



JUDGE MARINA GARCIA MARMOLEJO

United States Courthouse
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Laredo, TX 78040
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COURT PROCEDURES IN CRIMINAL CASES

1. Contact with Court Personnel
2. Courtesy Copies of Documents
3. Emergencies
4. Continuances
5. Appearances
6. Motion Practice
7. Pretrial Conferences and Docket Calls
8. Required Trial Materials
9. Procedures for Jury Trials
10. Courtroom Procedures
11. Sentencing Procedures
12. Attachments

The accompanying procedures are to be used in conjunction with the Local Rules for the Southern District of Texas and not as a substitute for them. The Local Rules of this District can be obtained on the District website at www.txs.uscourts.gov. The Court requires strict compliance with these Local Rules.

1. CONTACT WITH COURT PERSONNEL

- A. The Court requires that parties will file documents through the District Court's Case Management/Electronic Case Filing (CM/ECF) System. *See* Southern District of Texas Local Rule 5.1 (LR5.1) and the District's Administrative Procedures for CM/ECF (as amended and available at www.txs.uscourts.gov).
- B. Case-related telephone and email inquiries **are strictly limited to procedural matters** and should be made only to the Case Manager. Inquiries should not be made to the Court's secretary or law clerks. The Court's caseload does not allow the Case Manager to respond to casual telephone inquiries about the status of motions or cases. All inquiries to the Case Manager should be by letter sent or delivered to Chambers, or by email. *See* below.
- C. Information about the status of documents, entry of orders, or docket entries should be obtained from the CM/ECF or Pacer Systems, or if absolutely necessary, from the United States District Clerk's Office at (956) 723-3542.
- D. Correspondence with the Court must be delivered or sent to the Court's Chambers:
- 1) Case-related correspondence should be addressed to:

Angie Treviño
Case Manager to District Judge Marina Garcia Marmolejo
1300 Victoria St., Ste. 2267
Laredo, TX 78040

Or by email: angie_trevino@txs.uscourts.gov
 - 2) **Do not** address substantive issues in letter or email form. The parties must file copies of all letters. Email correspondence with the Court will be docketed at the Court's discretion.
 - 3) Copies of urgent documents (including letters) may be sent by First Class Mail, emailed, or hand-delivered to Chambers (*see* Emergencies, § 3 below), to the Court's Case Manager, with copies to all parties. Service copies must be transmitted to all counsel of record simultaneously with (or prior to) and in the same manner as the document is transmitted to the Court. The documents may **not** be faxed without express prior permission of the Court.

2. COURTESY COPIES OF DOCUMENTS

- A. Letters to the Court may be hand-delivered, sent by First Class Mail to Chambers, or transmitted by email, with copies to all parties served prior to or at the time of filing. *See* addresses above. Letters concerning discovery and scheduling matters must be filed in the docket.

- B. The parties **must** forward promptly to Chambers courtesy copies of (i) all documents that exceed ten (10) pages in length, including exhibits and attachments, and (ii) documents pertaining to matters to be heard by the Court within seven (7) days after the document is filed. Unless this rule is followed, the Court will not consider any documents filed within seven (7) days of any court appearance. **Do not fax or email** copies of documents to Chambers unless specifically authorized to do so by the Court.

3. EMERGENCIES

- A. Counsel should contact the Case Manager at (956) 790-1364 for matters requiring immediate attention.
- B. A copy of emergency motions must be sent directly to Chambers after its electronic filing. Counsel should bring the matter to the Court's attention promptly.

4. CONTINUANCES

- A. Motions for continuance **must be filed at least three (3) business days prior to date of the controlling deadline** and will be granted only at the Court's discretion. Motions for continuance filed on the date of the deadline, absent a showing of good cause, will not be granted.
- B. Agreements or joint motions among counsel for continuance are not binding on the Court. Parties must notify the Court of agreed continuances by submitting an agreed motion and proposed order.
- C. A trial will **not** be continued because of the unavailability of a witness.

