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RICHARD W. NAGEL
CLERK OF COURT

2022 FEB -1 AM 11:55

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re:

EASTERN DIVISION UNITED STATES MAGISTRATE JUDGES	:	**Amended Columbus General Order 22-01**

ORDER

I. Assignment of Civil and Miscellaneous Cases to United States Magistrate Judges

All civil and miscellaneous actions, except appeals from a decision of a United States Bankruptcy Judge and Social Security Appeals, shall be automatically assigned not only to a United States District Judge, but also to a United States Magistrate Judge. Unless otherwise ordered by the Court or allowed by Local Rule, such assignments shall be made randomly.

A. The Clerk shall randomly assign every prisoner civil rights case brought *pro se* to a resident District Judge at the location of Court at which the case is filed and to one of the full-time Magistrate Judges, regardless of the Plaintiff's city of residence, consistent with S.D. Ohio General Order 22-5.

B. The Clerk shall randomly assign all non-capital cases seeking relief under 28 U.S.C. § 2241or § 2254 to a resident District Judge at the location of Court at which the case is filed and to one of the full-time Magistrate Judges or to recalled Magistrate Judge Michael R. Merz, regardless of the Petitioner's city of residence, consistent with S.D. Ohio General Order 22-5.

C. Every case seeking social security disability benefits under 42 U.S.C. § 405(g) shall be randomly assigned to one of the full-time Magistrate Judges, regardless of the Plaintiff's city of residence, to exercise plenary Magistrate Judge jurisdiction under 28 U.S.C. § 636(c). In each such case, the parties shall be advised that they have the right to opt-out by a date certain and have their case assigned to a District Judge, and that their failure to opt-out by that date will be deemed consent to the Magistrate Judge's plenary jurisdiction. When a party opts out, the Clerk will assign the case to a District Judge resident at the location of Court at which the case was filed, and in each such case, shall be referred to the assigned Magistrate Judge for all purposes including issuance of a report and recommendation for disposition.

The duties that Magistrate Judges may perform in such cases, with or without a specific order of reference, are set forth in this Order. At any time, a District Judge may perform any of the duties assigned by this Order to a Magistrate Judge. Further, at the Court's discretion, a Magistrate Judge may perform all duties described in this Order in a case in which that Magistrate Judge is not the assigned Magistrate Judge, although that will not ordinarily occur unless the assigned Magistrate Judge is unable or unavailable to perform that duty.

II. Cases Filed *In Forma Pauperis:* Assessment of Fees and Initial Screening

In every case filed *in forma pauperis*, the assigned Magistrate Judge may grant leave to proceed *in forma pauperis*, and in cases where such grant also requires the assessment of a partial filing fee, the Magistrate Judge may assess that fee. If the Magistrate Judge concludes that *in forma pauperis* status ought not be granted, the Magistrate Judge may, without the need for a specific order of reference, file a report and recommendation to that effect. The assigned Magistrate Judge may also conduct the initial screening of any such case, and, if the Magistrate Judge concludes that such a case or any part of it should be dismissed without service of process under the standards set forth in 28 U.S.C. §§ 1915 and/or 1915A or for lack of subject-matter jurisdiction, the Magistrate Judge may, without the need for a specific order of reference, file a report and recommendation concerning that disposition. This provision is not limited to cases filed by prisoners or by *pro se* litigants.

III. Full Reference of Certain Types of Cases for Purposes of Considering all Motions and Conducting Certain Hearings

All motions of any type that are filed in applications for post-conviction relief filed by state prisoners convicted of a criminal offense, cases filed by prisoners challenging the conditions of their confinement or other governmental action alleged to violate the United States Constitution, and other cases of any nature filed by *pro se* prisoners, are referred to the assigned Magistrate Judge for the conduct of all proceedings that may be conducted in such cases by Magistrate Judges under 28 U.S.C. § 636. If any such motion is a matter that a Magistrate Judge may not hear and determine in the first instance under § 636(b)(l)(A), the Magistrate Judge may file a report and recommendation on that matter without the need for a specific order of reference. This referral shall include the ability to conduct an evidentiary hearing in a post-conviction petition brought under 28 U.S.C. § 2254 and to issue a report and recommendation following that hearing, as well as the ability to conduct an initial screening of such cases under Rule 4 of the Rules Governing Section 2254 Proceedings in the District Courts and to issue other orders contemplated by those Rules.

IV. Scope of Reference in all Civil and Miscellaneous Cases

In all civil and miscellaneous cases assigned to a Magistrate Judge pursuant to this Order, including the cases described in the preceding paragraph, the Magistrate Judge may conduct the following proceedings:

A. Conferences and Conference Orders. The Magistrate Judge may schedule and hold the initial Rule 16 conference, any subsequent Rule 16 conferences that may be necessary, any status or discovery conferences deemed necessary by the Magistrate Judge, and any settlement conference, and may issue an order dealing with the subjects of such conferences, including an initial Rule 16 scheduling order and any revisions to that order. A Magistrate Judge is specifically authorized to conduct settlement conferences in any case, whether or not the case has been assigned to that Magistrate Judge pursuant to this Order, at the request of either the assigned District Judge or the assigned Magistrate Judge, but may refer the case to mediation through the Court's ADR Program. Initial Rule 16 conferences shall be conducted in accordance

with Local Civil Rules 16.1 and 16.2 and with Eastern Division Order 01-1. A Magistrate Judge will not typically conduct the final pretrial conference in a case that will be tried before a District Judge, but may do so at the request of the District Judge and without the need for a separate order of reference. The Magistrate Judge may thereafter issue an order on any matter that is the subject of that conference except for those matters that a Magistrate Judge may not hear and decide in the first instance under 28 U.S.C. § 636(b)(l)(A).

