UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America, Plaintiff, v. Abdiaziz Shafii Farah *et al.*, Defendants.	Case No. 22-cr-124 (NEB/TNL) **FIRST AMENDED ARRAIGNMENT NOTICE & CASE MANAGEMENT ORDER**

Counsel for all parties are instructed to review this Order carefully and in its entirety as it represents a significant deviation from the schedules that ordinarily govern criminal cases in the District of Minnesota.

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This matter comes before the Court on Defendant Mukhtar Mohamed Shariff's Motion to Modify Arraignment Order and Exclude Time, ECF No. 211, filed on behalf of himself and Defendants Abdiaziz Shafii Farah, Mohamed Jama Ismail, Mahad Ibrahim, Said Shafii Farah, and Abdiwahab Maalim Aftin.[1] Defendant Mukhtar Mohamed Shariff also filed a Statement of Facts in Support of Exclusion of Time Under Speedy Trial Act, ECF No. 212, in support of his motion. Defendant Mohamed Jama Ismail subsequently filed his own Motion to Exclude Time Under the Speedy Trial Act, ECF No. 213, joining

[1] The Court previously noted that Defendants Abdiaziz Shafii Farah and Mohamed Jama Ismail have both "assert[ed] their speedy trial rights to the fullest." ECF No. 165 at 3 (quotation omitted); *see* ECF Nos. 155 at 2, 156 at 2. Defendants Abdiaziz Shafii Farah and Mohamed Jama Ismail have joined in Defendant Mukhtar Mohamed Shariff's motion. ECF No. 211 at 1; *see also* ECF No. 213 at 1. The Court additionally notes that Defendants Abdiaziz Shafii Farah and Mohamed Jama Ismail are no longer in custody. *See generally* ECF Nos. 202, 203, 204, 209, 208, 209, 210.

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Defendant Mukhtar Mohamed Shariff's prior motion, and his own Statement of Facts in Support of Exclusion of Time Under Speedy Trial Act, ECF No. 214. This matter was previously designated complex under 18 U.S.C. § 3161(h)(7)(B)(ii). *See generally* ECF No. 125.

Defendant Mukhtar Mohamed Shariff states that, notwithstanding the Court's appointment of a Coordinating Discovery Attorney for court-appointed defense counsel, *see generally* ECF No. 172, "the process of gathering the discovery materials, identifying the discovery review platform that will be used, and installing the materials, is still underway" and "[e]stimates are that the materials themselves may not be available before the end of February." ECF No. 211 at 2. Defendant Mukhtar Mohamed Shariff additionally states that the discovery that has already been provided to the Coordinating Discovery Attorney is "extensive" and "span[s] more than 1 terabyte of information." ECF No. 211 at 2. Defendant Mukhtar Mohamed Shariff states that this does "not include evidence of and from the cell phones, laptops, iPads, personal computers, and other electronic devices that were seized, which likewise have not yet been disclosed." ECF No. 211 at 1. Defendant Mukhtar Mohamed Shariff moves for a 90-day extension of the deadlines related to pretrial motions.

In the Court's prior Arraignment Notice & Case Management Order, the Court stated that "any response to . . . a [party's] request [to modify the schedule] shall be filed within three days." ECF No. 165 at 8. Defendant Mukhtar Mohamed Shariff's motion was filed on January 17, 2023. No responses have been filed.

Bearing in mind the complexity of this case, the voluminous discovery, and the absence of any objection to the requested continuance, the Court finds pursuant to 18 U.S.C. § 3161(h) that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy trial and such continuance is necessary to provide Defendants and their counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Based on the foregoing, **IT IS HEREBY ORDERED** that:

1. Defendant Mukhtar Mohamed Shariff's Motion to Modify Arraignment Order and Exclude Time, ECF No. 211, is **GRANTED**.

2. Defendant Mohamed Jama Ismail's Motion to Exclude Time Under the Speedy Trial Act, ECF No. 213, is **GRANTED**.

3. The period of time from **January 17 through June 14, 2023**, shall be excluded from Speedy Trial Act computations in this case. *See United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) ("Exclusions of time attributable to one defendant apply to all codefendants." (quotation omitted)); *United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006) (same).

