IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

In the Matter of the Amendment of the Criminal Local Rules of Practice for the United States District Court for the District of Hawaii	)))))	ORDER AMENDING THE CRIMINAL LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

ORDER AMENDING THE CRIMINAL
LOCAL RULES OF PRACTICE FOR THE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

IT IS HEREBY ORDERED that the Criminal Local Rules of Practice for the United States District Court for the District of Hawaii are amended, effective September 1, 2011, as attached to this order.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii August 11, 2011.

/s/ Susan Oki Mollway
SUSAN OKI MOLLWAY
CHIEF UNITED STATES DISTRICT JUDGE

/s/ David A. Ezra
DAVID A. EZRA
UNITED STATES DISTRICT JUDGE

/s/ J. Michael Seabright
J. MICHAEL SEABRIGHT
UNITED STATES DISTRICT JUDGE

/s/ Leslie E. Kobayashi
LESLIE E. KOBAYASHI
UNITED STATES DISTRICT JUDGE

CHAPTER II - CRIMINAL RULES . . . . . .

CHAPTER II - CRIMINAL RULES

CrimLR5.1. Arrest by Federal Agencies and Others.

It shall be the duty of all federal agencies and others who arrest any person as a federal prisoner in this district to give prompt notice without unnecessary delay to the Pretrial Services Office.

When an arrested person is not represented by counsel and requests to be represented by a court-appointed attorney as an indigent, the federal arresting agency shall inform the magistrate judge of the request without unnecessary delay.

CrimLR12.1. Hearings on Non-Discovery Pretrial Motions.

All dispositive motions shall be heard by a district judge and all non-dispositive matters shall be heard by a magistrate judge, except as otherwise provided or unless otherwise ordered by a district judge.

CrimLR12.2. Memoranda in Support of or in Opposition to Motions.

(a) Memoranda in Support of Motions. Each party filing any motion shall file, and serve the adverse party with, an accompanying memorandum setting forth a brief and complete statement of the facts and all points and authorities upon which he or she intends to rely unless the facts, points and authorities are included in the motion.

(b) Memoranda in Opposition to Motions. Each party opposing any motion shall serve the adverse party with and file a memorandum in opposition to the motion that includes a brief and complete statement of the facts and all points and authorities upon which he or she intends to rely.

(c) Non-Opposition. Any party not opposing a motion shall file a statement of no opposition within the time provided for responding to the motion.

(d) Notice, Time for Reply. With the exception of motions discussed elsewhere in these rules, motions to continue trial, motions in limine, and oral motions made during the course of the trial, all motions, absent leave of court for good cause shown, shall be entered on the motion calendar of the assigned judge for hearing not less than twenty-one days (21) days after service. Except for good cause shown, all responses shall be filed and served not less than fourteen (14) days prior to the hearing date, and any reply to the opposition shall be filed and served not less than seven (7) days prior to the hearing date.

(e) Reply. A reply in support of a motion must respond only to arguments raised in the opposition. Any argument raised for the first time in the reply may be disregarded.

CrimLR12.3. Local Civil and Magistrate Rules Applicable to Motions.

Except as otherwise provided in these Local Criminal Rules, the General and Civil local rules are applicable to criminal

cases, including but not limited to LR7.5 (Motions, Petitions, and Appeals; Length of Briefs and Memoranda), LR7.7 (Extra Copies), LR7.9 (Motions; Counter Motions; Joinders),and LR10.2 (Form of Papers; Fax Rules). LR7.4 (Motions; Opposition and Reply) is also applicable to appeals from and objections to magistrate judges' orders and proposed orders undertaken pursuant to CrimLR57.3 and 57.4 and other non-hearing motions.

CrimLR12.4. Proceedings Under Advisement by the Court.

For purposes of 18 U.S.C. § 3161(h)(1)(H), a proceeding concerning the defendant is actually under advisement by the court on the latest of:

(a) The date that the last brief is timely filed;

(b) If an optional brief is not filed, the date the last optional brief would have been due pursuant to these local rules or order of the court;

(c) If the last brief is untimely filed, the later of (1) the date the last brief is untimely filed, or (2) if the court announces a determination as to whether to consider the untimely filing or not, the date of that announcement; or

(d) If the court holds hearing(s), the date of the last hearing on the matter.

CrimLR16.1. Standing Order for Routine Discovery in Criminal Cases.

