

By the Court:

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

The above matter having come before the Court on the 11th day of August 2025,

IT IS HEREBY ORDERED on this day as follows:

1. **Trial.** The Trial in the above matter is scheduled for November 10, 2025, with jury selection to commence on November 10, 2025. The trial judge presiding over the matter is to be assigned on or before September 25, 2025.
2. **Trial Calendar Management Conference.** A Trial Calendar Management Conference will be held before the Presiding Judge on September 25, 2025. The parties should have with them a copy of their witness lists, proposed voir dire and a short memo summarizing the facts of the case and any anticipated issues.
3. **Voir Dire.** Both sides shall submit no fewer than three open ended Voir Dire questions but no more than seven such questions to each other and to the Court by October 10, 2025. The Court has determined that the following number of peremptory challenges shall be afforded to each side pursuant to R. 1:8-3(d): As to the State: 12; As to the Defendant: 20. The order and manner of exercise will be determined before Jury Selection.

4. **Attorney Conducted Voir Dire (“ACVD”) (not applicable).**
5. **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 charging conference pursuant to Rule 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/amcjs/index.htm>.
6. **Witnesses.** The Witness List of the Prosecutor shall be submitted by October 10, 2025, and the Defense by October 17, 2025, and shall be forwarded to each other and to the Court. The Defense shall indicate which witnesses are being called for character evidence. Each side shall ensure that it has complied with the requirements of Rule 3:13-3(b)(1)(F) and (G) as it pertains to the State and Rule 3:13-3(b)(2)(C) and (D) as it pertains to the defense. See, State v. Tier, 228 N.J. 555 (2017). Each side shall be responsible to ensure 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 as soon as possible.

7. **Motions.** Any unresolved pretrial motions or motions in limine shall be filed by September 11, 2025, with responses due 7 days thereafter. Unless the Court advises by telephone or email to the contrary, motions will be carried with Trial and will be decided following jury selection.
8. **Final pretrial conference.** At the final pretrial conference, the Court was advised that counsel anticipates the defense to assert a character case as well as in limine motions. Counsel will file a notice of motion by September 11, 2025, and indicate whether an evidentiary hearing is anticipated. A briefing and scheduling order will be entered with all motions returnable on or after September 25, 2025, unless carried with trial per paragraph 7, above. Additionally, the Court ordered that all discovery shall be completed by both sides on or before September 25, 2025. All further submissions shall be as set forth above.
9. **Interpreters (not applicable).**
10. **Pre-marking of Exhibits.** Counsel shall coordinate with the Court Clerk in advance of trial at a time convenient to the parties and the Court Clerk to list and pre-mark all exhibits. All exhibits shall be pre-marked no later than the week before jury selection.
11. **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 to hear any objection. 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 with court staff **TWO WEEKS IN ADVANCE OF TRIAL** 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. For Atlantic County trials, the parties should contact mld.mgr@njcourts.gov. For Cape May County trials, the parties should contact Michael.Taylor@njcourts.gov and Jason.Wertzberger@njcourts.gov.

12. Trial Attire; Defendant and Witnesses in Custody [Not Applicable]

13. 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 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 Court staff September 19, 2025. The draft will be discussed among the interested parties thereafter and any agreements or objections will be placed on the

record prior to jury selection on November 10, 2025.

14. "Prosecutor Ready" Speedy Trial Cases [Not Applicable]

15. 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.

16. Submission. *All submissions required by this Order shall be made to the Court via e-Courts and via email* with the materials attached as Word documents or other Office or Office-compatible files.

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


BERNARD E. DELURY, JR., P.J.Cr.

Copy to:

For Information and Planning Only:

Hon. Pamela D'Arcy
Jury Manager
Warden (if applicable)
Sheriff's Department (if applicable)
Trial Court Administrator (if applicable)
Assistant Trial Court Administrator (if applicable)

For Action and Compliance:

Defense Counsel – Jordan Barbone, Esq.
Prosecutor – Elizabeth Fischer, Assistant Prosecutor
Criminal Division Manager/Assistant Criminal Division Manager – Jason Wertzberger & Melissa McGee
Team Leader – To be Determined
Law Clerk – To be Determined