

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

In re

ASSIGNMENT OF DUTIES TO
MAGISTRATE JUDGE.

GENERAL ORDER NO. 04-00016

IT IS HEREBY ORDERED that, unless restricted by General Order of this Court, the United States Magistrate Judge of this Court is authorized to perform all of the duties and functions prescribed and authorized by 28 U.S.C. §636, or any other statutes or Federal Rules of Procedure which authorize a Magistrate Judge to perform judicial duties or functions.

IT IS FURTHER ORDERED that the following matters are referred to the Magistrate Judge of this Court for appropriate disposition:

Criminal Matters:

- Process complaints and issue arrest warrants or summonses, and dismiss complaints upon the request of the United States Attorney;
- Issue and accept returns of search and seizure warrants, including warrants based upon oral or telephonic testimony;
- Review applications for and issue orders relating to the installation of a pen register, trap and trace, transponder or other surveillance device;
- Conduct initial appearance proceedings for defendants and appoint counsel when necessary;
- Approve attorney's expense vouchers;
- Set bail for material witnesses;

- 1 • Conduct preliminary examinations;
- 2 • Conduct removal hearings and issue warrants of removal;
- 3 • Accept waivers of indictment;
- 4 • Conduct extradition proceedings;
- 5 • Try persons accused of misdemeanors and other petty offenses, order a presentence
6 investigation report on any such person who is convicted or pleads guilty or nolo
7 contendere, and sentence such persons;
- 8 • Accept a plea of guilty and impose sentence in a case involving an indictment,
9 information, or complaint charging a misdemeanor offense originating in another
10 district, which has been transferred to this District, if the defendant consents to
11 proceed before the Magistrate Judge;
- 12 • Conduct voir dire and select petit juries for the district judge in felony cases with the
13 consent of the parties;
- 14 • Conduct post-indictment arraignment proceedings, appoint counsel when necessary,
15 accept not guilty pleas and set the case for trial and/or further proceedings before the
16 District Judge;
- 17 • Issue subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, or
18 other orders or warrants necessary to obtain the presence of parties, witnesses, or
19 evidence needed for court proceedings;
- 20 • Exonerate or forfeit bonds, set aside forfeitures, and reinstate bail in proceedings
21 pending before the Magistrate Judge;
- 22 • Approve personal and corporate surety bonds and bonds requiring personal sureties;
- 23 • Conduct Nebbia hearings;
- 24 • Administer the Central Violations Bureau and recommend amendments to the bail
25 schedule;
- 26 • Fix or modify bail and conduct detention hearings and issue release and detention
27 orders; provided, however, that the magistrate judge shall not modify or approve a
28 modification of any bail previously fixed by order of a district judge other than upon
the grand jury return, except upon specific authorization from the district judge;
- Order examinations to determine mental competency and conduct all further
proceedings thereunder related to the issue of competency;
- Rule upon motions to require defendants in criminal cases to participate in a line-up,
furnish handwriting samples or furnish voice exemplars;
- Rule upon pretrial matters related to discovery;
- Conduct proceedings for the transfer of offenders;
- Conduct initial proceedings upon the appearance of an individual accused of an act
of juvenile delinquency;

- 1 • Appoint interpreters in cases initiated by the United States;
- 2 • Conduct preliminary hearings leading to the revocation of probation;
- 3 • Receive grand jury returns, order that any indictments returned be filed, issue
4 appropriate warrants and summonses, and set conditions for release on an
5 indictment or information; and
- 6 • Review and issue orders relating to applications for the sealing of indictments and
7 affidavits for search warrants and complaints and warrants, and other applications
8 for sealing documents related to cases prior to the assignment of the case to a
9 District Judge.

