

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 appropriate pretrial services officer.

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. Dates for hearings shall be set, except for good cause shown, between the 40th and 50th days following arraignment. In cases involving defendants arraigned on substantially different dates, the court shall make appropriate adjustments regarding the date of the hearing.

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. The 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 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 filed and served not less

than eighteen (18) days prior to the hearing date. Except for good cause shown, all responses shall be filed and served not less than six (6) calendar days prior to the hearing date, and any reply to the opposition shall be filed and served not less than four (4) calendar days prior to the hearing date.

(e) Other Motions Prior to Plea. Nothing in this rule prohibits the filing and hearing of appropriate motions prior to plea.

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

The local rules pertaining to civil motions are applicable to motions in criminal cases, specifically LR7.5 (Motions; Length of Briefs and Memoranda), LR7.7 (Motions; Filing and Lodging of Extra Copies), LR7.9 (Motions; Related and Counter Motions), and LR10.2 (Form of Papers; Copy). 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.

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, which are within their possession, custody, or control, the existence of which is known, or by the exercise of due diligence may become known to the attorneys as hereinafter provided. 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. A request for discovery set out in this paragraph and in Fed. R. Crim. P. 16 is entered for the defendant to the government by this rule so that the defendant need not make a further request 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 permit the defendant to inspect and copy or photograph, or, in the case of the defendant's criminal record,

shall furnish a copy, and provide the information listed in the subparagraphs enumerated immediately below. Upon providing the information required in the enumerated subparagraphs below, the government shall file and serve notice of compliance with discovery mandated under this paragraph.

1. Any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government;

2. The substance of any oral statement that the government intends to offer in evidence at the trial made by the defendant whether before or after the arrest in response to interrogation by any person then known to the defendant to be a government agent;

3. Recorded testimony of the defendant before a grand jury that relates to the offense charged;

4. A copy of the defendant's prior criminal record, if any, which is within the possession, custody, or control of the government;

5. All books, papers, documents, photographs, tangible objects, buildings, or places, or copies of portions thereof, that are within the possession, custody, or control of the government, and that are material to the preparation of the defense or are intended for use by the government as evidence in chief at trial, or were obtained from or belong to the defendant;

6. Any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof that are material to the preparation of the defense or are intended for use by the government as evidence in chief at the trial;

7. 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;

8. 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;

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

10. 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 thirty (30) days after the filing of the notice of compliance with discovery under paragraph (a) above, or promptly on subsequent discovery, the defendant shall: (1) inform the government if any of the following exists; and (2) shall permit the government to inspect and copy or photograph the information listed in the subparagraphs enumerated immediately below. Upon providing the information required by this paragraph, the defendant shall file and serve notice of compliance with discovery mandated under this paragraph.

1. All books, papers, documents, photographs, tangible objects, or copies or portions thereof, that are within the possession, custody or control of the defendant and that the defendant intends to introduce as evidence in chief at the trial;

2. Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, that the defendant intends to introduce as evidence in chief at the trial;

3. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, or intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether the defendant had the mental state required for the offense charged, the defendant shall give written notice thereof to the government and file a copy of such notice with the clerk.

(c) 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 defendant shall promptly notify the other party or the defendant's attorney or the court of the existence of the additional evidence or material.

(d) 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 not exceeding \$250.00. The imposition of such a fine is not to be deemed a finding of contempt.

(e) 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 under this rule 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.

(f) 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(I) .

(g) 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.

(h) 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 ten (10) days after the government files notice of compliance with discovery under paragraph (a) of this rule. 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 ten (10) days after the defendant files notice of compliance with discovery under paragraph (b) of this rule. 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.

The trial district judge shall conduct at least one pretrial conference. Where practicable, such conference shall be held no later than seven (7) calendar days prior to trial. 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.

CrimLR17.1.2. Disclosure of Witnesses and Exhibits.

Except for good cause shown, the parties shall at a pretrial conference conducted at least seven (7) calendar days prior to trial:

(a) Exchange the names of witnesses intended to be called to testify at trial in each respective case-in-chief;

(b) Exchange lists of exhibits and copies of the documentary exhibits.

CrimLR17.1.3. 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 Manuals § 6B1.3 (1995), the parties shall be responsible for the following:

1. In Fed. R. Crim. P. 11(e)(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(e)(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(e)(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 Manuals § 6B1.4 (1995).

(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 Manual § 6A1.1 (1995). 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) calendar days following an adjudication.

(e) No less than thirty-five (35) calendar 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) calendar 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 classification, sentencing guideline ranges and policy statements which remain in dispute. A copy shall be submitted to the Probation Department 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 eleven (11) calendar days prior to the sentencing date, the completed presentence report shall be submitted to the court and to all parties. This report shall be accompanied by an addendum setting forth any objections raised by counsel that are unresolved, and any written materials provided by counsel in support of their respective positions. 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(c)(3)(D), and make a tentative finding as to each such matter or make a determination that no such finding is necessary because the controverted matter will not be taken into account 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) The courtroom manager shall be responsible for recording the court's findings and determinations, and shall prepare an appropriate minute order, which will thereafter be appended to all copies of the presentence report. A transcript of the court's findings and determinations at the sentencing hearing may be filed as the required minute order.

