

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

IN THE MATTER OF) ORDER AMENDING THE CRIMINAL
THE AMENDMENT OF THE CRIMINAL) LOCAL RULES OF PRACTICE FOR THE
LOCAL RULES OF PRACTICE FOR) UNITED STATES DISTRICT COURT FOR
THE UNITED STATES DISTRICT) THE DISTRICT OF HAWAII
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 December 1, 2009, by adding the following. These new rules are necessary to bring the Criminal Local Rules of Practice into compliance with the Federal Rules of Criminal Procedure effective December 1, 2009.

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 twenty-one (21) days prior to the date upon which the case is then set for trial. Any motion still pending within twenty-one (21) 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 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 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.

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 twenty-one (21) 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 fourteen (14) days after being served with a copy of the recommended disposition, 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 twenty-one (21) days before the date upon which the trial is then set.

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.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October ____, 2009.

SUSAN OKI MOLLWAY
CHIEF UNITED STATES DISTRICT JUDGE

DAVID ALAN EZRA
UNITED STATES DISTRICT JUDGE

J. MICHAEL SEABRIGHT
UNITED STATES DISTRICT JUDGE

IN THE MATTER OF THE AMENDMENT OF THE CRIMINAL LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII