United States District Court
Southern District of Texas
ENTERED

DEC 1 3 2002

Michael N. Milby, Clerk
By Deputy Clerk M. Bassett

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

IN THE MATTER OF JURISDICTION AND PROCEDURES FOR DUTIES ASSIGNED TO UNITED STATES MAGISTRATE JUDGES IN THIS DISTRICT	§ § § § §	GENERAL ORDER NO. 2002-13

ORDER

ARTICLE I. AUTHORITY OF MAGISTRATE JUDGES

A. General Designation.

A magistrate judge of this district is designated to perform, and may be assigned, any duty allowed by 28 U.S.C.§636 or any other law. In performing any duty, a magistrate judge may determine preliminary matters; require parties, attorneys, and witnesses to appear; require briefs, proofs, and argument; and conduct any hearing, conference, or other proceeding the magistrate judge deems appropriate. Duties which may be performed by a magistrate judge include:

1. Conducting arraignments in criminal cases not triable by a magistrate judge and taking not guilty pleas in such cases;
2. Receiving grand jury returns in accordance with Rule 6(f), Federal Rules of Criminal Procedure;
3. Accepting waivers of indictment, pursuant to Rule 7(b), Federal Rules of Criminal Procedure;
4. Conducting voir dire and selecting petit juries for the district court, to the extent allowed by law;

5. Accepting petit jury verdicts in civil cases in the absence of a district judge;

6. Conducting necessary proceedings leading to the potential revocation of probation;

7. Ordering the exoneration of forfeiture bonds;

8. Issuing subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

9. Conducting proceedings under Rules Governing §2254 Cases and §2255 Proceedings;

10. Conducting examinations of judgment debtors in accordance with Rule 69, Federal Rules of Civil Procedure;

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

12. Performing any other duties not inconsistent with the Constitution and the laws of the United States.

B. Special Designation to Exercise Civil Consent Authority (28 U.S.C. §636(c)).

Upon the consent of the parties, a district judge may assign a full-time magistrate judge to conduct any or all proceedings in any jury or nonjury civil matter and order the entry of judgment in the case.

C. Special Designation to Conduct Misdemeanor Trials (18 U.S.C. §3401).

A magistrate judge may try persons accused of misdemeanor offenses and sentence persons convicted of misdemeanor offenses.

D. Special Designation to Handle Extradition Matters (18 U.S.C. §3184).

A magistrate judge is authorized to handle all matters pertaining to extradition complaints filed pursuant to 18 U.S.C. §3184.

ARTICLE II. ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

A. Criminal Cases.

1. Misdemeanor Cases. Upon the filing of an information, complaint or violation notice, or the return of an indictment, all misdemeanor cases shall generally be assigned to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Rule 58, Federal Rules of Criminal Procedure. Unless the assignment procedure is modified by the district judges in a particular division, misdemeanor cases shall be assigned to the duty magistrate judges in each division.

2. Felony Cases. Upon the return of an indictment or the filing of an information, all felony cases shall be assigned initially by the clerk of the court to a magistrate judge

for the conducting of the initial appearance and arraignment. Thereafter, the district judge to whom the case is assigned may refer the case to a magistrate judge for such pretrial conferences as necessary, and for the hearing and determination or recommendation as to all pretrial procedural and discovery motions.

B. Civil Cases.

A district judge may refer any civil case to a magistrate judge for the conduct of conferences, hearings and other proceedings, and for the hearing and determination of all pretrial procedural and discovery motions. Where the parties consent to trial and disposition of a case by a magistrate judge under Subsection B of Article I, above, such case shall, upon the approval of the district judge to whom it is assigned, be reassigned to a magistrate judge for the conduct of all further proceedings and the entry of judgment.

C. Reservation.

Nothing in this order shall preclude any district judge from reserving any proceeding for conduct by a district judge, rather than a magistrate judge.

ARTICLE III. PROCEDURES FOR CIVIL CONSENT CASES - 28 U.S.C. §636(c); Rule 73, Fed. R. Civ. P.

A. Notice of Consent Option.

Upon the filing or removal of a complaint in a civil case, the clerk of court will give plaintiff, plaintiff's counsel, or counsel for the removing party a court-approved notice informing the parties that they may consent to have a magistrate judge conduct all further proceedings in the case and order the entry of final judgment. Such notice shall be given to the other parties as attachments to copies of the complaint and summons, when served. Additional notices may be

furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

B. Execution of Consent.

The plaintiff or removing party, or their counsel, shall be responsible for securing the execution of a consent form by the parties and for filing such form with the clerk of court. The parties may file joint or separate consent forms. A district judge or magistrate judge may inform the parties, at any time, that they have the option of referring a case to a magistrate judge, but in doing so, the judge shall also advise the parties that they are free to withhold consent without adverse substantive consequences.

C. Reference.

After the consent form has been executed and filed, the clerk shall transmit it to the district judge to whom the case has been assigned for approval and referral of the case to a magistrate judge. If the district judge refers the case to a magistrate judge, the magistrate judge shall have authority to conduct any and all proceedings to which the parties have consented and to direct the clerk of court to enter a final judgment in the same manner as if a district judge had presided.

D. Party Added After Consent Occurs.

A party added to a civil case after reference of the case to a magistrate judge on consent will be given an opportunity to consent to the continued exercise of case-dispositive authority by the magistrate judge. The clerk shall give the added party an unexecuted copy of the notice described in Subsection A, above. If the party chooses to consent, it must, within 14 days of its appearance, file with the clerk the notice denoting its consent signed by the party or its attorney. Should the

party not file a notice of consent, the case will be returned to the assigned district judge for all further proceedings.

ARTICLE IV. APPEAL OF MAGISTRATE JUDGE RULINGS

Appeals of magistrate judge rulings are governed by Rules 72 and 73, Fed. R. Civ. P. and 28 U.S.C. §636. Appeal of a special master report filed by a magistrate judge is governed by the applicable rule in the Federal Rules of Civil Procedure. Appeal of a judgment of conviction by a magistrate judge in a misdemeanor case shall be in accordance with the provisions of Rule 58(g), Federal Rules of Criminal Procedure.

This General Order supersedes General Order No. 2001-6 and is adopted by the Judges of this Court, effective the 13th day of December, 2002.

George P. Kazen
Chief United States District Judge