

**By the Court:**

STATE OF NEW JERSEY,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION-CRIMINAL PART
	:	ATLANTIC COUNTY
	:	
vs.	:	INDICTMENT NO.: <u>24-09-2951</u> &
	:	<u>24-12-3927</u>
	:	
MARTY SMALL, SR.,	:	<b>AMENDED TRIAL ORDER</b>
	:	
	:	
Defendant.	:	
	:	
	:	

---

**IT IS HEREBY ORDERED** on this day as follows:

1. **Trial.** The Trial in the above matter is scheduled for December 1, 2025, at 9:00 a.m., with jury selection to commence on December 1, 2025.
2. **Voir Dire.**
  - a. Both sides shall review Criminal Standard Jury Voir Dire, revised as promulgated by Directive #4-07. The Court intends to ask each and every question set forth therein. The defense shall advise the Court if it is requesting that the Court waive optional Question Number 27, in which case the Court also will refrain from asking that question. The defense shall advise the Court in writing, as to whether it waives optional Question Number 27, by October 17, 2025.
  - b. Moreover, pursuant to paragraph 8 of Directive #4-07, both sides shall submit at least three, but no more than seven, open-ended questions to be asked of jurors during jury selection. The parties shall submit their respective, proposed open-ended questions to the Court by October 17, 2025.

- c. Furthermore, if either party requests that the Court ask supplemental jury questions pursuant to R. 1:8-3(f), such questions must be submitted by October 17, 2025.
- d. The Court has determined that the following number of peremptory challenges shall be afforded each side pursuant to R. 1:8-3(d): The State is entitled to 12 peremptory challenges. The defendant is entitled to 20 peremptory challenges. The order and manner of exercise will be determined before jury selection.
- e. Pursuant to R. 1:8-3(f), “prior to the examination of the prospective jurors, the Court shall hold a conference on the record to determine the areas of inquiry during voir dire,” which will include addressing optional Question Number 27, the proposed open-ended questions, the proposed supplemental questions, the number of peremptory challenges, and any other issues relating to jury selection raised by the Court or parties, to ensure the most just, fair, and efficient manner to proceed.
- f. Attorney Conducted Voir Dire (“ACVD”). The parties have not informed the Court that they have agreed to participate in the pilot program that permits ACVD. If that were to change, the parties shall advise the Presiding Judge and Trial Judge immediately, and agree to reduce and limit the number of permitted peremptory challenges. Thereafter, the Court and the parties will formalize the ACVD process in accordance with amended R. 1:8.

3. **Jury Instructions.** Both parties shall submit proposed Jury Instructions for Non-2C Charges, Substantive 2C Charges, and any unique or special charges or limiting

instructions, as requested to be read to the jury by October 17, 2025, as to both the State and the defendant. Such Jury Instructions shall include any lesser included offenses that either party believes may find a rational basis in the anticipated proofs. Proposed changes, additions, or deletions by either party to Standard Jury Instructions shall be indicated thus: **Additions shall be reflected in underlined and bold type;** ~~**Deletions shall be reflected in strike-through and bold type.**~~ The parties should anticipate that the Jury Instructions will be provided to the jurors during deliberations. The instructions will be finalized during the charge conference pursuant to R. 1:8-7(b). Counsel should consult with each other to reach agreement if they can on the form and the content of the Jury Instructions. Counsel should use the Automated Model Criminal Jury Charge System (“AMCJCS”) which may be found at <http://www.njcourts.gov/criminal/amcjcs/index.htm>. Counsel must submit to the Court a full draft of the proposed jury charge.

4. **Witnesses.** The witness lists of the State and defense shall be submitted to the Court, and to each other, by October 17, 2025. The parties shall ensure compliance with the requirements of R. 3:13-3, including but not limited to R. 3:13-3(b)(1)(F) and (G) as it pertains to the State and R. 3:13-3(b)(2)(C) and (D) as it pertains to the defense. See State v. Tier, 228 N.J. 555 (2017). The parties shall be responsible for ensuring that its witnesses are in appropriate street attire. Any issues pertaining to a witness’s institutional clothing or custodial restraints should be brought to the Court’s attention by October 17, 2025, or as soon thereafter as possible.
5. **Motions.** Any unresolved pretrial motions or motions in limine shall be filed by the moving party on or before October 11, 2025, with responses due on or before October

24, 2025. The Court will hear all motions, whether involving testimony, oral argument, or both, on November 12, 2025, at 9:00 a.m, and if need be on November 13, 2025, and November 14, 2025.

