

Rule 1.17

**UNITED STATES MAGISTRATE JUDGES**

(a) **Duties Prescribed.** All Magistrate Judges in the District of Arizona shall perform the duties prescribed by 28 U.S.C §636 (a)(1) and (2). Unless circumstances dictate otherwise, a part-time Magistrate Judge shall, after compliance with Rule 5(b) of the Federal Rules of Criminal Procedure, set any required preliminary examination under Rule 5(c) of the Federal Rules of Criminal Procedure before a full-time Magistrate Judge located at the place where the case is to be tried.

(b) **Duty Stations.** The Magistrate Judges maintaining official stations at Grand Canyon National Park, Phoenix, Yuma, Flagstaff, Page, Holbrook/Window Rock, and Tucson, are each specifically designated pursuant to 18 U.S.C. §3401 to try persons accused of, adjudge, and sentence persons convicted of misdemeanors and any person so accused shall immediately be referred for trial or other proceedings before such Magistrate Judge. Any Magistrate Judge may accept a forfeiture of collateral or may enter judgment in a misdemeanor case based on a plea of guilty or *nolo contendere*. A Magistrate Judge trying a defendant charged with a misdemeanor shall do so in the manner prescribed by Rule 58 of the Federal Rules of Criminal Procedure.

(c) **Consent of Defendant.** Upon the transfer, under Rule 20 of the Federal Rules of Criminal Procedure, of any information or indictment charging misdemeanor, the case shall be referred immediately to a Magistrate Judge who may take a plea and impose sentence in accordance with the rules for the trial of misdemeanors, if the defendant consents in writing to this procedure.

(d) **Other Duties.** Subject to the Constitution and laws of the United States, the full-time Magistrate Judges in the District of Arizona shall perform the following duties:

(1) Serve as a Special Master in appropriate civil cases in accordance with 28 U.S.C. §636 (b) (2) and Rule 53 of the Federal Rules of Civil Procedure. Upon the consent of the parties, a Magistrate Judge may be designated by a District Judge to serve

as a Special Master in any civil case notwithstanding the limitations of Rule 53(b) of the Federal Rules of Civil Procedure.

(2) Assist the District Judges in the conduct of pretrial discovery proceedings in civil or criminal actions. A Magistrate Judge may hear and determine a procedural or discovery motion or other pretrial matter in a civil or criminal case other than the motions which are specified in 28 U.S.C. §636 (b)(1)(A). As to such specified motions so assigned, a Magistrate Judge shall, upon designation by a District Judge, submit to that District Judge a report containing proposed findings of fact and recommendations for disposition by the District Judge. In any motion in which the parties are seeking the sanctions provided for in Rule 37(b)(2)(A), (B), or (C), Federal Rules of Civil Procedure, if the Magistrate Judge is inclined to grant such requests the Magistrate Judge shall be limited to filing a report and recommendation with the District Court; if the Magistrate Judge is inclined to deny any such request, he or she may enter an order thereon. A full-time Magistrate Judge may, when designated by a District Judge, conduct any necessary hearings, including evidentiary hearings, or other proceedings arising in the exercise of the authority conferred by 28 U.S.C. §636 and by these Rules.

(3) Review petitions for writs of habeas corpus, applications for post-trial relief made by individuals convicted of criminal offenses, and civil rights complaints lodged or filed by prisoners challenging conditions of their confinement pursuant to 42 U.S.C. §1983, Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971), or otherwise, and all other civil rights claims relating to the investigation and prosecution of criminal matters or to correctional agencies and institutions in connection with their decisions or acts arising out of their custodial functions; make such orders as are necessary to obtain appropriate information which may be of assistance in determining the merits of any such writ or complaint; and submit reports and recommendations thereon to facilitate the decisions of the District Judge having jurisdiction over the case as to whether there should be a hearing. The authorization given the Magistrate Judge by this Rule shall

include, but not be limited to, the entry of appropriate orders directing answers to complaints and petitions assigned to the Magistrate Judge by the Clerk of the Court or by a District Judge, and the submission to a District Judge proposed findings of fact and recommendations for the disposition of such case. A full-time Magistrate Judge is further authorized to conduct hearings preliminary to the submission of proposed findings of fact and recommendations to a District Judge.

(4) Review and submit reports and recommendations on the following types of cases which come before the Court on a developed administrative record: (A) actions to review administrative determinations under the Social Security Act and related statutes; (B) actions to review the administrative award of licenses and similar privileges; and (C) civil service cases involving such matters as adverse actions, retirement questions, and reduction in force.

(5) Review petitions and submit recommendations to the Court in civil commitment cases arising under Title III of the Narcotic Rehabilitation Act 1966.

(6) Conduct voir dire examinations and select juries in civil and criminal cases by agreement of the parties.

(7) Conduct all detention hearings and hearings to amend, modify or revoke conditions of release under the Bail Reform Act 1984, other than hearings in felony cases after a finding of guilt and prior to imposition of sentence, or after a finding of guilt and sentence of imprisonment. Notwithstanding this provision, all full-time Magistrate Judges in this district are specifically authorized to conduct detention hearings on alleged probation and supervised release violations and in all instances of alleged violation of pre-sentence release conditions, unless the assigned District Judge directs otherwise.

(8) Review and submit recommendations to the Court on all petitions for revocation of probation and conduct necessary proceedings leading to the potential revocation of probation.

(9) Conduct arraignments, accept not guilty pleas, and set time for filing of motions and responses thereto in criminal

cases.

(10) With the written consent of the parties, hear and determine all motions, conduct the trial, and enter findings of fact, conclusions of law, and final judgments in civil cases when specifically referred by a District Judge.