The government and the defendant shall make available discovery materials pursuant to Fed. R. Crim. P. 16 and 26.2 and

18 U.S.C. § 3500. This local rule shall not be construed as obligating the government or the defendant to disclose materials protected from disclosure by 18 U.S.C. § 3500 or Fed. R. Crim. P. 16 or 26.2

(a) The Government's Duty. Requests for discovery required by Fed. R. Crim. P. 16 are entered for the defendant by this rule so that the defendant need not make any further requests for such discovery. If the defendant does not request such discovery, he or she shall file a notice to the government that he or she does not request such discovery within five (5) days after arraignment. If such a notice is filed, the government is relieved of any discovery obligations to the defendant imposed by this paragraph or Fed. R. Crim. P. 16. If the defendant does not file such a notice, within seven (7) days after arraignment unless otherwise ordered by the court or promptly upon subsequent discovery, the government shall provide the defendant the following:

1. All discovery required by Fed. R. Crim. P. 16(a);

2. Brady material, as it shall be presumed that defendant has made a general Brady v. Maryland, 373 U.S. 83 (1963) request. Specific requests shall be made in writing to the government or by motion.

3. Photographs used in any photograph line-up, show-up, photospread, or any other identification proceeding, or

if no such photographs can be produced, the government shall notify the defendant whether any such identification proceeding has taken place and the results thereof;

4. Any search warrants and supporting affidavits that resulted in the seizure of evidence that is intended for use by the government as evidence in its case-in-chief at trial or that was obtained from or belongs to the defendant; and

5. A statement as to whether the defendant was the subject of any electronic eavesdrop, wiretap, or any other communications of wire or oral interception as defined by 18 U.S.C. § 2510, et seq., in the course of the investigation of the case.

(b) The Defense Duty. Unless the defendant has filed notice that he or she does not request discovery under paragraph (a) of this rule or Fed. R. Crim. P. 16, or unless otherwise ordered by the court, within twenty-eight (28) days after the government complies with its Fed. R. Crim. P. 16(a) obligation, the defendant shall provide all discovery required by Fed. R. Crim. P. 16(b).

(c) Notice of Insanity Defense. If a defendant intends to assert the defense of insanity at the time of the alleged offense, or intends to introduce expert evidence relating to a mental disease, defect, or any other mental condition of the defendant bearing on either: 1) the issue of guilt; or 2) the

issue of punishment in a capital case, the defendant shall give written notice thereof to the government and file a copy of such notice with the clerk within forty-two (42) days of arraignment, unless additional time is granted by the court upon a showing of good cause.

(d) Continuing Duty to Disclose. If, prior to or during trial, a party discovers additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this rule, the party shall promptly notify the other party or the court of the existence of the additional evidence or material.

(e) Sanctions for Failure to Comply with Request.

1. **Against a Party.** If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule, the court may order such party to permit the discovery or inspection, grant a continuance, prohibit the party from introducing evidence not disclosed, or may enter such order as it deems just under the circumstances.

2. **Against an Attorney for a Party.** If at any time during the course of the proceedings it is brought to the attention of the court that an attorney for a party has unjustifiably failed to comply with this rule, which failure was after a specific request for compliance with this rule by

opposing counsel specifically for the material which is the subject of non-compliance, in addition to the sanctions imposed against the party as provided above, the court may punish any such counsel or attorney with a fine. The imposition of such a fine is not to be deemed a finding of contempt.

(f) Statement of Witnesses.

1. Order of Production. Production of statements of witnesses by the government and the defendant pursuant to Fed. R. Crim. P. 26.2 and 18 U.S.C. § 3500 is hereby ordered.

2. Time of Production. Statements of witnesses including material covered by Fed. R. Crim. P. 6 are to be exchanged:

(i) During the time of trial as provided by Fed. R. Crim. P. 26.2 and 18 U.S.C. § 3500 or,

(ii) At any time if the parties agree.

(g) Statements of Witnesses at Suppression Hearing.

Production of statements of witnesses at a hearing on a motion to suppress evidence will be governed by Fed. R. Crim. P. 12(h).

(h) Impeachment Material.

1. Order of Production. The production of the following is hereby ordered: Cooperation agreements, plea agreements, impeachment material, promises of leniency, under Giglio v. United States, 405 U.S. 150 (1972), and its progeny,

and records of criminal convictions which may be admissible under Fed. R. Evid. 609.

