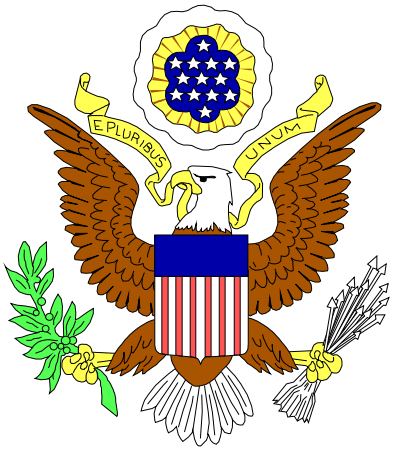
UNITED STATES DISTRICT COURT

FOR THE

WESTERN DISTRICT OF NEW YORK



LOCAL RULES OF CRIMINAL PROCEDURE
(Effective January 1, 2020)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IN RE ADOPTION OF LOCAL RULES OF CRIMINAL PROCEDURE

FOR THE

WESTERN DISTRICT OF NEW YORK

These rules were prepared by the Judges of the United States District Court for the Western District of New York, in collaboration with the federal bar.

It is so ordered that these rules, as amended, shall apply to all actions commenced on or after January 1, 2020, and, insofar as just and practicable, all actions then pending.

FRANK P. GERACI, JR.
Chief United States District Judge

ELIZABETH A. WOLFORD
United States District Judge

LAWRENCE J. VILARDO
United States District Judge

JOHN L. SINATRA, JR.
United States District Judge

MICHAEL A. TELESCA
Senior United States District Judge

DAVID G. LARIMER
Senior United States District Judge

CHARLES J. SIRAGUSA
Senior United States District Judge

RICHARD J. ARCARA
Senior United States District Judge

WILLIAM M. SKRETNY
Senior United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT JUDGES

Frank P. Geraci, Jr., Chief Judge	U.S. Courthouse, Rochester, NY
Elizabeth A. Wolford	U.S. Courthouse, Rochester, NY
Lawrence J. Vilardo	U.S. Courthouse, Buffalo, NY
John L. Sinatra, Jr.	U.S. Courthouse, Buffalo, NY
Michael A. Telesca, Senior Judge	U.S. Courthouse, Rochester, NY
David G. Larimer, Senior Judge	U.S. Courthouse, Rochester, NY
Charles J. Siragusa, Senior Judge	U.S. Courthouse, Rochester, NY
Richard J. Arcara, Senior Judge	U.S. Courthouse, Buffalo, NY
William M. Skretny, Senior Judge	U.S. Courthouse, Buffalo, NY

UNITED STATES BANKRUPTCY JUDGES

Carl L. Bucki, Chief Judge	U.S. Courthouse, Buffalo, NY
Michael J. Kaplan	U.S. Courthouse, Buffalo, NY
Paul R. Warren	U.S. Courthouse, Rochester, NY

UNITED STATES MAGISTRATE JUDGES

H. Kenneth Schroeder, Jr.	U.S. Courthouse, Buffalo, NY
Marian W. Payson	U.S. Courthouse, Rochester, NY
Jeremiah J. McCarthy	U.S. Courthouse, Buffalo, NY
Michael J. Roemer	U.S. Courthouse, Buffalo, NY
Mark W. Pedersen	U.S. Courthouse, Rochester, NY
Leslie G. Foschio	U.S. Courthouse, Buffalo, NY
Hugh B. Scott	U.S. Courthouse, Buffalo, NY

CLERK OF UNITED STATES DISTRICT COURT

Mary C. Loewenguth . . . . . Buffalo, NY

CLERK OF UNITED STATES BANKRUPTCY COURT

Lisa Bertino-Beaser . . . . . Buffalo, NY

UNITED STATES ATTORNEY

James P. Kennedy, Jr. . . . . Buffalo, NY

FEDERAL PUBLIC DEFENDER

Marianne Mariano . . . . . Buffalo, NY

CHIEF PROBATION OFFICER

Anthony M. San Giacomo . . . . . Buffalo, NY

UNITED STATES MARSHAL

Charles F. Salina . . . . . Rochester, NY

TERRITORIAL JURISDICTION

Counties of:

Allegany	Genesee	Orleans	Wyoming
Cattaraugus	Livingston	Schuyler	Yates
Chautauqua	Monroe	Seneca	
Chemung	Niagara	Steuben	
Erie	Ontario	Wayne	

With the waters thereof.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LOCAL RULES OF CRIMINAL PROCEDURE
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RULE 1

APPLICABILITY

(a) **Scope.** These rules are the Local Rules of Criminal Procedure for the United States District Court for the Western District of New York. They supplement the Federal Rules of Criminal Procedure ("Fed.R.Cr.P.") and are numbered to conform therewith. The Local Rules of Criminal Procedure shall be cited as "L.R.Crim.P."

(b) **Availability.** Copies of these Local Rules and all Court documents referenced herein are available at the Clerk's Office in Buffalo and Rochester, and on the Court's webpage, http:\\www.nywd.uscourts.gov. The following documents may be modified from time to time, at the Court's discretion. Counsel and *pro se* litigants are expected to comply with the most current Rules, plans and procedures.

- Administration of District Court Fund
- Alternative Dispute Resolution Plan
- Amended Plan for the Disposition of *Pro Se* Cases
- CM/ECF Administrative Procedures Guide
- Criminal Justice Act Plan
- District Court Schedule of Fees
- Judge's Individual Rules
- Jury Plan
- Revised Plan for Prompt Disposition of Criminal Cases
- Standing Orders

Persons, other than litigants permitted to proceed *in forma pauperis*, who wish to obtain a copy of these Local Rules and/or other documents by mail must provide a self-addressed envelope at least 9" x 12" in size with sufficient postage affixed.

RULE 5

USE AND DISCLOSURE OF PRETRIAL SERVICES REPORT

(a) **In General**. The use and disclosure of the pretrial services report, and any information obtained by the pretrial services officer in the course of performing the pretrial services function, are governed by 18 U.S.C. § 3153(c). The pretrial services officer must limit disclosure to the minimum information and the minimum number of persons necessary to carry out the purpose of the disclosure.

(b) **Disclosure of the Pretrial Services Report.** A copy of the pretrial services report shall be given to the attorney for the defendant and the attorney for the government to retain. The report should not be re-disclosed to other persons by the attorney for the defendant or the attorney for the government.

(c) **Disclosure of the Pretrial Services Recommendation.** Unless otherwise ordered by the Court, the pretrial services officer's recommendation as to the propriety and conditions of release will be disclosed to the parties with the pretrial services report.

RULE 6

GRAND JURY SECRECY

The government shall file statements and certifications under Fed.R.Cr.P. 6(e)(3)(B) with the Clerk of Court, who shall duly time-stamp them and retain them under seal for such review by the Court as may be necessary.

RULE 7

CASE ASSIGNMENT

Upon filing of the indictment or information, each criminal case is assigned to a Judge in either Buffalo (typically, cases arising in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming counties), or Rochester (typically, cases arising in Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne and Yates counties). The assignment within these areas shall ordinarily be by random selection. The Court may transfer cases within the District, *sua sponte*. Parties requesting transfer of a case from Buffalo to Rochester, or vice versa, shall file a written motion requesting such relief, returnable before the Judge to whom the case is originally assigned.

RULE 12

MOTION PRACTICE

Unless otherwise ordered by the District Judge to whom a criminal case is assigned, the following procedures shall apply to criminal indictments and informations:

(a) **Initial Schedule.** After providing the attorneys for the government and all defendants the opportunity to be heard, either at arraignment or at a date set at the arraignment, the Court shall issue an order providing:

(1) deadlines and terms and conditions for discovery between the government and the defendants;

(2) deadlines for filing motions; and

(3) such other matters as the Court deems appropriate in the exercise of its discretion and supervisory powers.