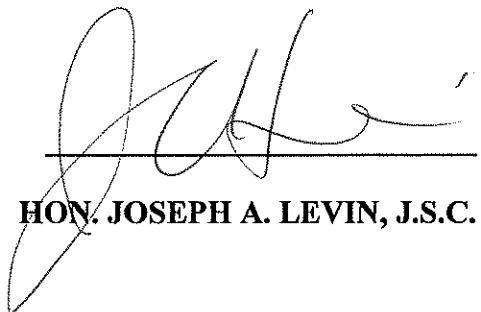
6. **Final Pretrial Conference.** The Court was not advised of any interpreter requirements, jury selection issues, and/or of any other pretrial or trial logistics that need to be addressed. If any should arise, the parties are immediately to advise the Court by means of email to the Court's law clerk and Court's Confidential Legal Secretary.
7. **Pre-marking of Exhibits.** The parties shall coordinate, in advance of trial, with the Court Clerk to list and pre-mark all exhibits. All exhibits shall be pre-marked no later than the week before jury selection.
8. **Use of Demonstrative Aids.** If either party plans to use demonstrative aids during trial, such as Power Point displays, White Boards, enlarged charts, maps or photographs, including during opening statements or closing arguments, such items need to be marked as an Exhibit for Identification and provided to the other side before using them in court. Additionally, such items should be shown to the Court, outside the presence of the jury, for the Court's consideration and in order for the Court to rule on any objections. The parties are cautioned not display any item to the jury before the other side has the opportunity to be heard. Under no circumstance should any item be published to the jury until such has been duly admitted into evidence or approved for use as a demonstrative aid. See State v. Rivera, 437 N.J. Super. 434 (App. Div. 2014). The parties need to make arrangements **TWO WEEKS IN ADVANCE OF TRIAL** with court staff to set-up and use any

equipment or devices necessary to display evidence or demonstrative aids. The parties should know how to operate such equipment or devices so as not to interrupt or delay the proceedings.

9. **Defendant's Trial Attire.** Defendant is to be dressed and ready for trial prior to jury selection and on each day of trial. Defendant's counsel must bring any issues regarding Defendant's trial attire to the Court's attention by October 17, 2025, or as soon thereafter that the issues are known. Defense counsel is responsible for ensuring that the Defendant has appropriate clothing for trial. See State v. Herrera, 385 N.J. Super. 486 (App. Div. 2006).
10. **Media/Court Access Issues.** Owing to the media interest and other attention to the case, the Court perceives the need to develop an appropriate plan to deal with issues of media access, security, the movement of the parties, the insulation of the jury from any required security measures or media presence, and related matters including the capacity and courtroom overflow. The Court will coordinate with the parties through the Assistant Trial Court Administrator and the Criminal Division Manager to establish a plan with all concerned parties to ensure public access to the trial while ensuring the integrity of the fairness and openness of the trial. A draft plan will be provided by the Court staff on October 17, 2025. The draft will be discussed among the interest parties thereafter and any agreements or objections will be placed on the record prior to motions on November 12, 2025.
11. **Media.** Pursuant to the Court's June 10, 2025, Protective Order regarding the handling and dissemination of Digital Evidence, the parties are advised that all prior orders remain in force unless otherwise ruled by the Court.

12. **Submissions.** All submissions required by this Order shall be made to the Court via e-Courts and via email to the Court's law clerk and the Court's Confidential Legal Secretary with the materials attached as Word documents or other Office or Office-compatible files. The parties may use [jenaya.jones@njcourts.gov](mailto:jenaya.jones@njcourts.gov), and [julie.biram@njcourts.gov](mailto:julie.biram@njcourts.gov), with copies to [joseph.levin@njcourts.gov](mailto:joseph.levin@njcourts.gov) for emails to the Court.

13. **Compliance.** Failure by either side to comply with any of the requirements outlined in this Trial Order or in any attached Motion Scheduling Order may result in application of R. 1:2-4 sanctions against the non-compliant party.



HON. JOSEPH A. LEVIN, J.S.C.

Copy to:

**For Information and Planning Only:**  
Jury Manager- Janice Headley

**For Action and Compliance:**  
Defense Counsel – Jordan Barbone, Esq.  
Prosecutor – Elizabet Fischer, Esq., Assistant Prosecutor  
Criminal Division Manager/Assistant Criminal Division Manager  
Team Leader – Luke Wepy  
Law Clerk – Julie Biram  
Chamber's Secretary – Jenaya Jones