, 2008**, in Big Stone Gap, Virginia. In order to administer the trial of this case in a manner that is fair, just, and efficient, it is **ORDERED** as follows:

1. Jury Instructions. The government must file its proposed jury instructions no later than **June 19, 2008**. In addition to filing such instructions, counsel for the government must e-mail a copy in word processing format to chambers at jamesj@vawd.uscourts.gov. The defendant must provide proposed jury instructions to the court and opposing counsel no later than the conclusion of the government's case.

Prior to closing argument the court will conduct a charge conference and advise counsel of the substance of the jury charge. The charge is given after closing argument. Before the jury begins deliberations, counsel will be given an opportunity

to make any objections to the charge on the record. The court will send with the jury a written copy of the charge for the jury's reference during deliberations. The jury will be instructed that during deliberations it may request any or all of the exhibits.

2. Objections. All objections and other remarks to the court must be made while standing. Objections must be succinct, without argument or other comment. If argument is needed, the court will so indicate. Side bar conferences are discouraged and argument outside of the presence of the jury will normally take place only during regular recesses or before or after the trial day. Accordingly, counsel must anticipate any evidentiary questions or disputes and bring them to the attention of the court ahead of time.

3. Presentation of Evidence. The use of the evidence display equipment is required. Questions to witnesses must be made from the lectern. Counsel may approach the witness to hand the witness a document or exhibit without permission of the court, but must promptly return to the lectern. Exhibits remain in custody of the courtroom deputy clerk and must be returned to the clerk promptly after use by a witness or the jury. Witnesses will be ordered excluded from the courtroom so that they cannot hear the testimony of other witnesses. This order means that no excluded witness should be advised of the testimony of any other witness who has already testified. Witnesses must be released from further attendance as soon as they are no

longer needed. After testifying, a witness is deemed released by consent unless counsel or the court indicates that the witness should not be so released. A witness should not be released if there is any likelihood that the witness may be later called to testify by any party.

4. Jury Selection. The jury is selected immediately prior to trial using the “struck jury” method and all members of the jury venire called for the trial—usually about forty persons—are normally subjected to voir dire. A list of the jurors to be called for the case is sent to counsel by the clerk approximately two weeks prior to trial. Potential jurors will be seated in alphabetical order in the courtroom. The attorneys will be permitted to conduct voir dire after preliminary questions from the court. Counsel should keep in mind that the purpose of voir dire is “to allow for the impaneling of a fair and impartial jury through questions which permit the intelligent exercise of challenges by counsel.” *United States v. Brown*, 799 F.2d 134, 135 (4th Cir. 1986). Following voir dire, any party having any challenge for cause must make known to the court that a conference is needed outside of the presence of the jury panel.

The parties will then strike the jury, using alternative strikes on a single jury list. Depending on how many jury panel members are left, the court will grant additional preemptory challenges to both sides, keeping in mind the ratio set forth in

the rules of ten for the defendant and six for the government. There will be fourteen jurors, of whom two will be alternates, and if not earlier used, will be excused before jury deliberations begin at the end of the case. Each side's last strike will be designated as an alternate. Those persons will be sworn as jurors and will not be told that they are alternates until they are excused at the end of the case. If it is necessary to use one of the alternates as a regular juror, that person will be chosen by the court by lot.

It should be noted that the method of selection of alternates as described above is slightly different from that prescribed by the rules, Fed. R. Crim. P. 24(c), and it will be assumed that the parties have no objection to the above-described method unless such objection is made before jury selection begins. *See United States v. Love*, 134 F.3d 595, 600-603 (4th Cir. 1998).

Counsel is reminded that the Fourth Circuit has ruled that "reasonable doubt" should not be defined and counsel will not be permitted to advise the jury of any such definition in voir dire, opening statements, or argument.

After the jury is sworn, preliminary instructions will be given by the court. Jurors will be told that they are permitted to take notes.

5. Trial Schedule. Trial days will begin promptly at 9:00 a.m. and end at approximately 5:00 p.m., with an hour lunch break at noon and twenty-minute breaks

in the mid-morning and mid-afternoon. Matters to be taken up outside of the presence of the jury must be scheduled before or after the trial day or during the recesses. If there are such matters to be taken up, a request must be made to the clerk or the bailiff, and notice given to opposing counsel.

ENTER: June 12, 2008

/s/ JAMES P. JONES
Chief United States District Judge