5. APPEARANCES

- A. An attorney who appears at a hearing or conference **must**:
 - 1) be familiar with the case,
 - 2) have authority to bind the client, and
 - 3) be in charge for that appearance.
- B. Motions for admission *pro hac vice* shall include the attorney applicant's averment that he or she has familiarized him/herself with the Local Rules of the Southern District of Texas **and** these Procedures applicable to criminal cases before Judge Garcia Marmolejo. (See attached form, also available at the Court's website.)

6. MOTION PRACTICE

- A. **General Guidelines.** The Court follows the written motion practice described in the Local Rules. In addition, the following procedures apply:

- 1) Counsel must make serious and timely efforts to confer with opposing counsel on all motions to try to reach agreements on the relief to be requested by movant.
- 2) Motions must conform with CrLR12.2 and contain a certificate that opposing counsel was consulted but no agreement could be reached. An unopposed motion and its order must be indicated prominently in the caption.
- 3) If the motion presents issues of fact, it shall be supported by affidavit or declaration which sets forth with particularity the material facts at issue.
- 4) The Court will not grant a motion to blankly adopt another party's motion and such should not be filed.
- 5) Any pleadings filed with the Court, including exhibits thereto, containing personal data identifiers must comply with the S.D. Texas General Order #2004-11 (available at the District's website) on protecting personal privacy in public case files.

B. Page Limits and Briefing Requirements. The Court requires concise, pertinent and well organized memoranda of law. Without leave of Court, all memoranda of law are limited to 25 pages, 12-point type-font, double-spaced, with 1" margins. All memoranda of law must contain items 3, 4, 6, and 7 below. Any memorandum that has more than ten (10) pages of argument must contain the following eight (8) items.

- 1) A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.
- 2) A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged.
- 3) A short statement of the nature and stage of the proceeding.
- 4) A statement of the issues to be ruled upon by the Court and, with respect to each issue a short statement (supported by authority) of the standard of review.
- 5) A short summary of the argument.
- 6) Succinct headings dividing the argument into separate points.
- 7) A short conclusion stating the precise relief sought.
- 8) Proposed orders.

C. If an evidentiary hearing is necessary, the Court will notify the parties in advance. Exhibit and witness lists (the originals and **THREE (3)** copies of each) shall be provided to the Court at the hearing.

- D. Motions to Suppress must be pleaded with specificity and not filed solely for discovery. They must otherwise be in compliance with the local rules. Motions not in conformity therewith will be struck.
- E. All Motions to Dismiss, Motions to Sever, and Motions for Separate Trial must be specific and brought to the Court's attention at least thirty (30) days before jury selection.
- F. Dispositive motions in criminal cases will be considered by the United States District Judge or may be heard by the Magistrate Judge as requested by the Court.

7. PRETRIAL CONFERENCES AND DOCKET CALLS

- A. The Court generally holds one trial docket call each month. This docket call is the final pretrial conference (FPTC).
- B. At the FPTC, the Court may rule on all pending motions and conduct re-arraignments.

The parties must engage in timely plea negotiations. Defense counsel should confer beforehand with the Government and their clients and review plea agreements prior to the FPTC. The FPTC date is NOT the date to secure a plea agreement and review it with the defendant-client. The parties must be ready to enter a plea of guilty or proceed to trial on announcement.

- C. Re-arraignments: The Magistrate Judge may conduct re-arraignments in felony cases as requested by the Court.

8. REQUIRED TRIAL MATERIALS

- A. **For All Trials and Evidentiary Hearings:**
 - 1) **Exhibit List** (*see* attached form, also available on the Court's website). Original must be filed in accordance with local rules; **three (3)** courtesy copies must be provided to the Court at the trial and/or hearing for distribution to all parties.
 - 2) **Witness List** for live witnesses (*see* attached form, also available on the Court's website). Original must be filed in accordance with local rules; **three (3)** courtesy copies must be provided to the Court at the trial and/or hearing for distribution to all parties.
 - 3) **Objections to Exhibits**, if any, must be filed within seven (7) calendar days after the exhibit is listed and made available and at least seven (7) days before trial. Failure to object in advance of trial in writing concedes authenticity. *See* CrLR55.2(A) and (B).