(j) Except as otherwise ordered by the court, all copies of presentence reports that have been furnished to counsel 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 with the clerk and kept under seal as part of the record of the case. A copy of the confidential recommendation of the probation officer shall be filed and sealed separately and shall not be disclosed to anyone other than the presiding judge.

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

1. Except for good cause, any motion for a departure pursuant to the U.S. Sentencing Guidelines Manual shall be filed not less than fifteen (15) days prior to the scheduled sentencing date. A copy of a motion for a departure, as well as any sentencing memorandum, shall be served on the Probation Department.

CrimLR35.1. Responses to Motions for Reconsideration and 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 one week 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 LR65.1.2.

(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.

Crim. LR 46.4. 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) 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 for the filing of an information or complaint, all felony cases shall be assigned 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; Decision by a Magistrate Judge on Non-Dispositive Pretrial Matters.

(a) Orders by the Magistrate Judge. Any non-dispositive pretrial matter assigned to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A) shall be decided by a written order filed at least fourteen (14) days prior to the date upon which the case is then set for trial. Any motion still pending within fourteen (14) days of trial, in which no decision or order has been filed, will be deemed to be pending before the district judge, and any order or decision must be made by the district judge and not by the magistrate judge.

(b) Appeals from a Magistrate Judge's Decision on Non-Dispositive Matters.

1. Any party may appeal from any pretrial non-dispositive matter assigned 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 eleven (11) days after the date of filing of the magistrate judge's written order. 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.

2. The clerk shall serve all parties with any written order by the magistrate judge under this rule. It shall be presumed that such orders are received by the parties within three (3) days of mailing by the clerk.

CrimLR57.4. Magistrate Judges; Dispositive Pretrial Motions.

(a) All dispositive motions in criminal cases shall be heard by a district judge, unless specifically designated to a magistrate judge.

1. In any dispositive motion assigned to a magistrate judge, the magistrate judge must file written proposed findings and recommendations at least fourteen (14) days prior to the date upon which the case is then set for trial. If such proposed written findings and recommendations have not been filed prior to that date, the matter will immediately be set by the clerk of the court for a de novo hearing before the district judge and no proposed findings and recommendations may be filed by the magistrate judge.

2. The clerk shall serve all parties with copies of reports and recommendations by the magistrate judge under this rule. It shall be presumed that such reports and recommendations are received by the parties within three (3) days of mailing by the clerk.

(b) Objections to Reports and Recommendations in Dispositive Matters. A magistrate judge may be assigned dispositive pretrial matters pursuant to 28 U.S.C. § 636 (b)(1)(B). Any party who objects to any portion of a magistrate judge's proposed findings and recommendations must serve and file written objections to

such proposed findings and recommendations within eleven (11) days after the date of service of the proposed order, which the clerk shall serve on all parties. 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. Shortening of Time to File Appeals and Objections to Decisions by a Magistrate Judge.

If the parties agree, and with the consent of the magistrate judge, the time for appeal from non-dispositive decisions of the magistrate judge, and/or the time for filing objections to proposed findings and recommendations, may be shortened to five (5) days. In such a case, the oral or written order of the magistrate judge described in CrimLR57.3(a) above, or the written proposed findings and recommendations described in CrimLR57.3(b) above, may be filed and served not less than seven (7) days before the date upon which the trial is then set. The consent of the parties, however, may not operate retroactively, and must be obtained prior to the fourteen (14) days before the date upon which the trial is then set.

CrimLR57.6. 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, unless a party makes an objection to their untimely nature to the district court within five (5) days of being served with a copy of the written order, or written proposed findings and recommendations, or of being informed of an oral order.

CrimLR57.7. Expedited Appeals from Magistrate Judge Rulings.

With the exception of CrimLR57.8 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, it shall set an expedited briefing schedule, or order an immediate hearing of the appeal without briefs.

CrimLR57.8. 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. § 3143 et seq. Such an appeal or review shall be de novo.

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 within twenty-four (24) hours.

CrimLR57.9. Appearance and Withdrawal of Retained Counsel.

An attorney who has been retained and 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 retained 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(d), Appendix.

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 service of the court 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 ten (10) days after entry of judgment.

(b) Record. The record on appeal shall consist of the original papers and exhibits filed with the court and the mechanical or stenographic recording of the proceedings. If a reporter was in attendance before the magistrate judge, a transcript, if desired, shall be ordered as prescribed by Fed. R. App. P. 10(b). The magistrate judge may, if requested, order that a transcript be prepared from a mechanical recording in which case the transcript will be prepared as directed by the magistrate judge.

Within thirty (30) days after a transcript has been ordered, the original and one copy shall be filed with the magistrate judge and all recordings shall be returned to the magistrate judge. All other documents and exhibits shall be held by the magistrate judge pending the receipt of the transcript.

Upon receipt of the transcript, the record on appeal shall be deemed complete and the magistrate judge shall forthwith transmit the record to the clerk.

If no transcript is ordered within ten (10) days after the notice of appeal is filed, or if the parties advise the magistrate judge that no transcript will be ordered, the record on appeal shall be deemed complete and the magistrate judge shall forthwith transmit the record to the clerk without a transcript.

(c) Assignment to a District Judge. The clerk at the time of filing of the record 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, 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 filing of the record with the clerk. 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.