

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

In re: Expert Witness Disclosures/Time to Disclose,) Crim. No. _____
)

ORDER Pursuant to Fed. Crim. R. 16(a)(1)(G)(ii) and (b)(1)(C)(ii)

Whereas Rule 16 of the Federal Rules of Criminal Procedure was amended effective December 1, 2022, to require the Court, by order or local rule, to set a time for the parties to make expert witness disclosures, and that such time must be sufficiently before trial to provide a fair opportunity to meet the other party's evidence, and

Whereas the District of South Carolina has not yet adopted a local rule or Standing Order of the full court, THEREFORE, the following is hereby ORDERED in pending and future cases before the undersigned district judge:

Government's Duty to Disclose

At the defendant's request, the government must disclose to the defendant, in writing, the information required by Fed. Crim. Rule 16(a)(1)(G)(iii) for any testimony that the government intends to use at trial under Federal Rule of Evidence 702, 703, or 705 during its case-in-chief **no later than 6 weeks before trial**, or during its rebuttal to counter testimony that the defendant has timely disclosed under Fed. Crim. Rule 16(b)(1)(C) **no later than 2 weeks before trial**. If the government requests discovery under the second bullet point in Fed. Crim. Rule 16(b)(1)(C)(i) and the defendant complies, the government must, at the defendant's request, disclose to the defendant, in writing, **no later than 2 weeks before trial**, the information required by Fed. Crim. Rule 16(a)(1)(G)(iii) for testimony that the government intends to use at trial under Federal Rule of Evidence 702, 703, or 705 on the issue of the defendant's mental condition.

These deadlines may be modified *sua sponte* or on motion of either party as appropriate in a given case.

Defendant's Duty to Disclose

At the government's request, the defendant must disclose to the government, in writing, **no later than 4 weeks before trial**, the information required by Fed. Crim. Rule 16(b)(1)(C)(iii) for any testimony that the defendant intends to use under Federal Rule of Evidence 702, 703, or 705 during the defendant's case-in-chief at trial, if:

- the defendant requests disclosure under Fed. Crim. Rule 16(a)(1)(G) and the government complies; or
- the defendant has given notice under Fed. Crim. Rule 12.2(b) of an intent to present expert testimony on the defendant's mental condition.

This deadline may be modified *sua sponte* or on motion of either party as appropriate in a given case.

IT IS SO ORDERED.¹

February 28, 2023
Anderson, South Carolina

s/ Timothy M. Cain
Timothy M. Cain
United States District Judge

¹ Unless an amended version of this Order is entered in a particular case, this Order shall apply in all pending and future cases before the undersigned until further Order of the Court.