FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
MAR 28 1978
JOE R. ROMANE, Clerk
By ..... Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In the Matter of the Local Rules for the Western District of Washington	ORDER

The local rules for the Western District of Washington are hereby amended by repealing the present Magistrates' Rules and adopting new Magistrates' Rules as follows:

MR 1

GENERAL POWERS AND DUTIES

Each United States Magistrate appointed by this court is authorized to perform the duties prescribed by 28 U.S.C. §636(a) and may:

(a) Try persons accused of minor offenses (including petty offenses) as defined in 18 U.S.C. §3401(f), order a presentence investigation report on any such person who is convicted or pleads guilty or nolo contendere, and sentence such persons, all in accordance with the provisions of Magistrates' Rule MR 2.

(b) Authorize the issuance of subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, and issue or authorize issuance of any other orders or warrants

necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings.

(c) Conduct extradition proceedings, in accordance with 18 U.S.C. §3184.

(d) Order examinations to determine mental competency under 18 U.S.C. §4244 and conduct all further proceedings thereunder in cases to be tried by the magistrate.

(e) Supervise proceedings conducted pursuant to letters rogatory, in accordance with 28 U.S.C. §1782, when designated to do so by a district judge.

(f) Exercise all powers and duties assigned to them from time to time by the district judges which are not inconsistent with the Constitution and laws of the United States.

MR 2

RULES OF PRACTICE AND PROCEDURE FOR
PETTY AND MINOR OFFENSES

(a) The practice and procedure for the trial of minor offenses including petty offenses before magistrates, and for the taking and hearing of appeals therefrom to the district court, shall conform to the provisions of 18 U.S.C. §§3401 and 3402, the "Rules of Procedure for the Trial of Minor Offenses Before United States Magistrates," and of any other rules promulgated by the Supreme Court pursuant to 18 U.S.C. §3402.

(b) All informations, indictments, citations, or other instruments on file with the Clerk which charge only minor or petty offense (including cases of minor offenses transferred to this district under Rule 20 of the Federal Rules of Criminal Procedure) shall be referred to the magistrates. If the defendant thereafter elects to be tried or plead before a district judge, the magistrate shall note that fact and return the papers related to the case to the Clerk.

(c) Payment of the sums fixed in this court's Petty Offense Bail Schedule may be accepted in lieu of appearance and as authorizing termination of the proceedings. Where such proceedings involve a charge of moving traffic violations, the Clerk shall transmit a copy of the charge to the appropriate state's driver licensing authority, and identify it as a record of conviction.

MR 3

NON-DISPOSITIVE PRETRIAL MATTERS

(a) In accordance with 28 U.S.C. §636(b)(1)(A), the full-time magistrates in this district may, upon reference by a district judge, hear and determine any pretrial matter, other than those matters specified in Magistrates' Rule MR 4(a)(3), infra.

(b) Any party may appeal from a magistrate's determination made under this rule within ten days after issuance of the magistrate's order, unless a different time is prescribed by the magistrate or a district judge. Such party shall file with the Clerk of Court, and serve on all parties and the district judge and magistrate, a written notice of appeal which shall specifically designate the order or part thereof appealed from and the basis for objection thereto. The district judge shall consider the appeal and shall affirm the determination of the magistrate unless that determination is found to be clearly erroneous or contrary to law.

MR 4

DISPOSITIVE PRETRIAL AND OTHER MATTERS

(a) In accordance with 28 U.S.C. §636(b)(1)(B) and (C), the full-time magistrates in this district may, upon reference by a district judge, hear, conduct such evidentiary hearings as are deemed necessary or appropriate by the magistrate, and submit to the referring district judge proposed findings of

fact and/or a report and recommendation for the disposition of:

(1) Applications for post-trial relief made by individuals convicted of criminal offenses.

(2) Prisoner petitions challenging conditions of confinement.

(3) Motions for injunctive relief (including temporary restraining orders and preliminary injunctions), for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by a defendant, to suppress evidence in a criminal case, to dismiss or permit the maintenance of a class action, to dismiss for failure to state a claim upon which relief may be granted, to involuntarily dismiss an action, and for review of default judgments.

(4) Petitions or applications for judicial review of administrative determinations.

(5) Hearings to determine mental competency pursuant to 18 U.S.C. §4244, in cases to be tried by a district judge.

(b) In considering prisoner applications for post-trial relief under Paragraph (a)(1), the magistrates may exercise the powers enumerated in Rules 5, 8, 9, and 10 of the Rules governing §2254 and §2255 proceedings, in accordance with the standards and criteria established in 28 U.S.C. §636(b)(1).

(c) Any party may object to the magistrate's proposed findings, recommendations or report issued under this rule within ten days after being served with a copy thereof. Such party shall file with the Clerk of Court, and serve on all parties and the district judge and magistrate, written objections which shall specifically identify the portions of the

proceedings as the district judge may require. The district judge shall make a de novo determination of those portions to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate. The district judge, however, need not normally conduct a new hearing and may consider the record developed before the magistrate, making his own determination on the basis of that record. The district judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate with instructions.

MR 5

SPECIAL MASTER REFERENCES
AND TRIALS BY CONSENT

In accordance with 28 U.S.C. §636(b)(2), the full-time magistrates in this district, upon reference by a district judge, may, without additional compensation:

(a) Serve as special master pursuant to Rule 53 of the Federal Rules of Civil Procedure.