(b) **Briefing Schedules**.

(1) **Court Order**. After a motion is filed, the Court may issue an order setting deadlines for filing and service of opposing papers, and for filing and service of reply papers, if the moving party has stated an intent to reply.

(2) **Absent Court Order**. If the Court does not set deadlines by order, the opposing party shall have fourteen (14) days after service of the motion to file and serve responding papers, and the moving party shall have seven (7) days after service of the responding papers to file and serve reply papers.

(c) **Page Limits.** Memoranda in support of or in opposition to any motion shall not exceed twenty-five (25) pages in length, and reply memoranda shall not exceed ten (10) pages in length. A party seeking to exceed the page limit must make application by letter to the Judge hearing the motion, with copies to all counsel, at least seven (7) days before the date on which the memorandum must be filed.

(d) **Sur-Reply**. Absent permission of the Judge hearing the motion, sur-reply papers are not permitted.

(e) **Oral Argument**. The parties shall appear for oral argument on all motions they make returnable before a Judge on the scheduled return date for the motion. In its discretion, the Court may notify the parties that oral argument shall not be heard on a given motion. Thus, the parties should be prepared to have their motion papers serve as the sole method of argument.

(f) **Motion for an Expedited Hearing**. A party seeking to shorten the schedule prescribed in subparagraph (b) must make a separate motion for an expedited

hearing, setting forth the reasons why an expedited hearing is required. The motion must be accompanied by:

(1) the motion the party is seeking to have heard on an expedited basis, together with supporting affidavits and memorandum of law; and

(2) a proposed order granting an expedited hearing, with dates for serving the motion, filing responsive papers, and for a hearing left blank to be filled in by the Court.

A motion for an expedited hearing may, for good cause shown, be made *ex parte*. Papers in support of an *ex parte* application shall state the attempts made to resolve the dispute through a motion on notice and/or state why notice of the motion may not be given.

Immediately after filing the motion for an expedited hearing (and accompanying documents), counsel for the moving party shall personally deliver courtesy copies of the motion papers to chambers and await further instructions from the Court. If the moving party is represented by out-of-town counsel who is unable to personally deliver courtesy copies, counsel shall contact chambers by telephone to request a waiver of this requirement.

(g) **Adjournments.** Except as provided in subparagraph (h), any application to adjourn a motion shall be made to the Judge who will hear the motion. The attorney seeking the adjournment must:

(1) confer with all other parties before approaching the courtroom deputy to determine, if possible, a new date agreeable to all parties; and

(2) place the reason for the adjournment on the record, either in open Court or in writing, so that the Court may make findings as may be required by the Speedy Trial Act of 1974, 18 U.S.C. §§ 3161-3174.

(h) ***Pro Se* Litigants.** Requests for adjournments by *pro se* litigants must be made by letter to the Court, with copies to all counsel in the case.

(i) ***Ex Parte* Applications, Generally.** Good cause shall be shown for the making of any application *ex parte*. The papers in support of such application shall state attempts made to resolve the dispute through a motion on notice and/or state why notice of the application for relief may not be given.

RULE 15

PROCEDURES FOR DEPOSITIONS BY OTHER THAN STENOGRAPHIC MEANS

A Court order is required before taking a deposition by other than stenographic means (*i.e.*, without the use of a stenographic record). However, a prior order is not

required to record a deposition both on video and stenographically. In the latter circumstance, the following procedures apply:

(a) The deposition notice shall state that the deposition will be recorded both stenographically and on video. At the deposition, the camera operator shall be identified. An employee of the attorney who noticed the deposition may act as the camera operator.

(b) The camera shall be directed at the witness at all times showing a head and shoulders view, except that close-up views of exhibits are permitted where requested by the questioning attorney.

(c) Prior to trial, counsel for the party seeking to use the video deposition shall approach opposing counsel and attempt to resolve voluntarily all objections made at the deposition.