4. As to Defendants Mohamed Jama Ismail, Abdimajid Mohamed Nur, and Hayat Mohamed Nur, an arraignment hearing will be held before the undersigned on **June 15, 2023, at 10:00 a.m.**, in Courtroom 9W, Diana E. Murphy United States Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

5. This Court previously issued an Order on Pretrial Disclosure & Preservation, ECF No. 139, which "proactively addresse[d] certain non-dispositive motions that are

commonly filed in the District of Minnesota, which seek discovery, notice of intent to introduce certain types of evidence, preservation of rough notes, and disclosure of evidence favorable to a defendant under *Brady v. Maryland*, 373 U.S. 83 (1963), and related authorities." ECF No. 139 at 3. "These motions often seek relief that is already required by the Federal Rules of Criminal Procedure, Federal Rules of Evidence, and federal law." ECF No. 139 at 3. "To promote the efficient management of these related cases, the Court issue[d the Order on Pretrial Disclosure & Preservation] to preemptively address such matters without the need for each defendant to file multiple motions on these subjects." ECF No. 139 at 3. **Before filing any pretrial motions, a party shall consult the prior Order on Pretrial Disclosure & Preservation.**

6. All motions in the above-entitled case must be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **May 4, 2023**.[2] *See* D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses must be delivered directly to the chambers of Magistrate Judge Tony N. Leung.[3]

7. **Counsel must electronically file a letter on or before May 4, 2023, if no motions will be filed and there is no need for hearing**.

8. All responses to motions must be filed by **May 25, 2023**. *See* D. Minn. LR 12.1(c)(2).

[2] "Before filing a motion under Fed. R. Crim. P. 12(b), the moving party must confer with the responding party. The parties must attempt in good faith to clarify and narrow the issues in dispute." D. Minn. LR 12.1(b).

[3] U.S. Mail or hand-deliver to 300 South Fourth Street, Suite 9W, Minneapolis, MN 55415.

9. Any Notice of Intent to Call Witnesses must be filed by **May 25, 2023**. *See* D. Minn. LR. 12.1(c)(3)(A).

10. Any Responsive Notice of Intent to Call Witnesses must be filed by **June 1, 2023**. *See* D. Minn. LR 12.1(c)(3)(B).

11. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

a. The Government makes timely disclosures and a defendant identifies in the motions particularized matters for which an evidentiary hearing is necessary; or

b. Oral argument is requested by either party in its motion, objection or response pleadings.

12. If required, the motions hearing must be heard before Magistrate Judge Tony N. Leung on **June 15, 2023, at 10:00 a.m.**, in Courtroom 9W, Diana E. Murphy United States Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota. *See* D. Minn. LR 12.1(d). **The parties shall be prepared to continue the hearing into June 16, 2023, if necessary.**

13. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY A DEFENDANT, the following trial and trial-related dates are:**

All voir dire questions, **motions for counsel to participate in voir dire**, and jury instructions must be submitted to District Judge Nancy E. Brasel on or before **August 8, 2023**.

This case must commence trial on **August 22, 2023 at 9:00 a.m.** before District Judge Nancy E. Brasel in Courtroom 13W, Diana E. Murphy United States Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

b. IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, including but not limited to motions for counsel to participate in voir dire, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Nancy E. Brasel to confirm the new trial date.

14. **Should a party request modification of this schedule, any response to such a request shall be filed within three days.**

15. All prior consistent orders relating to the Superseding Indictment remain in full force and effect.

16. Failure to comply with any provision of this Order or any other prior consistent Order shall subject the non-complying party, non-complying counsel and/or the party such counsel represents to any and all appropriate remedies, sanctions and the like.

Date: January 24, 2023

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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