B. For **Jury Trials**:

- 1) **Voir Dire.** The Court will conduct the principal examination of the venire. Counsel will be generally allowed 15-30 minutes (depending on the complexity of the case) to conduct an examination of the venire, provided that the proposed *voir dire* questions are submitted in advance to the Court. Each proposed *voir dire* question must be in question form. Counsel must file an original copy of any proposed *voir dire* questions according to local rules. Counsel must also provide THREE (3) courtesy copies of any proposed *voir dire* questions.
- 2) **Jury Instructions.**
 - a. **Each** requested **instruction** must be numbered and presented with authority. Counsel are to use the Fifth Circuit Pattern Jury Instructions, as modified by case law or statutory amendments, whenever possible. Any deviations must be identified, and accompanied with legal authorities for the proposed deviation.
 - b. Counsel must file an original copy of any proposed jury charge according to local rules. Counsel must also provide THREE (3) courtesy copies of any proposed jury instruction and also submit an electronic copy in a CD in Corel WordPerfect X3 or higher, or Microsoft Word.

C. For **Non-Jury Trials**, each party must file:

- 1) **Proposed Findings of Fact** (electronically in Corel WordPerfect X3 or higher, or Microsoft Word). Counsel are strongly encouraged to include references to testimony and exhibits, which support each proposed finding;
- 2) **Proposed Conclusions of Law** (electronically in Corel WordPerfect X3 or higher, or Microsoft Word). Each proposed conclusion of law will contain citation of legal authority supporting the conclusions.

9. PROCEDURES FOR JURY TRIALS

- A. Jury selection is generally scheduled to occur during the third week of each month. Unless an attorney has commenced trial in another court, prior trial settings will not cause a case to be continued.
- B. **Voir Dire.** The Court will conduct the principal examination of the venire. Counsel will be generally allowed 15-30 minutes (depending on the complexity of the case) to conduct an examination of the venire, provided that the proposed *voir dire* questions are submitted in advance to the Court. *See* § 8.B above. The Magistrate Judge may conduct *voir dire* as requested by the Court with the consent of the parties.

C. **Exhibits.**

- 1) Counsel must be familiar with CrLR55.2 regarding authentication of, objections to, and disposition of exhibits at criminal trials.
- 2) Any exhibits containing personal data identifiers must comply with S.D. Texas General Order #2004-11 (available at the District website).
- 3) All exhibits must be marked and exchanged among counsel prior to trial. The offering party will mark each of his/her own exhibits with the party's name, case number, and exhibit number.
- 4) The Court will admit all exhibits without objection into evidence as the first order of business. Sensitive exhibits (*e.g.*, weapons, drugs, and money) will remain in the custody of the government agent throughout the proceedings.
- 5) Counsel will not pass exhibits to the jury during trial without obtaining permission in advance from the Court. All admitted exhibits will go to the jury during its deliberations.
- 6) Counsel for each party is required to provide the Court with **two (2) copies** of that party's exhibits in a properly tabbed and indexed notebook.
- 7) **Disposition of Exhibits Following Trial.**
 - a. Exhibits that are not easily stored in a file folder (*e.g.*, posters, parts, or models) must be withdrawn after the completion of the trial and reduced reproductions or photographs substituted.
 - b. If there is no appeal, exhibits will be removed by the offering party within thirty (30) days after the time for appeal has elapsed. When there is an appeal, exhibits returned by the Court of Appeals will be removed by the offering party within ten (10) days after written notice from the clerk.
 - c. Exhibits not removed will be disposed of by the clerk, and the expenses incurred will be taxed against the offering party.

D. **Equipment.**

- 1) Sound and Video Equipment: The Court has projection, document camera, sound and video equipment in the courtroom. Counsel are invited to use that equipment during trial. Counsel who seek to test the equipment prior to trial shall contact the Case Manager to make arrangements to test the equipment. Parties also may provide their own equipment, but special arrangements must be made with the Case Manager **prior** to the day of trial.