(d) The party seeking to use the video deposition at trial shall submit unresolved objections to the Court by way of a motion *in limine*. The motion may be made at any time after the deposition, but shall be made no later than seven (7) days before trial or any earlier deadline established by Court order. The objected-to portion(s) of the transcript shall be annexed to the motion papers.

(e) In accordance with the Court's ruling on objections, the party seeking to use the video deposition shall notify opposing counsel of the transcript pages and line numbers the party plans to delete from the video. The party seeking to use the video shall then edit the tape accordingly, and shall bear the expense of editing. If the Court overrules an objection made during the deposition, the objection need not be deleted. If requested, the Court will give an instruction at the time the video is shown regarding objections heard on the video.

(f) At least three (3) days before showing the video, the party seeking to use the video deposition at trial shall deliver a copy of the edited video to opposing counsel. Opposing counsel may then object only if the edited version does not comply with the Court's ruling and counsels' agreement, or if the video's quality is such that it will be difficult for the jury to understand. Such objections, if any, must be made in writing and served at least twenty-four (24) hours before the video is to be shown.

(g) The party seeking to use the video deposition should attempt to utilize a storage format compatible with the Court's display equipment. A party utilizing an incompatible format must provide the equipment necessary to display the video in Court.

RULE 23

FAIR TRIAL DIRECTIVES

(a) All counsel practicing before this Court are expected to be fully familiar with the provisions of the New York Rules of Professional Conduct, as amended May 4, 2010.

(b) Counsel's attention is specifically directed to Professional Conduct Rule 3.6, captioned Trial Publicity, and Professional Conduct Rule 5.3, captioned Lawyer's Responsibility for Conduct of Non-Lawyers. *See also* Professional Conduct Rule 8.4, providing that any violation, attempt to violate, assistance in a violation of, or inducement of another to violate these local rules, whether undertaken directly or indirectly, constitutes professional misconduct.

(c) The Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matter the Court may deem appropriate for inclusion. In determining whether to impose such a special order, the Court shall consider whether such an order will be necessary to ensure an impartial jury, and must find that other, less extreme available remedies, singly or collectively, either are not feasible or would not effectively mitigate pretrial publicity and bring about a fair trial. Among the alternative remedies to be considered are: change of venue, postponing the trial, a searching *voir dire*, emphatic jury instructions, and sequestration of jurors.

RULE 26

EXHIBITS

(a) All exhibits offered by any party at trial, whether or not received as evidence, shall be retained after each day of trial by the party or attorney offering the exhibits, unless the Court orders otherwise. Immediately after the case is submitted to the trier of fact, all exhibits received into evidence shall be delivered to the courtroom deputy. After a verdict is rendered, responsibility for custody of all exhibits reverts back to the parties.

(b) In the event an appeal is prosecuted by any party, each party to the appeal shall promptly file electronically any exhibits to be transmitted to the Appellate Court as part of the record on appeal. Documents that cannot be filed electronically, and physical exhibits other than documents, shall remain in the custody of the attorney producing them who shall permit their inspection by any party for the purpose of preparing the record on appeal and who shall be charged with the responsibility for their safekeeping and transportation to the Court of Appeals. Those exhibits not transmitted as part of the record on appeal shall be retained

by the parties who shall make them available for use by the Appellate Court upon request.

(c) If any party receives notice from the Clerk of Court concerning the removal of paper or other physical exhibits, and fails to do so within thirty (30) days from the date of notice, the Clerk of Court may destroy or otherwise dispose of those exhibits.

RULE 32

PRESENTENCE REPORT

(a) **Disclosure of Prior Presentence Report to Counsel.** Upon appearance of either retained or assigned counsel and the attorney for the government on a violation of probation or supervised release, the probation office shall be permitted to provide counsel with a copy of the presentence report and judgment with statement of reasons from the underlying offense. Further, where the defendant has been previously convicted of a federal offense, upon appearance of either retained or assigned counsel and the attorney for the government on a new charge, the probation office shall be permitted to provide counsel with a copy of the presentence report and judgment with statement of reasons from any previous federal conviction.

