

Local Rules IB - United States Magistrate Judges

LR IB 1-1. DUTIES UNDER 28 U.S.C. § 636(a).

Each United States magistrate judge in this district is authorized to:

- (a) Exercise all powers and duties conferred or imposed upon magistrate judges by 28 U.S.C. § 636(a);
- (b) Conduct extradition proceedings in accordance with 18 U.S.C. § 3184; and
- (c) Establish schedules for the payment of fixed sums to be accepted in lieu of appearance and thereby terminate proceedings in petty offense cases. Such schedules may be modified from time to time with the prior approval of the court.

LR IB 1-2. DISPOSITION OF MISDEMEANOR CASES - 18 U.S.C. § 3401.

A magistrate judge may:

- (a) Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. § 3401; and
- (b) Direct the probation service of the court to conduct a presentence investigation and render a presentence report in any misdemeanor case.

LR IB 1-3. DETERMINATION OF PRETRIAL MATTERS - 28 U.S.C. § 636(b)(1)(A).

A magistrate judge may hear and finally determine any pretrial matter not specifically enumerated as an exception in 28 U.S.C. § 636(b)(1)(A).

LR IB 1-4. FINDINGS AND RECOMMENDATIONS - 28 U.S.C. § 636(b)(1)(B).

When a district judge refers a motion, petition or application that a magistrate judge may not finally determine in accordance with 28 U.S.C. § 636(b)(1)(B) to a magistrate judge, the magistrate judge shall review it, conduct any necessary evidentiary or other hearings and file findings and recommendations for disposition by the district judge. Motions subject to such referral include, but are not limited to:

- (a) Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;
- (b) Motions for judgment on the pleadings;

- (c) Motions for summary judgment;
- (d) Motions to permit the maintenance of a class action;
- (e) Motions to dismiss;
- (f) Motions for review of default judgments;
- (g) Motions to dismiss or quash an indictment or information made by a defendant in a criminal case;
- (h) Motions to suppress evidence in a criminal case;
- (i) Applications for post-trial relief made by individuals convicted of criminal offenses;
- (j) Petitions by inmates challenging conditions of confinement; and
- (k) Internal Revenue Service summons enforcements.

LR IB 1-5. JUDICIAL REVIEW OF ADMINISTRATIVE PROCEEDINGS.

A district judge may refer any civil action seeking judicial review of an administrative proceeding to a magistrate judge. The magistrate judge shall review the matter, conduct any necessary proceedings and file findings and recommendations for disposition by the court.

**LR IB 1-6. *HABEAS CORPUS* AND CRIMINAL CASES UNDER
28 U.S.C. §§ 636(b)(1)(B), 2241, 2254 and 2255.**

A magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings under 28 U.S.C. §§ 636(b)(1)(B), 2241, 2254 and 2255, except in death penalty cases. In so doing a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearings or other appropriate proceedings, and shall file findings of fact and recommendations for disposition by the district judge.

LR IB 1-7. SPECIAL MASTER REFERENCES.

A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53.

LR IB 1-8. (RESERVED).

LR IB 1-9. OTHER DUTIES.

A magistrate judge is also authorized to:

(a) Exercise general supervision of civil and criminal calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the district judges;

(b) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil and criminal cases;

(c) Preside over all initial appearances, preliminary examinations, and arraignments before the district court, appoint counsel, accept pleas of not guilty, establish the times within which all pretrial motions will be filed and responded to, and fix trial dates. If a plea of guilty or *nolo contendere* is offered the matter will be forthwith calendared before a district judge;

(d) Preside when the Grand Jury reports and accept for the court any indictments returned, issue warrants and summonses as appropriate, establish the terms of release pending trial, and continue the same if previously fixed, or modify the terms of release;

(e) Accept waivers of indictment pursuant to Fed. R. Crim. P. 7(b);

(f) Accept petit jury verdicts in civil and criminal cases at the request of a district judge and fix dates for imposition of sentence;

(g) Issue subpoenas, writs of *habeas corpus ad testificandum* or *prosequendum*, and other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(h) Order the exoneration or forfeiture of bonds;

(i) Fix the terms of release pending sentencing and appeal;

(j) Have and exercise the powers of a district judge with respect to the issuance of warrants of removal and in the implementation and execution of the provisions of Fed. R. Crim. P. 40;

(k) Conduct examinations of judgment debtors under Fed. R. Civ. P. 69;

(l) Issue orders authorizing the installation and use of devices to register telephone numbers dialed or pulsed or directing communication common carriers, as defined in 18 U.S.C. § 2510(10), to furnish law enforcement agencies with information, facilities and technical assistance necessary to accomplish the installation and use of the registering device;

(m) Decide petitions to enforce administrative summonses;

- (n) Preside over proceedings to enforce civil judgments;
- (o) Issue orders authorizing entries to effect levies;
- (p) Issue administrative inspection warrants;
- (q) Serve as a Commissioner in land condemnation cases;
- (r) Conduct international prisoner transfer hearings;
- (s) Conduct hearings to determine mental competency pursuant to 18 U.S.C. § 4242, *et seq.*;
- (t) Select petit juries in criminal and civil cases with the consent of the parties; and
- (u) Perform any additional duty not inconsistent with the Constitution and laws of the United States.