2. Time of Production. Impeachment material under this rule shall be provided as ordered by the court.

(i) Further Discovery Not Covered by This Rule.

1. **Further Discovery.** Discovery of all material not ordered pursuant to this rule shall be by motion.

2. **Time for Filing Further Discovery Motions.**

(i) **By the Defendant.** Any defense motions for additional discovery shall be filed no later than fourteen (14) days after the date the government is required to comply with its Fed. R. Crim. P. 16 obligation. Such motions may only be filed after this time when (1) the motion sets forth the specific facts and circumstances giving rise to good cause for filing out of time, and (2) the court finds good cause is in fact shown.

(ii) **By the Government.** Any government motions for additional discovery shall be filed no later than fourteen (14) days after the date the defendant is required to comply with defendant's Fed. R. Crim. P. 16 obligation. Such motions may only be filed after this time when (1) the motion sets forth the specific facts and circumstances giving rise to good cause for filing out of time, and (2) the court finds good cause is in fact shown.

CrimLR17.1.1. Pretrial Agenda.

A magistrate judge shall conduct at least one pretrial conference. Other pretrial conferences may be conducted by the trial district judge at the request of any of the parties or on the court's own motion. The agenda at the pretrial conference shall consist of any or all of the following items, so far as practicable:

(a) Date of production of statements or reports of witnesses under the Jencks Act, 18 U.S.C. § 3500;

(b) Date of production of grand jury testimony of witnesses intended to be called at the trial;

(c) Date of production of evidence favorable to the defendant on the issue of guilt or punishment, as required by Brady v. Maryland, 373 U.S. 83 (1963), and related authorities and impeachment material, cooperation agreements, plea agreements, promises of leniency, and records of criminal convictions, required by Giglio v. United States, 405 U.S. 150 (1972), and its progeny;

(d) Stipulation of facts that may be deemed proved at the trial without further proof by either party;

(e) Appointment by the court of interpreters under Fed. R. Crim. P. 28;

(f) Dismissal of certain counts and elimination from the case of certain issues, e.g., insanity, alibi, and statute of limitations;

(g) Severance of trial as to any co-defendant or counts, and joinder of any related cases;

(h) Use or identification of informant, use of line-up or other identification procedures, use of evidence of prior convictions of defendant or of any witness;

(i) Pretrial resolution of objections to exhibits or testimony to be offered at trial;

(j) Preparation of trial briefs on controversial points of law likely to arise at trial;

(k) Scheduling of the trial and of witnesses;

(l) Submission of jury instructions and voir dire jury questions;

(m) The government's intention to introduce evidence of other crimes, wrongs or acts under Fed. R. Evid. 404(b);

(n) Whether there are percipient witnesses whom the government does not intend to call in its case-in-chief;

(o) Date of exchange of the names of witnesses intended to be called to testify at trial in each respective case-in-chief; and

(p) Date of exchange of lists of exhibits and copies of the documentary exhibits.

CrimLR17.1.2. Pretrial Orders.

After conducting the pretrial conference, the trial district judge may make such pretrial order or orders relating to any of the matters discussed.

CrimLR30.1. Jury Instructions.

See the text of Chapter I, General and Civil Rules, LR51.1 which text and rule is incorporated herein in its entirety.

CrimLR32.1. Sentencing Procedure.

The following rules apply in all cases where presentence investigations and reports are ordered by a district judge or magistrate judge:

(a) To assist the court in fulfilling the standards for acceptance of plea agreements as set forth in the U.S. Sentencing Guidelines § 6B1.2, the parties shall be responsible for the following:

1. In Fed. R. Crim. P. 11(c)(1)(A), plea agreements wherein the agreement includes dismissal of charges or an agreement not to pursue potential charges, the written plea agreement shall include a statement, on the basis of the information then known by the parties, as to why the remaining charges adequately reflect the seriousness of the actual offense behavior and why accepting the agreement will not undermine the statutory purposes of sentencing;

2. In Fed. R. Crim. P. 11(c)(1)(B), plea agreements wherein the agreement includes a nonbinding sentencing

recommendation, the written plea agreement shall include a statement, on the basis of the information then known by the parties, that the recommended sentence is within the applicable guideline range, or shall set forth justifiable reasons why the recommended sentence departs from the presumed applicable guideline range;

3. In Fed. R. Crim. P. 11(c)(1)(C), plea agreements wherein the agreement includes a specific sentence that is binding upon the court, the written plea agreement shall include a statement, on the basis of the information then known by the parties, that the recommended sentence is within the applicable guideline range, or shall set forth justifiable reasons why the recommended sentence departs from the presumed applicable guideline range.