(b) **Disclosure of Sentencing Recommendation.** In addition to the presentence report, the probation officer will submit a separate document entitled "Sentencing Recommendation" to the Court. The Sentencing Recommendation is for the benefit of the Court and will not be disclosed to the government, the defendant, defendant's counsel or to any other person or party, unless authorized by the sentencing judge.

The Sentencing Recommendation may be disclosed to the government and defense counsel if authorized by the sentencing judge. Such authorization shall be communicated to the Chief United States Probation Officer in writing or electronically and shall specify whether the authorization applies to all of the individual sentencing judge's cases, to a selected type of case only or to a specific case. The sentencing judge may revoke the authorization at any time by so notifying the Chief United States Probation Officer in writing or electronically.

If a sentencing is scheduled before a visiting judge, the probation officer shall contact the staff of the visiting judge to determine whether the visiting judge would like the Sentencing Recommendation disclosed to the government and defense counsel.

RULE 41

SEARCH AND SEIZURE WARRANTS

(a) If a Magistrate Judge with authority grants an application for a search warrant, he or she shall sign the warrant. The Magistrate Judge's courtroom deputy or other deputy clerk shall retain a copy of the warrant, and the original signed warrant shall be maintained by the officer or attorney seeking the warrant for execution The courtroom deputy shall then assign a Magistrate Judge docket number to the matter and file the copy of the signed search warrant and the original application in CM/ECF. The caption shall be "In the Matter of the Search of" followed by the location to be searched. The copy of the signed search warrant and the original application shall be filed under seal.

(b) Once the search warrant is executed, it shall be returned, along with the inventory, to the Magistrate Judge designated on the warrant within fourteen (14) days after the warrant is executed or the time period for execution has expired. The officer returning the warrant may do so by reliable electronic means. The Magistrate Judge's courtroom deputy or other deputy clerk shall then file the return in CM/ECF and close the matter.

(c) Should the original warrant and an inventory not be timely returned, then the entire matter, including the application and search warrant, shall be unsealed twenty-eight (28) days from the issuance of the warrant.

(d) The matter shall be unsealed at the time of the filing of the return or after the passage of twenty-eight (28) days from the issuance of the warrant, whichever is earlier, unless at the time of the original application or sometime thereafter, the government requests and the Magistrate Judge orders that the matter remain sealed for some specific period of time following the filing of the return, until further order of the Court, or as the Court otherwise directs. The government shall provide the Magistrate Judge with a proposed sealing order at the time of its sealing request.

RULE 44

ATTORNEY ADMISSION, APPEARANCE, AND STUDENT PRACTICE

(a) All rules related to attorney admission to practice, attorneys of record, discipline of attorneys, student practice and student law clerks are found in L.R.Civ.P. 83.1, 83.3, 83.6, and 83.7, all of which are incorporated by reference into these Local Rules of Criminal Procedure.

(b) During counsel's initial appearance on behalf of a criminal defendant, the Court may inquire whether counsel has been "fully retained" for the duration of the

criminal proceedings. The "fully retained" inquiry serves to remind counsel that once he or she appears as the attorney of record, the Court will expect counsel to continue to represent that defendant throughout the duration of the trial court proceedings. Partial representation of a criminal defendant is not permitted in this Court, and an attorney who has appeared as the attorney of record may withdraw only for good cause shown. Non-payment of legal fees, without more, may not be sufficient to demonstrate good cause. Therefore, counsel should make adequate financial arrangements with a client before accepting representation. Nothing in this Rule shall prohibit an attorney from seeking a mid-case appointment under the CJA where the interests of justice so dictate.

