

UNITED STATES MAGISTRATE JUDGES' RULES

MJR 1

GENERAL POWERS AND DUTIES

Each United States Magistrate Judge 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 misdemeanors, 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 18 U.S.C. § 3401 and applicable rules; provided, however, that where defendant is entitled to trial by jury and does not waive that right, the trial shall be conducted by a district judge or by a full-time magistrate judge;

(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. §§ 4241 et seq. and conduct all further proceedings thereunder in cases to be tried by the magistrate judge;

(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) Accept waivers of indictment, pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure;

(g) Impose appropriate sanctions upon parties or counsel appearing before them in any matter referred to them or with regard to which they have independent jurisdiction;

(h) Rule upon applications to proceed in forma pauperis, pursuant to 28 U.S.C. § 1915;

(i) Grant, upon an appropriate showing, warrants authorizing entry on premises by officers of the United States to conduct worksite inspections and investigations in enforcement of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.);

(j) Rule upon motions to require defendants in criminal cases to participate in a line-up, furnish handwriting samples or furnish voice exemplars;

(k) Conduct arraignments in criminal cases not triable by the magistrate judge to the extent of taking a not guilty plea; and

(l) 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.

MJR 2

RULES OF PRACTICE AND PROCEDURE IN MISDEMEANOR CASES

The practice and procedure for the trial of misdemeanor cases before magistrate judges, 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, Fed.R.Crim.P. 58, Local Rule CrR 58, and any other applicable provisions of law.

MJR 3

NON-DISPOSITIVE PRETRIAL MATTERS

(a) In accordance with 28 U.S.C. § 636(b)(1)(A), a full-time magistrate judge may, upon reference by a district judge, hear and determine any pretrial matter in a case pending before the district judge, other than those matters specified in Magistrate Judges' Rule MJR 4(a)(3), *infra*.

(b) Objections to the ruling of a magistrate judge in a nondispositive pretrial matter are governed by Fed.R.Civ.P. 72(a) in a civil case, and by Local Rule MJR 12(c) in a criminal case.

MJR 4

DISPOSITIVE PRETRIAL AND OTHER MATTERS

(a) In accordance with 28 U.S.C. § 636(b)(1)(B) and (C), a full-time magistrate judge may, upon reference by a district judge, in a case pending before the district judge, hear, conduct such evidentiary hearings as are deemed necessary or appropriate by the magistrate judge, 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. §§ 4241 et seq. in felony cases;

(6) Petitions to enforce compliance with a summons issued by the Internal Revenue Service, pursuant to 26 U.S.C. §§ 7402(b) and 7604(a); or proceedings to quash such summonses, pursuant to § 7609.

(b) In considering prisoner applications for post-trial relief under paragraph (a)(1), the magistrate judges may perform all the duties imposed on a judge in the Rules governing § 2254 and § 2255 proceedings. In so doing, a magistrate judge may issue any preliminary orders, and conduct any necessary evidentiary hearing or other appropriate proceeding. Any order disposing of the petition may only be made by a district judge.

(c) After the magistrate judge's proposed findings, recommendations or report have been filed, further proceedings before the district judge shall be governed by Fed.R.Civ.P. 72(b) in a civil case, or by Local Rule MJR 12(c) in a criminal case.

MJR 5

SPECIAL MASTER REFERENCES

In accordance with 28 U.S.C. § 636(b)(2), a full-time magistrate judge, upon reference by a district judge, may:

(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. § 2000e-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

twenty 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).

In any civil case in which a full-time magistrate judge serves as a special master, the entry of final judgment shall be made by or at the direction of a district judge.

MJR 6

REFERENCES TO FULL-TIME MAGISTRATE JUDGES

(a) References of matters provided for in Rules MJR 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 judge 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.

MJR 7

MOTION PRACTICE BEFORE MAGISTRATE JUDGES

With respect to any motion to be heard before a magistrate judge, the parties shall comply with all rules of this court relating to motions, including but not limited to Local Civil Rules CR 7 and 10 in civil cases, and Local Criminal Rule CrR 12 in criminal cases. All attorneys must also comply with this district's electronic filing procedures.

