

**HONORABLE TODD W. ROBINSON
UNITED STATES DISTRICT JUDGE
CRIMINAL PRETRIAL & TRIAL PROCEDURES**

I. Court Calendar

Criminal matters will generally be heard on Fridays at 9:00 a.m. and 2:00 p.m., unless otherwise scheduled by the Court.

II. Communications with Chambers

A. Letters/Emails. Letters and emails to chambers are prohibited, unless specifically requested by the Court. If letters and/or emails are requested, copies of the same shall be simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

B. Telephone Calls. Telephone calls to chambers are permitted. For matters other than docketing, scheduling or calendaring, call chambers at (619) 321-0975, and address your inquiries to Law Clerks. For docketing, scheduling and calendaring matters, call Courtroom Deputy Clerk Jessica Ortiz at (619) 321-0777 or email her at Jessica_A_Ortiz@casd.uscourts.gov.

C. Requests for Continuances. All requests for continuances should be made as soon as counsel become aware of the need for a continuance by contacting the Courtroom Deputy Clerk at the number above or by email. If counsel stipulate to the continuance, a joint motion should be filed with chambers and a proposed order should be emailed. The joint motion should include the original date, the requested date for continuance (obtained from the Courtroom Deputy Clerk prior to filing), the grounds for continuance and, if applicable, an exclusion of time under the Speedy Trial Act. The proposed order must also include a requirement that any defendant on pretrial release sign and file an acknowledgement of the new court date within 48 hours of the continuance motion being granted.

D. Proposed Orders. In accordance with Section 2(h) of the Electronic Case Filing Administrative Policies and Procedures Manual, counsel shall email proposed orders on motions directly to the Judge's official email address, which is efile_Robinson@casd.uscourts.gov. Proposed orders should be submitted simultaneously with the motion.

III. Motions

A. Scheduling a Hearing Date. The magistrate judge will set a date for pretrial motions. Any changes to that date or any other hearing date for motions shall be obtained from the Courtroom Deputy Clerk. Criminal Local Rule 47.1(a). Motions generally are heard on the Court's Friday calendar.

B. Courtesy Copies. Unless otherwise ordered by the Court, for any document which exceeds 20 pages in length (including attachments and exhibits), the filing party must deliver a

file-stamped courtesy copy directly to chambers within 24 hours after filing. If a filing has more than three exhibits, the exhibits must be tabbed and listed in a table of exhibits.

C. Notice to Court of Disposition. Any time a case is calendared for motions and counsel for either side knows that a disposition is to take place, counsel has a duty to call the Courtroom Deputy Clerk at the earliest available time to inform the Court of the disposition.

IV. Dispositions and Sentencing

A. Dispositions. Generally, Rule 11 guilty pleas may be taken by the magistrate judges on a report and recommendation. Because the magistrate judge may have a more flexible schedule, the Court encourages pleas before the magistrate judge assigned to the case. However, the parties should contact the Courtroom Deputy Clerk and obtain a change of plea date before the Court if a guilty plea is being entered within two days of a scheduled motion *in limine* hearing or where the parties are requesting immediate sentencing.

B. Immediate Sentencing. Upon request, the Court will proceed with immediate sentencing in certain immigration cases if it has adequate information in the record to perform a meaningful exercise of sentencing authority. Such dispositions are encouraged.

V. Trial Procedures

A. Motions *in Limine*. At the pretrial motions date, the Court will generally schedule a hearing date for motions *in limine* in advance of trial. Motions *in limine* are due two weeks before the hearing, with any opposition due one week before the hearing.

B. Jury Instructions. The parties should each submit proposed jury instructions to the Court on the first day of trial, unless otherwise ordered by the Court. Supplemental instructions must be filed and served as soon as the need for them becomes apparent. If counsel request the model Ninth Circuit jury instructions, counsel may list the number of the instruction and edition without citing the text.

The Court prefers to use the Ninth Circuit Criminal Jury Instructions whenever possible. The Court will accept other proposed jury instructions, but counsel must cite the authority supporting the proposed instructions. Any proposed modification of an instruction from statutory authority or the Ninth Circuit Models must state specifically the modification and the authority supporting the modification.

Before the case is submitted to the jury, the Court will provide each party with the jury instructions the Court intends to use. It is each party's responsibility to carefully review the instructions and make suggestions to the Court if modifications appear necessary.

C. Trial Briefs. Pursuant to Criminal Local Rule 23.1, the parties may, no later than five court days before the date of trial, serve and file briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues.