(b) Serve as special master to try the issues in employment discrimination cases under Title VII of the Civil Rights Act of 1964, as amended [42 U.S.C. §2000(e)(5)(F)(5)], without regard to the provisions of Rule 53(b), whenever the district judge determines that the case could not be scheduled for trial within one hundred and twenty (120) days after issue is joined.

(c) Serve as special master to try the issues in any civil case upon consent of the parties, without regard to the provisions of Rule 53(b). The entry of final judgment in any civil case, however, shall be made by or at the direction of a district judge.

MR 6

REFERENCES TO FULL-TIME MAGISTRATES

(a) References of matters provided for in Rules MR 3 through 5, supra, shall be made in such manner as the chief judge of the district shall from time to time determine.

(b) The magistrate to whom any such matter is referred shall establish the procedure for determination of any and all motions, for holding pretrial conferences, and for trial, and shall make any further necessary orders consistent with the requirements of these local rules and the instructions of the district judge to whom the case is assigned.

MR 7

MOTION PRACTICE IN REFERRED CASES

When a case has been referred to a magistrate as special master for pretrial and for trial as provided in Rule MR 5, motions shall be filed and noted for hearing and the movant's and opponent's papers shall be served and filed in accordance with Rules CR 5, 6(d), and 7(b) and (c) of this court's local rules except for the following:

(a) All motions shall be noted for 9:00 a.m. on the Friday appointed for consideration of the motions.

(b) The court will hear oral argument if either party requests it. A request for oral argument by the moving party shall be included in the motion. If the moving party fails to request oral argument, the opposing party may file and serve a written request therefor within seven calendar days from the date on which he was served with a copy of the motion.

(c) Where local rule CR 5(a) requires that papers "be delivered to the chambers of the court before whom the case is pending," such papers shall be delivered to the chambers

of the magistrate serving as special master, and not to the chambers of the district judge to whom the case is assigned.

MR 8

COMMITMENT UNDER TITLE III
NARCOTIC ADDICT REHABILITATION ACT

Every petition for commitment of a person as a narcotic addict under Title III of the Narcotic Addict Rehabilitation Act, 42 U.S.C. §§3411-3426, shall be referred by the Clerk to a full-time magistrate in this district, unless no such magistrate is readily available. The magistrate shall conduct all necessary proceedings in connection with such petitions, shall record such proceedings and shall submit proposed findings of fact and a report and recommendation for the disposition thereof to a district judge. Any party may object to the proposed findings and report and recommendation as provided in local Magistrates' Rule MR 4(c).

MR 9

OTHER DUTIES OF FULL-TIME MAGISTRATES

The full-time magistrates in this district shall also:

(a) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings when requested by a district judge.

(b) Conduct arraignments in felony cases to the extent of taking a not guilty plea, in accordance with a schedule set by the magistrates.

(c) Receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure when requested by a district judge.

(d) Conduct voir dire examination and impanel petit juries when requested by a district judge.

(e) Accept petit jury verdicts in civil and criminal cases when requested by or on behalf of a district judge.

(f) Conduct all proceedings relating to charges of probation violation except final revocation hearings for defendants sentenced by district judges.

(g) Have authority to order the exoneration or forfeiture of bonds.

(h) Conduct proceedings for the collection of civil penalties of not more than $200.00 assessed under the Federal Boat Safety Act of 1971 as provided in 46 U.S.C. §1484(d).

(i) Conduct examinations of judgment debtors, in accordance with Rule 69 of the Federal Rules of Civil Procedure.

(j) Establish, and from time to time amend, a schedule of fixed sums (bail schedule) to be paid in lieu of appearance in cases involving petty offenses as defined in 18 U.S.C. §1(3), and designating for which such offenses court appearance shall be mandatory.

(k) Hear and determine applications by the United States to enter premises to effect a levy as provided in 26 U.S.C. §6331.

(l) Have authority to rule upon objections to the taxing of costs.

(m) Have authority to enter orders and otherwise act on behalf of this court with respect to petitions for enforcement of subpoenas issued pursuant to the Federal Engery Administration Act of 1974, 15 U.S.C. §761, et seq.

(n) Have authority to order the sealing and unsealing of documents by the Clerk of the Court.

(o) Have authority to order the preparation by the court reporters of this court of such transcripts of proceedings in this court as the magistrate deems necessary to a determination of any matter to be considered by him.

MR 10

ADMINISTRATION OF
CRIMINAL JUSTICE ACT PLAN

The magistrates in this district, when and as requested shall assist the district judges in the administration of the Criminal Justice Act Plan for the district. The magistrates shall have concurrent authority with the district judges to:

(a) Supervise the panel of attorneys.

(b) Determine the eligibility of a defendant to have counsel appointed.

(c) Appoint counsel.

(d) Examine and act upon vouchers submitted by appointed counsel.

MR 11

REVIEW OF CONDITIONS OF RELEASE

Applications for review of conditions of release in all criminal cases shall be heard by a magistrate unless otherwise directed by a district judge.

These rules shall be effective May 1, 1978.

Walter T. McGovern, Chief Judge,
United States District Court

Morell E. Sharp, Judge
United States District Court

Donald S. Voorhees, Judge
United States District Court