(b) As part of the plea agreement, it is appropriate for the parties to stipulate to factors that affect the sentence computation. Any such stipulation shall be set forth in the manner prescribed by U.S. Sentencing Guidelines § 6B1.4.

(c) A presentence investigation and report to the court will be conducted before the imposition of sentence, except as otherwise permitted by U.S. Sentencing Guidelines § 6A1.1. The defendant may not waive preparation of a presentence report. The probation officer shall report the facts disclosed by the presentence investigation in the presentence report, and the

parties shall not be permitted to stipulate to the elimination of relevant facts from the report.

(d) The parties shall review the completed presentence report and offer their respective objections. The probation officer will then revise the report where appropriate and attempt to resolve disputed facts. To provide sufficient time for this process, the sentencing date, except for good cause, shall be set not less than ninety-eight (98) days following an adjudication.

(e) No less than thirty-five (35) days prior to the sentencing date, the probation officer shall provide a copy of the proposed presentence report to counsel for the government and to counsel for the defendant. Defense counsel shall be responsible for disclosing the report to the defendant. The presentence report shall be deemed to have been provided to counsel when a copy of the report is physically delivered or one (1) day after the report's availability is orally communicated or three (3) days after a copy of the report is mailed.

(f) Within fourteen (14) days after receiving the report, counsel for the defendant and the government shall file their sentencing statement(s), which shall include objections, if any, concerning factual information, sentencing guideline ranges and policy statements which remain in dispute. A copy shall be submitted to the Probation Office and served upon all other

counsel. Counsel for the government and counsel for the defendant shall seek to resolve the controverted issues with respect to the contents of the report or items omitted therefrom. Each sentencing statement will also include:

1. All sentencing factors, facts, and other matters material to sentencing that remain in dispute, including a statement, and calculation if appropriate, showing how the dispute affects the calculation of the applicable guidelines range.

2. Whether an evidentiary hearing is requested and, if so, an estimate of the time required for such hearing and a summary of the evidence to be produced.

Upon receipt of any such objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that are deemed necessary.

(g) Not less than fourteen (14) days prior to the sentencing date, the completed presentence report shall be submitted to the court and to all parties under seal. This report shall be accompanied by an addendum containing any unresolved objections, the grounds for these objections, and the probation officer’s comments on them. Any earlier proposed presentence reports furnished to counsel shall be returned to the probation officer.

(h) At or prior to the sentencing hearing, the court shall address each controverted matter pursuant to Fed. R. Crim. P. 32 (i)(3)(B), and rule on the dispute or determine that a ruling is unnecessary because the controverted matter will not affect sentencing or because the court will not consider the matter in sentencing. The parties shall be prepared at the sentencing hearing to proceed with evidence and argument for the resolution of any remaining disputed matters upon which the court intends to rely. The court shall provide a reasonable opportunity to the parties for the submission of oral or written objections to the court's findings and determinations. For good cause, the court may continue the sentencing hearing for a reasonable time.

(i) Except as otherwise ordered by the court, all copies of presentence reports that have been furnished to counsel, including an recommendation by the probation officer, shall be returned to the probation officer upon the expiration of the time within which to appeal. A copy of the completed presentence report shall be filed under seal. Unless otherwise ordered by the presiding judge, a copy of the recommendation of the probation officer prepared for any sentencing hearing, including sentencing after revocation of probation or supervised release, shall be filed under seal and shall be made available solely to counsel for the government and to counsel for the defendant.

(j) Filings that disclose the contents of the proposed or completed presentence report, including but not limited to sentencing statements, are to be filed under seal. Any document filed under seal pursuant to this rule shall contain the following notation: "THIS DOCUMENT FILED UNDER SEAL PURSUANT TO CRIMINAL L.R. 32(j)." Filings that do not disclose the contents of the proposed or completed presentence report should not be filed under seal.

(k) In the case of a pro se defendant, reference to counsel for defendant shall be taken to refer to the pro se defendant.

(l) Except for good cause shown, any motion for a downward departure pursuant to U.S. Sentencing Guidelines § 5K1.1 or 18 U.S.C. § 3553(e) shall be filed not less than twenty-one (21) days prior to the scheduled sentencing date. A copy of this motion, as well as any memorandum, shall be served on the Probation Office.

