

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,	)	
	)	
<i>Plaintiff,</i>	)	SECOND DIVISION
	)	
vs.	)	
	)	NO(s). 311081
DONYELL DEWAYNE HOLLAND,	)	
	)	
<i>Defendant.</i>	)	

PRETRIAL ORDER

This cause came before the Court upon motion of the parties to set this matter for trial. Accordingly, upon the agreement of the parties and other good cause shown, the Court hereby establishes the following schedule for the resolution of this case pursuant to Tennessee Rules of Criminal Procedure 12(c) and 50(a), as well as Local Rule of Criminal Procedure 1:¹

I. TRIAL DATE

The trial of this case shall be before a jury and shall start at 9:00 a.m. on **Monday, November 8, 2022**, or as reasonably thereafter on that day as a jury may be empaneled.

1. **Impact of COVID-19:** This order is subject to the ability of the Court to empanel a jury in light of the COVID-19 pandemic. This order is also subject to the physical ability of the Court and the parties to try the case consistent with protocols developed by the Centers for Disease Control and with orders issued by the Tennessee Supreme Court.
2. **If Other Cases Are Set For Trial:** This case is being scheduled for an "A Setting," meaning that it will be the first case to proceed in the event that other cases are set for trial on this same day.
3. **Continuances:** The parties may not, by agreement, cancel the trial date set forth in this order, and a continuance may be granted only by the Court upon good cause shown. Whether absence of a witness constitutes such good cause depends on compliance with provisions of Tenn. R. Crim. P. 17 regarding subpoenas. The

¹ See L. R. Crim. P. 1 ("A judge may . . . enter a scheduling order in a particular case that sets deadlines other than those set forth herein.").

parties are requested to notify the Court in advance of trial if intervention by this Court is necessary to secure witness attendance. Otherwise, witnesses will be expected to be available when called.

4. **Effect of a Continuance:** Unless the Court orders otherwise, the continuance of a trial setting—whether because of a conflicting trial or for other reasons—will not extend any previously expired deadlines.

II. PRETRIAL CONFERENCE

Pursuant to Tenn. R. Crim. P. 17.1(a), the Court will hold a pretrial conference in this case on **Monday, September 19, 2022 at 11:00 a.m.** At this conference, the Court respectfully requests that the parties be prepared to discuss the following topics and issues:

1. anticipated evidentiary issues, including especially any evidence requiring a jury-out hearing for its admission, such as evidence subject to Tenn. R. Evid. 404(b); 405; 412; 608; 609; 804(b)(6); or other law;
2. challenges to the qualification or testimony of any witness called to testify pursuant to Tenn. R. Evid. 702 or 703;
3. stipulations as to facts about which there are, or can be, no dispute; and marking for identification various documents and other exhibits of the parties;
4. issues related to co-defendants, if applicable, including (i) excision from admissible statements of material prejudicial to a co-defendant; (ii) procedure on objections where there are multiple counsel; (iii) order of cross-examination where there are multiple defendants; and (iv) order of presentation of evidence and arguments where there are multiple defendants;
5. issues relating to jury selection, including the conduct of voir dire and the number and use of peremptory challenges;
6. possible special requests for jury instructions; and
7. any other issue affecting the trial of this case or evidence to be presented at the trial of this case.

At the Pretrial Conference, the Court will schedule with the parties additional conferences to finalize trial procedures necessary to minimize the risks presented by COVID-19 and to ensure compliance with CDC guidance and the orders of the Supreme Court.

III. PRETRIAL MOTIONS

The parties have filed, or have had the opportunity to file, all motions required to be filed prior to trial by Tenn. R. Crim. P. 12(b). Accordingly, pursuant to Tenn. R. Crim. P. 12(c),² the following pretrial motions shall be filed on or before **Friday, September 15, 2022**:

1. motions seeking consolidation or severance of defendants or offenses;
2. motions *in limine* or other motions requiring an evidentiary hearing outside of the presence of a jury, including motions made pursuant to Tenn. R. Evid. 404(b); 405; 412; 608; 609; 804(b)(6); motions seeking introduction of hearsay statements of a child declarant; or under other law;
3. motions challenging the qualifications or testimony of any expert witness pursuant to Tenn. R. Evid. 702 and 703;
4. motions relating to the addition of witnesses; and
5. motions otherwise affecting the trial of this case.

Absent other orders, the Criminal Court Clerk is requested to docket all motions filed in this cause for the pretrial conference, and the Court intends that no motion filed will appear on the docket prior to that time. However, if a party requests a hearing date prior to the final pretrial conference, the Court may accommodate the request.

On the day of the Pretrial Conference, the Court anticipates resolving all motions not requiring an evidentiary hearing. However, if any motions require the holding of an evidentiary hearing, the Court will schedule a separate hearing date for the disposition of such motions.³

IV. NOTICE OF INTENT TO PLEA TO CHARGES

Because the plea agreement notice deadline has passed, the Court will no longer consider a negotiated resolution of this case by plea unless the interests of justice would otherwise require. Of course, the Court will accept a plea as to guilt (or no contest) to all of the charges contained in the indictment(s), with sentencing to be conducted by the Court. If the parties wish to resolve the case in this manner, the Court requests that notice of such be filed on or before the **Thursday** immediately preceding the trial date. If no such notice is filed, then the Court will notify the other parties appearing on the docket(s) of the trial and will proceed to trial as scheduled herein.

² See Tenn. R. Crim. P. 12(c) ("Unless otherwise provided by local rule, the court may—at the arraignment or as soon afterward as practicable—set a deadline for the parties to make pretrial motions or requests and may also schedule a motion hearing.").

³ Absent good cause shown for any delay, motions subject to this order that are filed after this date shall not be heard or granted without the consent of the other party. See Tenn. R. Crim. P. 12(f).

V. NOTICES OF CONVICTION

The State shall file all notices relating to convictions to be used for impeachment purposes pursuant to Tenn. R. Evid. 609, or that may affect a possible sentence pursuant to Tenn. Code Ann. § 40-35-202, on or before the date established for the pretrial conference. If issues exist involving the admissibility of prior convictions, the Court will address these issues at the pretrial conference.

VI. REQUESTS FOR SPECIAL JURY INSTRUCTIONS

The parties are requested to file any special requests for jury instructions no later than the day before trial.

It is so ordered.

Enter:


TOM GREENHOLTZ, Judge