

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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IN THE MATTER OF ASSIGNMENT OF  
PRISONER CIVIL RIGHTS CASES AND  
HABEAS CORPUS PETITIONS

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ORDER

To assist in the handling and disposition of civil rights cases commenced by inmates pursuant to 42 U.S.C. § 1983 and habeas corpus petitions commenced pursuant to 28 U.S.C. §§ 2254 and 2255, it is necessary to modify the Court's system of case assignment to fully utilize the talents and abilities of the magistrate judges of this Court. Accordingly, all full-time magistrate judges in the Western District of New York shall be included in the case assignment procedures for actions brought by inmates, acting *pro se*, under 42 U.S.C. § 1983 and 28 U.S.C. §§ 2254 and 2255 and shall be randomly assigned such cases in equal proportion to assignments made to the active district judges of the Court.

A district judge will be paired with each case initially assigned to a magistrate judge. When such pairing is necessary, the district judge shall be randomly selected. The name of the district judge paired on a particular case will not be disclosed by the Clerk's Office.

In all cases filed by prisoners pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §§ 2254 and 2255, the Clerk of Court shall notify the parties of their opportunity to consent to proceed to disposition before a magistrate judge. In those cases that are initially assigned to a magistrate judge in accordance with the case assignment system set forth in this order, the Clerk of Court shall notify the parties of the assignment of their case to a magistrate judge and provide the parties with a form on which the parties must indicate their decision as to whether they will consent to proceed to disposition before the assigned magistrate judge. The notice and consent

form to be sent to parties in cases initially assigned to a full-time magistrate judge shall be substantially in the form of the attachments to this order.

The Clerk of Court shall maintain the confidentiality of the parties' decisions on the issue of consent and shall not inform any district judge or magistrate judge of the parties' responses unless all parties consent.

If all parties consent to proceed to disposition before the magistrate judge, the Clerk of Court shall prepare for the duty judge's signature an order of reference pursuant to 28 U.S.C. § 636(c). The Clerk of Court shall then file the parties' consent forms.

An appeal of any judgment entered by a magistrate judge will be to the Court of Appeals for the Second Circuit.

In the event that all parties do not consent to proceed to disposition before the assigned magistrate judge, the district judge assigned to the case may, in his discretion, refer any matters concerning the case to the magistrate judge pursuant to 28 U.S.C. § 636(b). If any party objects to a decision or recommendation of the magistrate judge on a motion prior to trial in a case wherein consent has not been given, the objection will be ruled upon by the district judge paired on the case. Upon the assignment of a case to a magistrate judge as set forth herein, the assigned magistrate judge may exercise all authority provided for by 28 U.S.C. §636(b) prior to the execution and submission of consent forms by all parties to the case. Until such time as all parties have executed and returned the consent form to the Clerk of Court, the identity of the district judge paired on the case shall not be revealed to the parties.

This order shall be interpreted and enforced so as to fully protect the voluntariness of the parties' consent and no judicial officer or court employee shall take any action that implies that the parties are not free to withhold consent without adverse substantive consequences.

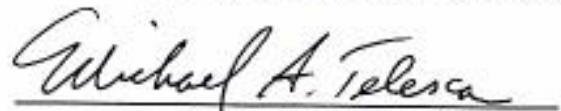
This modification to the system of case assignment for the Western District of New York shall take effect April 5, 1996.

**ALL OF THE ABOVE IS SO ORDERED.**

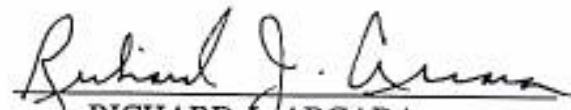
Dated: March 2, 1996  
Rochester, New York



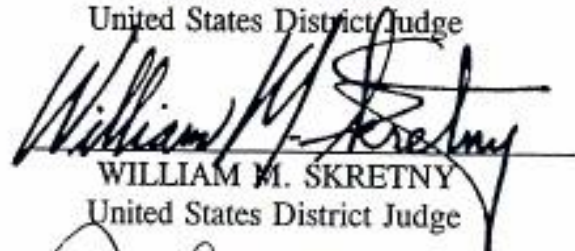
DAVID G. LARIMER  
Chief Judge, United States District Court



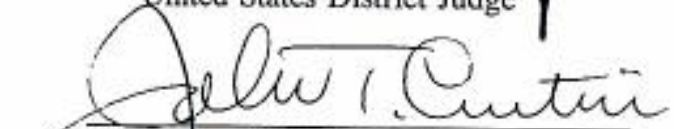
MICHAEL A. TELESKA  
United States District Judge



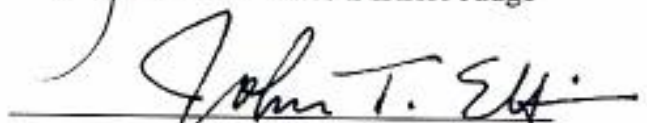
RICHARD J. ARCARA  
United States District Judge



WILLIAM M. SKRETNY  
United States District Judge



JOHN T. CURTIN  
Senior United States District Judge



JOHN T. ELFVIN  
Senior United States District Judge

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