(m) Except for good cause shown, any sentencing memorandum addressing the 18 U.S.C. § 3553(a) sentencing factors or a motion for downward departure not brought pursuant to U.S. Sentencing Guidelines § 5K1.1 or 18 U.S.C. § 3553(e) shall be filed not less than seven (7) days prior to the scheduled sentencing date. A copy of this memorandum shall be served on the Probation Office.

CrimLR35.1. Responses to Motions for Reduction of Sentence.

No response to a motion for a reduction of sentence is required unless requested by the court. A motion for reduction of sentence will ordinarily not be granted in the absence of such a request.

CrimLR44.1. Right to and Appointment of Counsel.

If a defendant appearing without counsel in a criminal proceeding desires to obtain his or her own counsel, a reasonable continuance for arraignment, not to exceed seven (7) days at any one time, shall be granted for that purpose. If the defendant requests appointment of counsel by the court, or fails for an unreasonable time to appear with his or her own counsel, the assigned district judge or magistrate judge shall, subject to the applicable financial eligibility requirements, appoint counsel, unless the defendant elects to proceed without counsel and signs and files the court-approved form of waiver of right to counsel. In an appropriate case, the district judge or magistrate judge may nevertheless designate counsel to advise and assist a defendant who elects to proceed without counsel to the extent the defendant might thereafter desire. Appointment of counsel shall be made in accordance with the plan of this court adopted pursuant to the Criminal Justice Act of 1964 on file with the clerk.

CrimLR44.2. CJA Voucher Reduction.

No judicial officer or clerk shall reduce the payment of any CJA voucher without first communicating the reasons for the reduction in writing to the affected attorney and giving the attorney an opportunity to respond.

CrimLR46.1. Appearance Bond.

A person required to give bail shall execute the type of bond or promise to appear required by the judicial officer specifying the conditions thereof. The bond or promise to appear shall substantially conform in both form and content to the appropriate form approved by the court.

CrimLR46.2. Posting Security.

When the release of a defendant is conditioned upon the deposit of cash or other security with the court, such deposit shall be made with the clerk or the marshal, as authorized.

CrimLR46.3. Types of Bonds in Criminal Cases.

A person charged with a criminal offense in which a secured bond has been required may, in the discretion of the court, furnish in lieu of cash a commercial surety bond or a secured interest in real estate, which shall be referred to as a "property bond."

(a) Surety Bonds. Surety bonds for the appearance of a person charged with a criminal offense shall require the

execution of a bail bond or equivalent security as provided in LR65.2

(b) Property Bonds. For real property to qualify as adequate security:

1. The real property, whether located within the State of Hawaii or a sister state, territory, or commonwealth, must have an equity value, after deducting the outstanding balance of any existing lien or encumbrance, in an amount not less than the principal amount of the bail set.

2. The title owner of the property shall furnish a mortgage on the property in favor of the clerk and shall deliver to the court such mortgage note as security for the bond.

3. Prior to release of the person charged, the mortgage shall be recorded in the State of Hawaii Bureau of Conveyances or filed with Registrar of the State Land Court. In the event that the property is located in a sister state, territory, or commonwealth, the mortgage or deed of trust shall be recorded in the designated office required by the law of such state, territory, or commonwealth, and evidence thereof shall be furnished to the court.

4. The value of the property must be established by evidence satisfactory to the court.

CrimLR46.4. Filings Relating to Release or Pretrial Detention of a Defendant.

Whenever a document relating to the release or detention of a pretrial defendant is filed with the court, a copy of the document shall be served on the Pretrial Services Office. This rule applies to, for example, motions to detain, motions for reconsideration of a release or detention order, and appeals of a Magistrate Judge release or detention order.

CrimLR56.1. The District Court Always in Session.

The district court shall always be in session. The chief judge shall establish an evening and weekend duty roster for judicial officers, one of whom shall be available twenty-four (24) hours a day for the purpose of emergencies, including, but not limited to, warrant applications and bail hearings. The emergency duty phone number shall be listed by the clerk and shall be available to all members of the bar.

CrimLR57.1. Duties of Magistrate Judges.

In criminal cases, each magistrate judge shall exercise all the powers conferred or imposed by law and the Federal Rules of Criminal Procedure and may:

(a) Exercise general supervision of criminal calendars when requested by a district judge.