(11) Receive the return of indictments by the Grand Jury and issue bench warrants when necessary for defendants named in the indictments.

(12) Dismiss indictments on motion of the United States Attorney and with the consent of the defendants.

(13) Enter orders for examination to determine mental competency; hold hearings and conduct examinations to determine mental competency; and enter orders determining mental competency.

(14) Conduct preliminary proceedings incident to transfer of cases pursuant to Rule 20, Federal Rules of Criminal Procedure.

(15) Issue subpoenas and writs of habeas corpus ad prosequendum and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings.

(16) Enter orders forfeiting bail where a defendant breaches his or her bail conditions by failing to appear in proceedings scheduled before the Magistrate Judge.

(17) Receive notice of the Government's intention to destroy all but samples of controlled substance seizures and any hazardous chemical substance, to enter appropriate order, and to hear and determine objections thereto unless exigent circumstances reasonably require such consideration by the Magistrate Judge on an *ex parte* basis.

(18) Issue orders upon appropriate application for disclosure of Grand Jury information pursuant to Rule 6(e)(3)(C)(i), (ii), and (iv) of the Federal Rules of Criminal Procedure.

(19) Make determinations and enter appropriate orders pursuant to 28 U.S.C. §1915 with respect to any suit, action, or proceedings in which a request is made to proceed *in forma pauperis* consistent with federal law.

(20) Conduct extradition proceedings in accordance with 18 U.S.C. §3184.

(21) Direct the probation service of the Court to conduct a presentence investigation in any misdemeanor case.

(22) 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.

(23) Make determinations and enter appropriate orders in cases assigned to them pursuant to the Speedy Trial Act (18 U.S.C. §3161-74), unless otherwise indicated by the Act.

(24) Conduct pretrial conferences, settlement conferences, and related pretrial proceedings in civil and criminal cases.

(25) Accept waivers of indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure.

(26) Accept petit jury verdicts in civil and criminal cases in the absence of a District Judge and with consent of the parties.

(27) Conduct examinations of judgment debtors in accordance with Rule 69 of the Federal Rules of Civil Procedure.

(28) Perform the functions specified in 18 U.S.C. §4107, §4108, §4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein.

(29) Conduct proceedings for the collection of civil penalties of not more than two hundred dollars (\$200) assessment under the Federal Boat Safety Act of 1971 in accordance with 46 U.S.C. §§4311(d) and 12309(c).

(30) Issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§3122-23, and related orders directing the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device as well as orders and search warrants pursuant to 18 U.S.C. §2701 through 2710 for subscriber or customer information and for contents of electronic communications, as provided by law. This

provision may apply to part-time and full-time Magistrate Judges in the District.

(31) Issue orders and search warrants authorizing civil administrative and other examinations, inspections, searches, and seizures as permitted by law. This provision shall apply to part-time and full-time Magistrate Judges in the District.

(32) Hold hearings and issue orders or reports and recommendations as may be appropriate in connection with garnishment proceedings.

(33) Conduct felony guilty plea proceedings pursuant to Rule 11, Federal Rules of Criminal Procedure upon referral of such proceedings by a District Judge with the consent of the parties, or upon the filing of an information prior to assignment of a District Judge after waiver of indictment in open court before a Magistrate Judge in compliance with Rule 7(b), Federal Rules of Criminal Procedure, with the consent of the parties. The Magistrate Judge shall make findings with respect to the voluntariness of the plea and the defendant's understanding of other matters as required by Rule 11(b), Federal Rules of Criminal Procedure, the presence of a factual basis for the plea, and shall make a recommendation whether the guilty plea should be accepted by the District Judge.

(34) Perform the duties set forth in Chapter 176 of Title 28, United States Code, as assigned by the District Court pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008.

(35) Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be assigned by the Court pursuant to 28 U.S.C. §636(b).

(e) **Waiver of Appearance.** A person who is charged with a suitable misdemeanor, as defined in Pub. L. 98-473, Title II, Sec. 218 (a)(1), may, in lieu of appearance, post collateral in the amount indicated by the offense, waive appearance before a Magistrate Judge specifically designated herein to try misdemeanors, and consent to forfeiture of collateral to the United States.

(f) **Amount of Collateral Set.** A Schedule of Collateral for all violations signed by this Court shall be maintained in the

office of the Clerk of the Court in Phoenix and Tucson, and the office of each Magistrate Judge. The Schedule shall be available for examination by the public upon request. Schedules may be amended from time to time by order of the Court. The Magistrate Judge may increase the amount of collateral by the time specified in the violation notice or in a notice to appear or fails to appear before the Magistrate Judge when required. The collateral, after being increased, shall not exceed the maximum fine which could be imposed upon conviction and for the initial failure to post collateral or to appear shall in no event exceed twenty-five dollars (\$25) more than the scheduled amount.

(g) **Violation of Release.** Nothing contained in paragraph (e), Rule 1.17, shall prohibit a law enforcement officer from arresting any person for the commission of any offense, including those for which collateral may be posted and forfeited, and, upon such arrest, taking the person immediately before a specifically designated Magistrate Judge, or requiring the person charged to make a mandatory appearance before a specifically designated Magistrate Judge. In the event a Magistrate Judge is not readily available, an arrested person may post bail in the amount set for the offense in the Schedule of Collateral or if no amount is set then five hundred dollars (\$500.00), unless the person is taken without unnecessary delay before a state or local judicial officer authorized by the 18 U.S.C. 3041, who may then set bail and/or other conditions of release.