B. Scheduling Orders in Cases Exempt from Fed. R. Civ. P. 16(b). The Magistrate Judge may issue a scheduling order, with or without holding an initial Rule 16 conference, in any case that has been exempted by Local Civil Rule from the requirement that an initial Rule 16 conference be held.

C. Motions.

1. Non-Dispositive Motions. The assigned Magistrate Judge may hear and determine in the first instance any motion filed in any civil or miscellaneous case as authorized by 28 U.S.C. § 636(b)(1)(A), which confers the statutory authority upon United States Magistrate Judges to hear and determine any motion filed in a civil case except for a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. The Magistrate Judge may also issue non-dispositive orders in a case without the need for formal motion to the extent that doing so is not inconsistent with the Federal Rules of Civil Procedure, such as issuing an order for extension of time; a protective order or other discovery-related order; *sua sponte* orders directing the parties to show cause why some action, such as a dismissal for failure to make service or failure to prosecute, should not be taken; or other orders of a similar nature. Motions for change of venue that are not accompanied by a motion to dismiss for improper venue or lack of personal jurisdiction are considered non-dispositive motions and are covered by this paragraph.

2. Other Motions. In cases other than those that are fully referred to a Magistrate Judge under Section III of this Order, the assigned Magistrate Judge may hear, and issue a report and recommendation on, those motions that a Magistrate Judge may not hear and determine in the first instance under 28 U.S.C. § 636(b)(l)(A), if the motion is referred to the Magistrate Judge by written order of a District Judge pursuant to 28 U.S.C. § 636(b)(l)(B). This authority shall include the authority to schedule and conduct any proceedings deemed necessary by the Magistrate Judge for the determination of such motions, including but not limited to meetings with counsel, oral arguments, the submission of written evidence, and evidentiary hearings. The following dispositive motions or matters are referred to the assigned Magistrate Judge for the issuance of a report and recommendation without the need for a specific order of reference: dismissals for failure to make timely service under Fed. R. Civ. P. 4(m); motions to dismiss or for judgment based on prior orders issued by the Magistrate Judge; and motions for contempt based on disobedience of an order issued by the Magistrate Judge.

3. **Objections to Rulings on Motions.**

a. **Non-Dispositive Motions.** The procedure for filing objections to a Magistrate Judge's ruling on non-dispositive motions is set forth in Fed. R. Civ. P. 72(a), which requires such objections to be served and filed within fourteen days of service of the order. Any other party may file a response to such objections within fourteen days after the objections are filed. No reply shall be filed without leave of court. Unless stayed by order of the Court, any order to which objections have been filed remains in full force and effect during the pendency of the objection. A request to stay such an order shall be made within the time allowed for filing objections unless the Court permits a later filing. Any such request to stay can be ruled on by either the Magistrate Judge who issued the order or the District Judge before whom the objections are pending.

b. **Other Motions and Reports and Recommendations.** The procedure for filing objections to a Magistrate Judge's report and recommendation with respect to motions referred to the Magistrate Judge under 28 U.S.C. § 636(b)(l)(B) is set forth in Fed. R. Civ. P. 72(b)(2), which requires such objections to be filed and served within fourteen days of service of the report and recommendation. That same rule requires any response to objections to be filed and served within fourteen days after the objections are filed and served. No reply shall be filed without leave of court.

4. **Contempt authority.** The Magistrate Judges may exercise the contempt authority granted to them by 28 U.S.C. § 636(e).

V. Consent Jurisdiction in Civil Cases

In any case in which the filing of a Rule 26(f) report of the parties is required, the parties shall state in that report that they either do or do not unanimously consent to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). Anytime thereafter and in other cases in which the parties do not file Rule 26(f) Reports, the parties may submit a written consent to the jurisdiction of a Magistrate Judge on a form to be made available by the Clerk of Court. When all parties to a case have consented to the jurisdiction of a Magistrate Judge, a District Judge may refer the case to the Magistrate Judge to conduct all proceedings in the matter and to order the entry of judgment in the case. Consent to the jurisdiction of a Magistrate Judge does not waive any party's right to a jury trial. 28 U.S.C. § 636(c)(3) provides that any appeal from a judgment entered by a Magistrate Judge shall be to the United States Court of Appeals in the same manner as an appeal from any other judgment of the Court.

VI. Social Security Cases Brought Under 42 U.S.C. § 405(g)

Social Security cases brought under 42 U.S.C. § 405(g) are governed by General Order 22-04.

VII. Criminal Proceedings

A. Initial Criminal Proceedings and Warrants. The Magistrate Judges are authorized to conduct, without the need for a specific order of reference, initial appearances, bond or detention hearings, bond revocation hearings, preliminary hearings (including preliminary probation revocation hearings and preliminary supervised release revocation hearings), identity hearings, removal hearings, and to issue arrest warrants in all criminal cases initiated or pending before the District Court. The Magistrate Judges are also authorized to issue search warrants, tracking device warrants, seizure warrants, pen register orders, cell phone location orders, orders to seal, and all other such warrants or orders to the extent permitted by 28 U.S.C. § 636, other provisions of the United States Code, and the Federal Rules of Criminal Procedure. Magistrate Judges may also preside over the return of the Grand Jury.

B. Arraignments. The Magistrate Judges may conduct arraignments in criminal cases for purposes of taking a not guilty plea and may issue such orders at that time as are appropriate, including, after consultation with the assigned District Judge, an order scheduling the trial and other pre-trial dates. The Magistrate Judges may also take conditional guilty pleas with the consent of the parties, which consent shall be obtained in writing or on the record, and file a report and recommendation concerning whether the guilty plea should be accepted by the District Judge.

C. Other Proceedings in Felony Cases. Through a specific order of reference, a Magistrate Judge may be authorized to conduct other proceedings in felony cases for which there is statutory authority under 28 U.S.C. § 636. Without limiting the generality of this authority, a District Judge may refer motions to suppress evidence or petitions to revoke supervised release to a Magistrate Judge for the holding of a hearing and the filing of a report and recommendation on the matter referred.

D. Misdemeanor and Petty Offense Cases. With the consent of the defendant, which shall be obtained in writing or on the record and which shall specifically waive the right to trial before a District Judge, Magistrate Judges may conduct the trial of, or accept a guilty or nolo contendere plea, and impose sentence in, any misdemeanor case. This provision constitutes the authority to conduct trials in misdemeanor cases required by 18 U.S.C. § 3401(a). The Magistrate Judges may also conduct trials, accept pleas, and impose sentence in any petty offense case, and make such other orders in those cases as may be appropriate, including an order of dismissal or an order setting an amount for collateral forfeiture.

E. Writs. Magistrate Judges may issue writs of habeas corpus *ad testificandum* or *ad prosequendum*, as appropriate.

VIII. Magistrate Judges as Special Masters

A District Judge may, without consent of the parties, designate a Magistrate Judge to serve as a special master pursuant to Fed. R. Civ. P. 53, 28 U.S.C. § 636(b)(2), or any other applicable statute or rule. Pursuant to 28 U.S.C. § 636(b)(2), the provisions of Fed. R. Civ. P. 53(b) do not apply to the designation of a Magistrate Judge as a special master. Pursuant to Fed. R. Civ. P. 53(h), a Magistrate Judge is subject to the provisions of Rule 53 only when the order

referring the matter to the Magistrate Judge states that the reference is made under Rule 53. The Magistrate Judge who is so designated may conduct all proceedings necessary, including the holding of a hearing, and file a Master's Report. Pursuant to Fed. R. Civ. P. 53(f), objections to a Master's Report, or motions to modify or adopt a Master's Report, must be filed no later than 21 days after a copy of the Report is served. Proceedings on objections to Master's Reports will be governed by Fed. R. Civ. P. 53.

IX. Other Matters

Without limiting the generality of any of the preceding provisions of this Order, Magistrate Judges may also perform the following duties:

A. Conduct hearings and issue orders disposing of petitions filed to perpetuate testimony under Fed. R. Civ. P. 27.

B. Issue order of entry to enforce Internal Revenue Service tax levies and hold hearings and file reports and recommendations for the disposition of any action to quash or enforce an Internal Revenue Service Summons.

C. Issue administrative search warrants or inspection warrants.

D. Issue warrants under the Rules of Admiralty Proceedings for the seizure of property subject to forfeiture.

E. Issue all orders or writs necessary in aid of execution on a civil judgment or in aid of prejudgment attachments, including orders to release garnished funds and judgment debtor examinations.

F. Issue orders for the release of monies or property posted as bond in civil and criminal cases and for the release of monies on deposit in the registry of the Court.

X. Changes to or Conflicts with Rules or Statutes Cited in this Order

All references in this Order to any rule or statute as that rule or statute shall read on the date of this Order shall be deemed to be a reference to any amended, renumbered, or re-lettered version of that same rule or statute without the need for an amendment of this Order. If any provision of this Order conflicts with any provision of any statute of the United States, any provision of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or any other rules promulgated according to the rule-making authority of the United States, those provisions will take precedence over this Order.

XI. Superseding of Prior Orders

This Order supersedes Eastern Division Order 14-01, which shall be of no further force and effect.

IT IS SO ORDERED.

1-28-22
DATE

ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE

1/28/2022
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE

1/28/2022
DATE

MICHAEL H. WATSON
UNITED STATES DISTRICT JUDGE

1-28-22
DATE

SARAH D. MORRISON
UNITED STATES DISTRICT JUDGE

January 28, 2022
DATE

JAMES L. GRAHAM
UNITED STATES DISTRICT JUDGE