(b) Conduct arraignments, enter not guilty pleas, and schedule trial dates.

(c) Receive grand jury returns in accordance with Fed. R. Crim. P. 6(f).

(d) Conduct preliminary hearings, removal and necessary procedures leading to potential revocation of probation.

(e) Preside over misdemeanor cases in accordance with these rules.

(f) Issue subpoenas, writs of habeas corpus ad testificandum or ad prosequendum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings, or to obtain services sought by indigent defendants under the Criminal Justice Act, 18 U.S.C. § 3006A.

(g) Order the exoneration or forfeiture of bonds.

(h) Perform all functions specified in 18 U.S.C. §§ 4107, 4108, and 4109 regarding prisoner transfers.

(i) Hear motions and enter orders relative to mental competency under 18 U.S.C. § 4241 et seq.

(j) Conduct all initial bail and detention proceedings pursuant to 18 U.S.C. § 3142 et seq.

(k) Conduct hearings on discovery motions and, when designated by the district judge, conduct hearings on any other pretrial motions.

(l) Accept waivers of indictment, pursuant to Fed. R. Crim. P. 7(b).

(m) Conduct change of plea proceedings when consented to by the parties.

(n) Perform any additional duty not inconsistent with these rules or with the Constitution and Laws of the United States.

CrimLR57.2. Assignment of Criminal Cases to Magistrate Judge.

(a) Misdemeanor Cases. All misdemeanor cases shall be assigned to a magistrate judge upon the filing of an information, complaint, or violation notice, or upon the return of an indictment.

(b) Felony Cases. Upon the return of an indictment or the filing of an information or complaint, all felony cases shall be referred to a magistrate judge for the conduct of bail or detention proceedings, preliminary hearings, arraignment, and entry of not guilty pleas as are permitted by these rules.

CrimLR57.3. Magistrate Judges; Non-Dispositive Pretrial Matters.

(a) Orders by the Magistrate Judge. Any non-dispositive pretrial matter may be referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A). Any party may move for reconsideration before the Magistrate Judge pursuant to LR60.1. A reconsideration motion shall toll the time in which any appeal must be taken from the Magistrate Judge’s order.

(b) Appeals from a Magistrate Judge's Decision on Non-Dispositive Matters. Any party may appeal from any pretrial non-dispositive matter referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A). Such an appeal shall be entitled "Appeal and Request to the District Court to Reconsider a Pretrial Matter Determined by the Magistrate Judge" and shall be filed within fourteen (14) days after being served with a copy of a written order or after the oral order is stated on the record, or at some other time the court sets. A memorandum of points and authorities or supporting memorandum of law must be filed in every appeal filed under this section, which memorandum must accompany the filing of the appeal unless the district court, in its discretion, permits a later filing of such memorandum. Filing of a response shall be governed by LR7.4. No reply in support of an appeal shall be filed without leave of court.

CrimLR57.4. Magistrate Judges; Dispositive Pretrial Motions.

(a) Findings and Recommendations by Magistrate Judge. All dispositive motions in criminal cases shall be heard by a district judge, unless specifically referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B). Any party may move for reconsideration before the Magistrate Judge pursuant to LR60.1. A reconsideration motion shall toll the time in which objections from the Magistrate Judge's findings and recommendations must be filed and served.

(b) Objections to Reports and Recommendations in Dispositive Matters. Any party who objects to any portion of a magistrate judge's findings and recommendations must serve and file written objections to such findings and recommendations within fourteen (14) days after being served with a copy of the recommended disposition. An appropriate statement of points and authorities relied on or memorandum of law must be filed in support of such objections, which statement or memorandum must be filed at the same time as the objections, unless the district court, in its discretion, permits a later filing. Filing of a response shall be governed by LR7.4. No reply in support of objections shall be filed without leave of court.

CrimLR57.5. Orders Filed After the Time Provided by This Rule.

Notwithstanding any other provision of these rules, if a magistrate judge makes a written or oral ruling on a non-dispositive pretrial motion after the date set in this rule, such orders or findings shall have the same effect as if they were done in a timely fashion.

CrimLR57.6. Expedited Appeals from Magistrate Judge Rulings.

With the exception of CrimLR57.7 governing expedited appeals of detention or release orders, any other provision of these rules notwithstanding, a defendant or the government may file a Notice of an Expedited Appeal to the district judge from any oral or written ruling of the magistrate judge. Such a notice shall

bear the caption "Notice of Expedited Appeal" and shall be accompanied by a declaration of counsel setting forth the reasons that such an expedited appeal is necessary, together with proof of service on the opposing party.