RULE 49

FILING, SERVICE, AND FORM OF PAPERS

(a) **Filing Procedures.** All criminal cases filed in this Court are assigned to the Electronic Filing System ("ECF"). The procedures for electronic filing and any exceptions to the electronic filing requirements are set forth in the CM/ECF Administrative Procedures Guide. All pleadings and other papers shall be filed and served in accordance with the Federal Rules of Criminal Procedure and the CM/ECF Administrative Procedures Guide, which is located on the Court's website, http://www.nywd.uscourts.gov.

(b) **Charging Instruments.** The United States Attorney's Office shall provide the Clerk of Court with an adequate number of copies of charging instruments for distribution.

(c) **Service by Overnight Delivery**. All papers, other than a subpoena, may be served on counsel of record by overnight delivery service at the address designated by the attorney for that purpose, or if none is designated, at the attorney's last known address. Service by overnight delivery shall be complete upon deposit of the paper(s), enclosed in a properly addressed wrapper, into the custody of the overnight delivery service, prior to the latest time designated by the service for overnight delivery. Where a period of time prescribed by either the Federal Rules of Criminal Procedure or these Local Rules is measured from the service of a paper and service is by overnight delivery, one (1) business day shall be added to the prescribed period. "Overnight delivery service" means any delivery service which regularly accepts items for overnight delivery to any address within the Court's jurisdiction.

(d) **Form, Generally**. All pleadings, motions, and other papers that a party presents for filing, whether in paper form or in electronic form, shall meet the following requirements:

(1) all text and footnotes shall be in a font size of at least 12-point type;

(2) all text in the body of the document must be double-spaced, except that text in block quotations and footnotes may be single-spaced;

(3) extensive footnotes and block quotes may not be used to circumvent page limitations;

(4) documents must have one-inch margins on all four sides; and

(5) pages must be consecutively numbered.

(e) **Additional Requirements for Paper Filing.** Documents presented for filing in paper form shall meet the following additional requirements:

(1) documents must be on durable white 8½" x 11" paper of good quality;

(2) all text must be plainly and legibly written, typewritten, printed or reproduced;

(3) documents must be in black or blue ink;

(4) the pages of each document must be stapled or in some other way fastened together;

(5) all documents must be single-sided; and

(6) documents presented for paper filing must contain an original signature.

RULE 53

CAMERAS AND RECORDING DEVICES

(a) Except as provided by order of the Chief Judge or by subparagraph (b), no person, other than Court officials engaged in the conduct of business and/or responsible for the security or maintenance of Court facilities, shall bring any camera, transmitter, receiver, recording device, cellular telephone, or other personal electronic device into the District's courthouses.

(b) Any Judge presiding over a ceremonial proceeding (*i.e.*, naturalization ceremony, mock trial, Judge's investiture) may, in their discretion, allow the use of cameras and other equipment during the proceeding.

RULE 55

SEALING OF DOCUMENTS IN CRIMINAL CASES

(a) Except where restrictions are imposed by statute or rule, there is a presumption that Court documents are accessible to the public and that a substantial showing is necessary to restrict access.

(b) When the sealing of a criminal matter is ordered, the Clerk of Court shall inscribe in the public records of the Court only the case number, the fact that a case was filed under seal, the name of the District Judge or Magistrate Judge who ordered the seal, and (after assignment of the case to a District Judge and a Magistrate Judge in the normal fashion) the names of the assigned District Judge and the assigned Magistrate Judge.

(c) Documents authorized to be filed under seal or pursuant to a protective order shall comply with the procedures set forth in the CM/ECF Administrative Procedures Guide which is located on the Court's website, http://www.nywd.uscourts.gov.

(d) A party seeking to have a document, party, or case sealed shall comply with the procedures set forth in the CM/ECF Administrative Procedures Guide which is located on the Court's website, http://www.nywd.uscourts.gov.

(e) Unless otherwise directed by the Court, a sealed document or case shall remain sealed even after final disposition of the case. A party seeking to have a sealed document unsealed must seek relief by motion on notice.