- 2) Easels with writing pads are available for use in the Courtroom, upon request to the Case Manager prior to trial.
- 3) Public access to internet service is not available.
- 4) The Court will not provide a printer.
- 5) Devices for auditory assistance are available for the hearing impaired.

10. COURTROOM PROCEDURES

- A. **Hours.** The Court will generally convene for trial at 8:30 a.m. and adjourn at 5:30 p.m., recessing for lunch between 12:00 p.m. and 1:30 p.m.
- B. **Access at Other Times.** Counsel requesting access to the courtroom to set up equipment or exhibits before or after normal hours of Court must make arrangements in advance with the Case Manager.
- C. **Telephones.** Telephone messages for counsel will **not** be taken by the Court's staff, and counsel shall refrain from requesting use of telephones in chambers.
- D. **Filing of Documents.** Handing documents to the Court or Case Manager does **not** constitute filing of the documents in the CM/ECF system.
 - 1) All original documents must be filed through the CM/ECF system.
 - 2) Copies of documents filed within two (2) days prior to and during trial should be submitted to the Case Manager **in duplicate**.
- E. **Decorum.**
 - 1) Attorneys are required to wear standard business attire. Counsel and parties will comply with CrLR 57.2 and Appendix C regarding courtroom behavior. These procedures are strictly enforced.
 - 2) Counsel will ensure that all parties and witnesses refrain from chewing gum, drinking, eating, smoking, or reading newspapers, books, etc., in the courtroom. No cellular telephones, pagers or iPads are allowed in the courtroom. Attorneys needing to use computers or iPads during trial must seek prior approval. Recording equipment and photographic mechanisms are strictly prohibited.
- F. **Witnesses.**
 - 1) Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum and attire. Counsel may question witnesses while standing at the podium or seated at Counsel table.
 - 2) Counsel must obtain the Court's permission before approaching a witness.

- 3) Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.
- 4) Counsel should bear in mind the Court's hours and arrange for witnesses accordingly. The Court will not recess to permit counsel to call a missing witness unless he or she has been subpoenaed and has failed to appear.
- 5) **Mode of Order of Interrogation and Presentation:** A party will be allowed to conduct a direct examination of its witnesses to be followed by cross-examination by opposing counsel. Interrogation will conclude with a re-direct examination which is limited by the scope of cross-examination.

Absent extraordinary circumstances, the Court will not allow any "re-cross" or "re-re-direct."

- G. **Deliberations.** While the jury is deliberating, counsel are to remain near the courtroom to be available for jury notes or a verdict.

11. PROCEDURES FOR SENTENCING

- A. The purpose of these procedures for sentencing is to promote thorough research and robust intelligent discussion about the legal issues raised by the parties. The procedures below are meant to raise the quality of advocacy on behalf of those accused of a crime and the Government alike in order to assist the Court in reaching decisions based on a fair and impartial application of the law to the facts of each case.
- B. **PSI Report Completion Deadline.** The Court will set a deadline for completion of the Presentence Investigation ("PSI") Report by the U.S. Probation Office. It is the responsibility of counsel to obtain the PSI Report. The U.S. Probation Office is not required to further advise counsel of the completion of the PSI Report.
- C. **Statements of Acceptance of Responsibility**, pursuant to U.S.S.G. § 3E1.1, must be timely submitted to the Court for consideration in applying the adjustment. Defendants may make a statement of acceptance of responsibility to a probation officer during the pre-sentence interview or submit a written statement of acceptance of responsibility to the probation officer **due no later than the date of the pre-sentence interview.** They may also adopt the factual basis entered at the time of plea and ask the Court to consider this as the formal acceptance of responsibility statement in lieu of having to submit another statement to the Court.