LR IB 2-1. CONDUCT OF CIVIL TRIALS BY UNITED STATES MAGISTRATE JUDGES; CONDUCT OF TRIALS AND DISPOSITION OF CIVIL CASES UPON CONSENT OF THE PARTIES - 28 U.S.C. § 636(c).

The magistrate judges of this district are designated to exercise all jurisdiction in civil jury and non-jury cases pursuant to 28 U.S.C. § 636(c). Upon the written consent of the parties and a reference of a civil case by the district judge to a magistrate judge, a magistrate judge may conduct any or all proceedings in the case, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment in accordance with 28 U.S.C. § 636(c). In conducting such proceedings a magistrate judge may hear and determine any and all pretrial and post-trial motions filed by the parties, including case-dispositive motions.

LR IB 2-2. SPECIAL PROVISIONS FOR THE DISPOSITION OF CIVIL CASES BY A UNITED STATES MAGISTRATE JUDGE ON CONSENT OF THE PARTIES - 28 U.S.C. § 636(c).

(a) Except as otherwise ordered by the court, the clerk shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be served by the clerk upon all parties at the time of the filing of the scheduling order required by LR 26-1(b). Additional notices may be furnished to the parties at later stages of the proceedings and may be included with pretrial notices and instructions.

(b) After consent forms have been executed and submitted by all parties the clerk shall transmit the case and the consent forms to the district judge to whom the case has been assigned for consideration of referral of the case to a magistrate judge. If the case is referred to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the clerk to enter a final judgment in the same manner as if a district judge had presided.

(c) Parties may consent to a trial by a magistrate judge up to the date of trial even though they may have previously declined to sign such a consent.

(d) Parties may consent to have a magistrate judge hear all or any portions of a case pending before the district court.

**LR IB 3-1. REVIEW AND APPEAL - UNITED STATES MAGISTRATE JUDGE;
REVIEW OF MATTERS WHICH MAY BE FINALLY DETERMINED
BY MAGISTRATE JUDGE IN CIVIL AND CRIMINAL CASES -
28 U.S.C. § 636(b)(1)(A).**

(a) A district judge may reconsider any pretrial matter referred to a magistrate judge in a civil or criminal case pursuant to LR IB 1-3 where it has been shown that the magistrate judge's ruling is clearly erroneous or contrary to law. Any party wishing to object to the ruling of the magistrate judge on a pretrial matter shall, within ten (10) days from the date of service of the magistrate judge's ruling, file and serve specific written objections to the ruling together with points and authorities in support thereof. The opposing party shall within ten (10) days thereafter file and serve points and authorities opposing the objections. Points and authorities filed in support of or in opposition to the objections are subject to the page limits set forth in LR 7-4 or LCR 47-7.

(b) The clerk shall then submit the case file to the district judge. The district judge may affirm, reverse or modify, in whole or in part, the ruling made by the magistrate judge. The district judge may also remand the same to the magistrate judge with instructions.

**LR IB 3-2. REVIEW OF MATTERS WHICH MAY NOT BE FINALLY DETERMINED
BY A UNITED STATES MAGISTRATE JUDGE IN CIVIL AND CRIMINAL
CASES, ADMINISTRATIVE PROCEEDINGS, PROBATION REVOCATION
PROCEEDINGS - 28 U.S.C. § 636(b)(1)(B).**

(a) Any party wishing to object to the findings and recommendations of a magistrate judge made pursuant to LR IB 1-4, IB 1-5, IB 1-6 and IB 1-7 shall, within ten (10) days from the date of service of the findings and recommendations, file and serve specific written objections together with points and authorities in support thereof. The opposing party shall within ten (10) days thereafter file and serve points and authorities opposing the objections. Points and authorities filed in support of, or in opposition to, the objections are subject to the page limits set forth in LR 7-4 or LCR 47-7.

(b) The clerk shall then submit the case file to the district judge who shall make a *de novo* determination of those portions of the specified findings or recommendations to which objections have been made. The district judge may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district judge may also receive further evidence or remand the same to the magistrate judge with instructions.

**LR IB 3-3. APPEAL FROM JUDGMENTS IN MISDEMEANOR CASES -
18 U.S.C. § 3402.**

A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case to a district judge by filing a notice of appeal within ten (10) days after entry of the judgment and by serving a copy of the notice upon the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the district court to the Court of Appeals.

**LR IB 3-4. APPEAL FROM JUDGMENTS IN CIVIL CASES DISPOSED OF ON
CONSENT OF THE PARTIES - 28 U.S.C. § 636(c).**

Upon the entry of judgment in any civil case disposed of by a magistrate judge on consent of the parties under authority of 28 U.S.C. § 636(c) and LR IB 2-1 *supra*, an appeal by an aggrieved party shall be taken directly to the Court of Appeals in the same manner as an appeal from any other judgment of this court.

**LR IB 3-5. APPEAL FROM UNITED STATES MAGISTRATE JUDGE'S RELEASE AND
DETENTION ORDERS.**

A motion under 18 U.S.C. § 3145(a) or (b) seeking revocation or amendment of a magistrate judge's release or detention order shall be entitled "Appeal from Magistrate Judge's Release (or Detention) Order."