

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

3:16-cr-00051-BR

Plaintiff,

ORDER FOLLOWING
JANUARY 20, 2017, STATUS
HEARING

v.

JASON PATRICK, DUANE LEO
EHMER, DYLAN ANDERSON, SEAN
ANDERSON, SANDRA LYNN
ANDERSON, DARRYL WILLIAM
THORN, and JAKE RYAN,

Defendants.

BROWN, Judge.

The Court conducted a Status Hearing on January 20, 2017, at which conducted initial appearances and arraignments for Defendants Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, Sandra Lynn Anderson, Darryl William Thorn, and Jake Ryan on the new charges presented in the Misdemeanor Information (#1628) and an arraignment for Duane Leo Ehmer on the Indictment (#1) in *United States v. Duane Leo Ehmer*, 3:16-cr-00493-BR-1; and addressed various case-management matters. Following the Status

Hearing, the Court orders as follows:

TRIAL BY JURY ON MISDEMEANOR COUNTS

The Court concludes each of the misdemeanor counts in the Misdemeanor Information (#1628) are Class B misdemeanors and, therefore, are petty offenses on which Defendants do not have a right to a trial by jury as to those counts. Pending further order, the Court will conduct the trial on the Class B misdemeanor counts at the same time as the trial on the felony counts in the Superseding Indictment (#282), that is set to begin February 14, 2017.

The Court, nonetheless, will consider the parties arguments regarding whether the Court has the authority to provide Defendants with a jury trial on those counts and, if so, whether it should do so. Accordingly, the Court directs the parties to file **no later than Noon, January 25, 2017**, a single, joint status report that sets out (1) the parties' arguments as to the Court's authority to provide Defendants with a trial by jury on the Class B misdemeanor counts; (2) if so, the parties' arguments regarding whether the Court should exercise its discretion to provide Defendants with a trial by jury on the Class B misdemeanor counts; and (3) **the parties' recommendations as to trial procedure in the event that the Court determines it will conduct a bench trial as to the Class B misdemeanor counts.**

**GOVERNMENT'S MOTION (#1742) TO JOIN EHMER INDICTMENT FOR
PURPOSES OF TRIAL**

The Court directs counsel for Defendant Duane Leo Ehmer and counsel for the government to confer regarding the government's Motion (#1742) to Join Ehmer Indictment for Purposes of Trial, and to file **no later than Noon, January 25, 2017**, a single, joint status report that sets out the parties' positions as to the Motion and the legal authority supporting their positions.

DEFENDANT JAKE RYAN'S MOTION (#1667) TO SUPPRESS STATEMENTS

The Court sets an evidentiary hearing and, if necessary, oral argument on Defendant Jake Ryan's Motion (#1667) to Suppress Statements for **January 24, 2017, at 3:00 p.m.** in Courtroom 14A. The Court authorizes Ryan to appear by telephone if he so chooses.

**DEFENDANT DARRYL WILLIAM THORN'S MOTION (#1670) TO SUPPRESS
STATEMENTS AND EXCLUDE EVIDENCE**

The Court sets an evidentiary hearing and, if necessary, oral argument on Defendant Darryl William Thorn's Motion (#1670) to Suppress Statements and Exclude Evidence for **January 27, 2017, at 9:00 a.m.** in Courtroom 14A.

DEFENDANT DYLAN ANDERSON'S MOTION (#1679) TO SUPPRESS STATEMENTS

Based on the government's statement that it will not seek to

admit in its case-in-chief any of the statements that are the subject of Defendant Dylan Anderson's Motion (#1679) to Suppress Statements, and based on the stipulation of the parties, the Court **DENIES as moot** Dylan Anderson's Motion with leave to renew in the event that the Motion again becomes ripe.

DEFENDANT JAKE RYAN'S MOTION (#1683) IN LIMINE TO EXCLUDE EVIDENCE OF ARCHEOLOGICAL DAMAGE

The Court directs counsel for Defendant Jake Ryan, counsel for Defendant Duane Leo Ehmer, and counsel for the government to confer regarding a potential stipulation as to the threshold value of the damage alleged in Count Six of the Superseding Indictment (#282) and Indictment (#1) in *United States v. Duane Leo Ehmer*, 3:16-cr-00493-BR-1, and to file **no later than Noon, January 25, 2017**, a single, joint status report that sets out whether the parties have arrived at a stipulation that moots the issues contained in Ryan's Motion.

The Court also directs the parties to file **no later than Noon, January 25, 2017**, a separate joint status report in which they set out (1) the government's proffer of evidence that may be subject to Ryan's Motion and the admissible purpose(s) for which the evidence would be offered; and (2) the Defendants' legal arguments supporting their objections to such evidence.

**DEFENDANTS' MOTIONS (#1711, #1714) FOR WRITS OF HABEAS CORPUS
AD TESTIFICANDUM AS TO AMMON BUNDY AND RYAN PAYNE**

The Court **GRANTS in part** Defendants' Motion (#1711) for Writ of Habeas Corpus *Ad Testificandum* as to Ammon Bundy and Motion (#1714) for Writ of Habeas Corpus *Ad Testificandum* as to Ryan Payne, but finds the proposed forms of order submitted together with Defendants' Motions are insufficient. Before the Court can issue the writs, the Court directs standby counsel for Defendant Jason Patrick to do the following:

1. Confer with counsel for the government, the United States Marshal's Service, counsel for Ryan Payne in the District of Oregon and District of Nevada, counsel for Ammon Bundy in the District of Nevada, and defense counsel for the Defendants set to begin trial in the District of Nevada on February 6, 2017, in *United States v. Cliven Bundy, et al.*, 2:16-cr-00046-PAL-GMN, in order to identify a mutually agreeable, specific range of dates (not to exceed one week) during which the Court should direct the United States Marshal to make Ammon Bundy and Ryan Payne available in the District of Oregon to testify in the upcoming trial in this matter; and

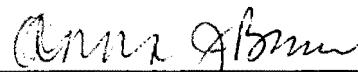
2. Obtain signed declarations from Ammon Bundy and Ryan Payne that state (a) they consent to being transported to the District of Oregon in order to be available to testify on the dates agreed by each of the stakeholders; (b) they stipulate such transport will not impair their ability to prepare adequately for

their upcoming trial proceedings in *United States v. Cliven Bundy, et al.*, 2:16-cr-00046-PAL-GMN, in the District of Nevada; and (c) they waive any future claim that they have been unable to prepare adequately for such trial as a result of the transport.

The Court directs Defendants to file **no later than January 27, 2017**, a status report that advises of the Court of the range of dates Defendants have identified and that indicates whether Ammon Bundy and Ryan Payne will execute the declarations described above. In the event that Defendants are unable to satisfy the above requirements, the Court may reconsider its Order herein and consider alternative means of securing the testimony of Payne and Bundy.

IT IS SO ORDERED.

DATED this 20th day of January, 2017.



ANNA J. BROWN
United States District Judge