D. Proposed *Voir Dire* Questions and Verdict Forms. Counsel may serve and file proposed *voir dire* questions and forms of verdict on the day set for motions *in limine*.

E. Jury Selection. The Courtroom Deputy Clerk will provide counsel with a numerical list of the jury panel at the start of *voir dire*, along with a seating chart. Jurors assigned seat numbers one through thirty-two will be questioned.

The number of jurors questioned (thirty-two) is calculated as follows: the number of jurors to be selected (twelve), the number of alternates to be selected (generally two), and the number of peremptory challenges (generally eighteen). Thus, in a single defendant case in which the defendant has ten and Government six peremptory challenges, plus one challenge each with respect to alternates, *voir dire* will result in thirty-two panelists.

The Court will conduct the initial jury *voir dire*. On a case by case basis, the Court may permit follow-up *voir dire* conducted by the attorneys. If *voir dire* by counsel is permitted, ten minutes per side on non-complex cases generally will be allowed.

After the Court and counsel have *voir dired* the panel, counsel may exercise challenges for cause outside the presence of the prospective jurors. If any challenges for cause are sustained, the removed panelists usually will be replaced by inserting new panelists from the venire so that a full panel exists before any peremptory challenges are exercised. The new panelists will be *voir dired* in accordance with the above.

The exercise of peremptory challenges will follow. Counsel will exercise alternating challenges – outside the presence of the prospective jurors – by calling out the jurors’ numbers they wish to excuse. The process will be repeated until all peremptory challenges are exhausted.

In a single defendant case, the Government may exercise one challenge, followed by the defendant’s exercise of two challenges for four rounds, then each side may exercise one challenge for two rounds, making a total of six and ten. These challenges may be exercised only as to panelists one through twenty-eight, that is, not as to the panelists from whom the alternates will be chosen.

Note that a party may waive its right to challenge but may not reserve. Thus, if counsel passes one time, he or she may not exercise any more peremptory challenges. Also note that challenges may be made to any of the panelists regardless of where that panelist appears in the array (except as to the prospective alternate jurors, that is, jurors twenty-nine through thirty-two). When each side has exhausted its peremptory challenges, the first twelve unchallenged persons shall constitute the jury.

After the twelve-person jury is selected, each side has one additional peremptory challenge which is exercisable only with respect to panelists twenty-nine through thirty-two, that is, the prospective alternates. Generally, two alternates are selected from the remaining unchallenged panelists. These final two challenges will occur after to the peremptory challenges as to the initial twelve jurors have been exercised.

F. Presentation of Evidence. Please abide by the following rules:

Do not enter the well, except during *voir dire*, opening statement and closing argument.

Conduct all examinations of witnesses from the podium.

Feel free to approach witnesses during examination, but first seek permission from the Court. Please keep your visit to the witness stand brief, *e.g.*, by quickly orienting a witness with an exhibit and returning to the podium.

Where a party has more than one lawyer, only one lawyer may conduct the examination of a given witness and that lawyer alone may make objections concerning that witness.

When objecting, state only the legal ground for the objection; *e.g.*, “Objection, hearsay,” or “Objection, Rule 802.” Speaking objections are not permitted, unless the Court requests further information from counsel.

Refrain from talking to each other in the presence of the jury. If clarification on a matter is needed, please seek clarification from the Court and not directly from counsel.

G. Bench Conferences. Sidebar conferences are disfavored. If counsel desire to speak to the Court outside the jury’s presence, counsel may request to do so at the start of a recess or at the end of the day. Requests to see the Court outside the presence of the jury when the Court is about to begin the day of trial or reconvene following a recess generally will not be granted. These matters usually can wait until the next recess.

H. Exhibits. Government counsel must provide a list of exhibits and give it to the Courtroom Deputy Clerk on the first day of trial. All exhibits must be pre-marked on the first day of trial. Exhibit stickers may be obtained from the Clerk of the Court or from the Courtroom Deputy Clerk, in advance of trial.

Before publishing an exhibit to the jury, counsel must either move for admission of the exhibit or allow the Court to inquire whether the opposing side has any objection to publication.

When referring to an exhibit, counsel should refer to its exhibit number whenever possible to keep a complete record.

If an exhibit is being used and counsel’s view is obstructed, counsel may relocate for better viewing without requesting permission from the Court.

Pursuant to Local Criminal Rule 1.1(e) and Local Civil rule 79.1, all exhibits will be returned to the party who produced them at the end of trial.