MJR 8

RESERVED

MJR 9

OTHER DUTIES OF FULL-TIME MAGISTRATE JUDGES

The full-time magistrate judges in this district shall also:

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

(b) Empanel grand juries, when requested by a district judge;

(c) Receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;

(d) Conduct voir dire examination and impanel petit juries with the consent of the defendant(s) 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 probation or supervised release revocation proceedings as set out in CrR 32.1;

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

(h) Conduct proceedings for the collection of civil penalties of not more than two hundred dollars assessed under the Federal Boat Safety Act of 1971, as amended, pursuant to 46 U.S.C. §§ 4311(d) and

12309(c);

(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 forfeitable bail (bail schedule) to be paid in lieu of appearance in suitable cases involving misdemeanors, petty offenses, or infractions, pursuant to Fed.R.Crim.P. 58(d);

(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 Energy 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 judge deems necessary to a determination of any matter to be considered by him; and

(p) Perform the functions specified in 18 U.S.C. §§ 4107, 4108 and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States, and appoint counsel in such cases; and

(q) Accept waivers of indictment and guilty pleas in felony cases and order presentence reports in accordance with Local Rule CrR 11(i).

MJR 10

ADMINISTRATION OF CRIMINAL JUSTICE ACT PLAN

The magistrate judges 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 magistrate judges 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.

MJR 11

REVIEW OF CONDITIONS OF RELEASE

A district judge shall conduct any review of a magistrate judge's order of release or detention, pursuant to 18 U.S.C. § 3145(a) or (b). All other applications for review of conditions of release in criminal cases shall be heard by a magistrate judge unless otherwise directed by a district judge.

MJR 12

APPEALS TO DISTRICT JUDGE

(a) In Misdemeanor or Petty Offense Case

See Fed.R.Crim.P. 58(g), and Local Rule CrR 58(g).

(b) From Judgment in a Civil Case, Tried Pursuant to 28 U.S.C. § 636(c).

See MJR 13(e).

(c) From Other Orders

See also Rules MJR 3(b) and 4(c).

Any ruling by a magistrate judge, which by law is reviewable by a district judge, but as to which no review procedure is otherwise prescribed, shall be subject to review upon a motion filed within fourteen days of the entry of the ruling.

MJR 13

CIVIL TRIALS BEFORE MAGISTRATE JUDGES BY CONSENT OF PARTIES, 28 U.S.C. § 636(c)

(a) General Authority

Upon the consent of the parties, and upon the entry of an order of reference by a district judge, a full-time magistrate judge may conduct any or all proceedings in any civil case which is filed in this court, including the conduct of a jury or nonjury trial, and may order the entry of final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings upon consent of the parties, a magistrate judge may hear and determine any and all pretrial and posttrial motions which are filed by the parties, including case-dispositive motions.

(b) Notice to Parties

These rules shall constitute general notice to all parties in civil cases in this court of the procedures governing references to magistrate judges for trial by consent of the parties. (28 U.S.C. § 636(c)(2)). In each civil case, unless the district judge otherwise directs, the clerk shall so notify all parties in writing, and shall furnish consent forms to counsel for all parties.

(c) Execution of Consent

A case shall be considered by a district judge for reference to a magistrate judge only if a consent form, executed without limitation or qualification on behalf of every party, has been received by the clerk. The plaintiff shall be responsible for securing the execution of consent forms by the parties and for filing such forms with the clerk of court. No consent will be made available, nor will its contents be made known to any district judge or magistrate judge, unless all parties have consented to the reference to a magistrate judge.

(d) Reference

After the consent forms have been executed and filed on behalf of all parties, the clerk shall transmit them to the judge to whom the case has been assigned to consider the case for reference to a magistrate judge. The magistrate judge to whom a specific case is to be assigned shall be determined in accordance with directions from the chief judge. Once the case has been assigned to a magistrate judge, he or she shall have the authority to conduct any and all proceedings and to direct the clerk of court to enter a final judgment in the same manner

as if a judge had presided. An order of reference can be vacated upon a proper showing, pursuant to 28 U.S.C. § 636(c)(6).

(e) Appeal

Upon entry of judgment at the direction of a magistrate judge pursuant to this rule, any appeal shall be taken directly to the United States Court of Appeals for the Ninth Circuit, in the same manner as an appeal from any other judgment of this court.