7 **Civil Actions and Miscellaneous Proceedings:**

- 8 • Conduct proceedings relating to naturalization matters;
- 9 • Conduct proceedings relating to the admission of attorneys to practice before this
10 Court;
- 11 • Review and approve requests for exemption and/or excuse from jury service, grand
12 jury empanelments, and conduct juror qualification hearings;
- 13 • Conduct proceedings relating to social security disability matters;
- 14 • Conduct proceedings relating to habeas corpus petitions. In so doing, the Magistrate
15 Judge may issue any preliminary orders and conduct any necessary evidentiary
16 hearing or other appropriate proceeding and shall submit to the District Judge
17 proposed findings of fact and recommendations for disposition of the petition by the
18 District Judge. Any order disposing of the petition may only be made by the District
19 Judge;
- 20 • Conduct proceedings relating to *pro se* § 1983 and Bivens cases for pretrial
21 proceedings and shall submit to the District Judge proposed findings of fact and
22 recommendations for the disposition of petitions filed by prisoners challenging the
23 conditions of their confinement;
- 24 • Conduct calendar and status calls;
- 25 • Conduct any and all proceedings in a civil case (including jury and non-jury trials,
26 and the entry of final judgment) upon the consent of the parties in accordance with
27 this General Order;
- 28 • Hear and determine any pretrial motions, including discovery motions, other than
case-dispositive motions;
- Conduct scheduling conferences, pretrial conferences, settlement conferences, and
related pretrial proceedings in civil cases;
- Conduct voir dire and select petit juries for the District Judge in civil cases with the
consent of the parties;
- Accept petit jury verdicts in civil cases in the absence of the District Judge;
- Rule upon objections to the allowance of costs by the Clerk of Court;

- 1 • Conduct proceedings for the collection of civil penalties of not more than \$200.00
2 assessed under the Federal Boat Safety Act of 1971;
- 3 • Conduct proceedings in Miller Act suits where the amount involved is less than
4 \$100,000.00;
- 5 • Hear and determine matters relating to nonpayment of seaman's wages;
- 6 • Conduct proceedings relating to preferred ship mortgage foreclosures;
- 7 • Hear and determine matters relating to the arrest or release of vessels;
- 8 • Conduct examinations of judgment debtors;
- 9 • Rule upon applications to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915;
- 10 • Issue administrative inspection warrants and orders of entry;
- 11 • Hear and determine matters relating to the enforcement of administrative subpoenas;
- 12 • Hear and determine Internal Revenue Service Attachments or Orders to enforce
13 obedience to Internal Revenue Service summonses to produce records or give
14 testimony;
- 15 • Hear and determine Guam Department of Revenue and Taxation Attachments or
16 Orders to enforce obedience to Department of Revenue and Taxation summonses to
17 produce records or give testimony;
- 18 • Hear and determine matters relating to applications for the appointment of a
19 guardian ad litem;
- 20 • Hear and determine applications for letters rogatory; and
- 21 • Issue subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, or
22 other orders or warrants necessary to obtain the presence of parties, witnesses, or
23 evidence needed for court proceedings.

24 IT IS FURTHER ORDERED that the following procedures shall be applicable in
25 criminal cases before this Court:

- 26 • All informations, indictments, complaints, citations, or other instruments on file
27 with the Clerk of Court which charge only misdemeanors or other petty offenses
28 (including such cases transferred to this District) shall upon filing with the Clerk of
Court be assigned to the Magistrate Judge.
- If a defendant is charged with a Class A misdemeanor, the Magistrate Judge shall
inform him of his right to trial, judgment, and sentencing by a District Judge and
that he may have a right to trial by jury before a District Judge or Magistrate Judge.
The Magistrate Judge shall not proceed to try the case unless the defendant, after
such explanation, expressly consents to be tried before the Magistrate Judge and
expressly and specifically waives trial, judgment, and sentencing by a District Judge.
Any such consent and waiver shall be made in writing or orally on the record. If a
defendant elects to be tried or to plead before a District Judge, the Magistrate Judge
shall note that fact and immediately return the papers related to the case to the Clerk


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Judge, making his or her own determination on the basis of that record. The District Judge may exercise discretion to receive further evidence, recall witnesses or recommit the matter to the Magistrate Judge with instructions.

- **Other Orders.** Appeals from any other decisions and orders of the Magistrate Judge not provided for in this General Order should be taken as provided by governing statute, rule, or decisional law.

IT IS FURTHER ORDERED that this General Order shall take effect immediately.

SO ORDERED this 30th day of April, 2004.



JOHN S. UNPINGCO
Chief Judge