Upon receipt of the notice, the district judge shall promptly determine whether an expedited appeal is justified. If so, the court shall, to the extent practicable, set an expedited briefing schedule, or order an immediate hearing of the appeal without briefs.

CrimLR57.7. Appeal of Detention or Release Orders.

Any party is entitled to an expedited review of, or appeal from, an order of a magistrate judge releasing or detaining a defendant pursuant to the Bail Reform Act of 1984, 18 U.S.C. § 3141 et seq. Such an appeal or review shall be de novo. An order releasing or detaining a defendant shall not be stayed pending appeal unless ordered by the presiding magistrate or district judge.

In the case of an oral or written order detaining or releasing a defendant, the district judge on request of any party shall hear the appeal on the same day the magistrate judge ordered the detention or release except for good cause, in which case the appeal shall be heard as soon as practicable, usually within one business day.

CrimLR57.8. Appearance and Withdrawal of Counsel.

An attorney who has appeared in a criminal case may thereafter withdraw only upon notice to the defendant and all parties and upon an order of court finding that good cause exists and granting leave to withdraw. Until such leave is granted, the attorney shall continue to represent the defendant until the case is dismissed, the defendant is acquitted, or, if convicted, the time for making post-trial motions and for filing notice of appeal, as specified in Fed. R. App. P. 4(b), has expired, and until counsel has satisfied the requirements of Fed. R. App. P. 3.

CrimLR58.1. Magistrate Judges; 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;

(b) Direct the Probation Office to conduct a presentence investigation in any misdemeanor case;

(c) Conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and Laws of the United States;

(d) Dispose of minor offenses that are transferred to this district under Fed. R. Crim. P. 20.

CrimLR58.2. Trial of Misdemeanor Offenses.

Subject to the limitation of 18 U.S.C. § 3401, magistrate judges are specifically designated to try persons accused of, and sentence persons convicted of, misdemeanor offenses committed within this district. In addition, magistrate judges may dispose of misdemeanor offenses that are transferred to this district under Fed. R. Crim. P. 20.

CrimLR58.3. Appeal from Misdemeanor Conviction by Magistrate Judge.

(a) Notice of Appeal. Pursuant to 18 U.S.C. § 3402 and Fed. R. Crim. P. 58(g)(2), a defendant who has been convicted by a magistrate judge may appeal to a district judge by filing a notice of appeal within fourteen (14) days after entry of judgment.

(b) Record. The record on appeal shall consist of the original papers and exhibits filed with the court, the mechanical or stenographic recording of the proceedings, and a certified copy of the docket entries. A transcript, if desired, shall be ordered as prescribed by Fed. R. App. P. 10(b).

Within thirty-five (35) days after a transcript has been ordered, the original and one copy shall be filed with the clerk. All other documents and exhibits shall be held by the clerk pending the receipt of the transcript.

Upon receipt of the transcript, the record on appeal shall be deemed complete. If no transcript is ordered within fourteen (14) days after the notice of appeal is filed, or if the parties advise the clerk that no transcript will be ordered, the record on appeal shall be deemed complete fourteen (14) days after the notice of appeal is filed.

(c) Assignment to a District Judge. The clerk at the time of filing of the notice of appeal shall assign the appeal to a district judge in the same manner as any indictment and shall notify the parties of the filing of the record and of the time for filing of briefs in accordance with this rule.

(d) Abbreviated Appeals. An "abbreviated appeal" may be taken, if elected by the appellant and approved by the district judge, in which case the appeal will be considered without briefs. In the case of an abbreviated appeal, the appellant shall make an election to proceed by abbreviated appeal at the time of filing notice of appeal and may do so by including the election as part of the notice.

(e) Briefs. When the appellant has not elected to proceed without briefs by an "abbreviated appeal," the appellant shall serve and file a brief within twenty-one (21) days after the record on appeal is complete. The appellee shall serve and file a responsive brief within twenty-one (21) days after service of the brief of the appellant. The appellant may serve and file a

reply brief within seven (7) days after service of the brief of the appellee. Each brief shall not exceed twenty (20) pages in length unless otherwise ordered by the court. These periods may be altered by order of the assigned district judge.

(f) Notice of Hearing. Oral argument may be scheduled by order of the court.