RULE 57

MODIFICATION OF RULES

Any of the foregoing rules shall, in special cases, be subject to such modifications as may be necessary to meet emergencies or to avoid injustice or great hardship.

RULE 58

FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE IN PETTY OFFENSE MATTERS

(a) This rule incorporates the rules of Court relative to forfeiture of collateral in lieu of appearance in petty offense matters, copies of which are available in the Clerk's Office or on the Court's website, http://www.nywd.uscourts.gov.

(b) For petty offenses originating under the applicable federal statute or regulations or applicable state statute by virtue of the Assimilative Crimes Act (18 U.S.C. § 13)

occurring within the territorial jurisdiction of a Magistrate Judge, including areas within the boundaries of United States military installations, federal buildings and grounds, national forests, and property under the charge and control of the Veterans Administration, the person so charged shall post collateral and may, in lieu of appearance, waive appearance before a Magistrate Judge, and consent to the forfeiture of collateral. If collateral is forfeited, such action shall be tantamount to a finding of guilt.

(c) A list of petty offenses is available in the Clerk's Office or on the Court's website, http://www.nywd.uscourts.gov, appended to the rules of Court referred to in subparagraph (a) of this Local Rule. Those offenses marked with an asterisk (*) and for which no amount of collateral is shown require a mandatory appearance before a Magistrate Judge.

(d) If a person charged with an offense under subparagraph (a) fails to post and forfeit collateral and is subsequently convicted, any punishment, including fine, imprisonment, or probation may be imposed within the limits established by the applicable law.

(e) Nothing contained in this Rule shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, in which event the arrested person shall, without unnecessary delay, be taken before the nearest available Magistrate Judge or, in the event that a Magistrate Judge is not reasonably available, before a state or local judicial officer authorized by 18 U.S.C. § 3041, as provided under Fed.R.Cr.P. 5.

RULE 59

MATTERS ASSIGNED TO MAGISTRATE JUDGE

(a) **Misdemeanor Cases.** All misdemeanor cases shall be assigned, upon the filing of an information, complaint, or violation notice, or the return of an indictment, to a Magistrate Judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Fed.R.Cr.P. 58. In the event the defendant does not waive trial before the District Court as provided therein, the file shall be returned to the Clerk of Court for assignment to a District Court Judge. The Magistrate Judge may, however, set bond, appoint counsel, and accept a plea of not guilty without a waiver being executed.

(b) Magistrate Judges are authorized to exercise the jurisdiction set forth in 18 U.S.C. § 3184, Fugitives from foreign country to United States.

(c) **Review of Magistrate Judge's Actions.**

(1) **Nondispositive Matters.** All orders of the Magistrate Judge authorized by 28 U.S.C. § 636(b)(1)(A) shall be effective unless and until a stay is obtained

or the order is otherwise reversed or vacated by the District Judge. In the event that a party files objections, the specific matters to which the party objects and the manner in which it is claimed that the order is clearly erroneous or contrary to law shall be clearly set out in the objections.

(2) **Dispositive Motions and Post-Trial Relief**. Written objections to proposed findings of fact and recommendations for disposition submitted by a Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for each objection, and shall be supported by legal authority. A party seeking additional time to file objections must file a motion for an extension of time with the District Judge within fourteen (14) days after being served with the Magistrate Judge's recommended disposition.

(3) **Certification.** Any party filing objections to a Magistrate Judge's order or recommended disposition must include with the objections to the District Judge a written statement either certifying that the objections do not raise new legal/factual arguments, or identifying the new arguments and explaining why they were not raised to the Magistrate Judge.

(d) A District Judge at their own discretion may delegate to a Magistrate Judge authority to review and approve case budgets and payment of vouchers relative to counsel and/or experts in (a) all capital representations and (b) non-capital representations that appear likely to become or have become extraordinary in terms of potential cost (*i.e.*, attorney hours are expected to exceed three hundred (300) or total expenditures are expected to exceed $30,000 for appointed counsel and services other than counsel).

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