D. **Objections to the PSI Report.** The attorney for the Defendant and the attorney for the Government shall submit either their objections or a written statement of non-opposition to the U.S. Probation Office and serve the same on opposing counsel within fourteen (14) days of receiving the PSI Report. *See* FED. R. CRIM. P. 32(f); S.D. Tex. CrLR 32.6; U.S. SENTENCING GUIDELINES MANUAL § 6A1.2 (2013). **Legal objections to the PSI Report require citations to supporting and contrary authority.** When filing objections counsel must note if the issue has been decided by binding or non-binding precedent and/or if the objection is being filed merely to preserve the issue for further appellate review.

E. If additional time is required, counsel may request up to **five (5) working days** from the U.S. Probation Office without filing a formal motion with the Court. If more than five (5) working days are needed, a motion to extend time to file objections should be **immediately** filed. A sample proposed order is attached and is available on the Court's website.

The Court admonishes counsel that the failure to timely file objections will result in a show cause hearing where counsel will be asked to explain why the Court's deadline could not be met and why a motion to extend time to file objections was not filed. While late filed objections will not be held against the Defendant(s), the Court may impose monetary sanctions against counsel for not complying with the rules.

F. No later than fourteen (14) calendar days after receiving a party's objections to the PSI Report, opposing counsel **shall** file a written response to the objections.

Absent a clear demonstration of good cause, a party's failure to timely respond and dispute the objections filed by opposing counsel concedes the issue so long as the objection is non-frivolous. An objection is frivolous, for example, if it is foreclosed by binding precedent unless it is merely filed to preserve the issue for further review. A party is not required to respond to objections foreclosed by binding precedent and filed to preserve the issue.

G. **Sentencing Memorandum.** Counsel shall also file within fourteen (14) days of receiving the PSI Report any sentencing memorandum counsel may wish to submit with any pertinent attachments, such as letters and photographs, for consideration of grounds for departures under the Sentencing Guidelines and/or 18 U.S.C. §3553(a) factors/variances by the Court.

H. **"Safety Valve" Debriefs,** in applicable drug offenses pursuant to 18 U.S.C. § 3553(f) and U.S.S.G. § 5C1.2, must be completed no later than a week prior to the PSI Report disclosure date. The attorney for the Government shall timely notify the U.S. Probation Office of any recommendations prior to the disclosure deadline.

- I. No later than 14 calendar days after receiving the responses from the parties, the U.S. Probation Office shall complete and submit to the Sentencing Judge the final report, together with an addendum describing any objections that have not been resolved and the officer's comments thereon.

12. ATTACHMENTS

- A. Template Exhibit List
- B. Template Witness List
- C. Motion and Order for Admission *Pro Hac Vice*
- D. Template Proposed Order Extending Deadline for Objections to the PSI Report and Sentencing Memorandum

Motion and Order for Admission *Pro Hac Vice*

Division		Case Number	
vs.			
Lawyer's Name Firm Street City & Zip Code Telephone & Email Licensed: State & Number Federal Bar & Number			
Name of party applicant seeks to appear for:			
Has applicant been sanctioned by any bar association or court? Yes _____ No _____ On a separate sheet for each sanction, please supply the full particulars.			
Dated:	Signed*:		

*I understand that the Court requires strict compliance with the Local Rules for the Southern District of Texas and the Court Procedures for District Judge Garcia Marmolejo, which are applicable to cases assigned to Judge Garcia Marmolejo. The rules are available by visiting the Court's website.

The state bar reports that the applicant's status is:	
Dated:	Clerk's signature

Order Granting Motion for Admission *Pro Hac Vice*

This lawyer is admitted *pro hac vice*.

Dated: _____

 Marina Garcia Marmolejo
 United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL ACTION NO. 5:xx-CR-xxx
	§	
DEFENDANT	§	

ORDER

Pending before the Court is Defendant's Motion to Extend Time to File Objections to the Presentence Investigation Report, and Sentencing Memorandum. After reviewing the motion is

- DENIED.**

- GRANTED.** The Court hereby Orders the Objections to the Presentence Investigation Report and Sentencing Memorandum be filed by _____, 201__ at 5:00 p.m.

SIGNED this ____ day of _____, 201__.

Marina Garcia Marmolejo
United States District Judge