

HONORABLE GONZALO P. CURIEL
UNITED STATES DISTRICT JUDGE
CRIMINAL PRETRIAL & TRIAL PROCEDURES

Criminal matters contact: Courtroom Deputy A. Sacco, (619) 557-5539

For transcript requests, contact the court reporter that was present at the hearing.

Location: Courtroom 12A, Carter-Keep Courthouse

Please note the Court provides this information to counsel and parties for general guidance. Counsel must still strictly adhere to all court orders. The Court may vary these procedures as appropriate.

Communication with the Court or Chambers

Counsel shall refrain from writing unauthorized letters to the Court or sending the Court copies of letters addressed to others. Authorized communications shall be formally submitted in compliance with the Local Rules, the Federal Rules of Criminal Procedure, and the Federal Rules of Evidence.

Court Calendar

Criminal sentencing hearings are generally heard on Mondays at 8:30 a.m.; Motion Hearings and Trial Settings at 1:30 p.m.; and Motion in Limine Hearings on Fridays at 2:30 p.m. or 3:30 p.m. unless otherwise scheduled by the Court.

Pretrial Motions

Magistrate judges will schedule the motion/trial setting hearing on the Monday calendar five to six weeks from the initial appearance before the magistrate judge. All motions shall be filed at least **fourteen calendar days** before the hearing date. Any Opposition shall be filed at least **seven calendar days** before the hearing date.

Applications for an order shortening time are disfavored and must be supported by a non-conclusory affidavit signed by counsel setting forth facts establishing specific good cause.

Disposition Hearings

Rule 11 guilty pleas may be entered before a magistrate judge unless the parties anticipate immediate sentencing. Counsel shall contact the courtroom deputy clerk for the magistrate judge assigned to the case or the duty magistrate judge to schedule the disposition hearing and immediately inform the courtroom deputy clerk for Judge Curiel of the disposition hearing.

Seeking Leave to file documents under seal

The Court may seal documents to protect sensitive information, however, the documents to be filed under seal will be limited by the Court to only those documents, or portions thereof, necessary

to protect such sensitive information. Any protective order must be narrowly drawn to reflect the balance between the party's interests and the public's right to access court files. Any member of the public may challenge the sealing of any particular document.

Parties seeking a sealing order must provide the Court with: 1) the document to be sealed; 2) a motion to seal describing the particular documents or categories of documents that need to be sealed with sufficient information to show good cause exists to protect those documents from disclosure; and 3) a proposed order to seal the documents.

Both hard and soft copies of the motion to seal, proposed order to seal, document to be sealed, and any other accompanying documents should be sent to Chambers. Soft copies should be sent as Microsoft Word documents to efile_Curiel@casd.uscourts.gov. Only one hard copy of the documents is needed and shall be delivered to the Clerks office.

Trial Procedures

1. **Motions in Limine.** At the pretrial motions date, the Court will schedule a hearing date for motions in limine. Motions in limine are due two weeks before the hearing, with any opposition due one week before the hearing.
2. **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.
3. **Proposed *Voir Dire* Questions & Verdict Forms.** Counsel may serve and file proposed *voir dire* questions and verdict forms on the day set for motions in limine.
4. **Jury Instructions.** The parties should each submit in Word format and hardcopy, 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 the instruction becomes apparent.

The Court prefers to use the most current Model Jury Instructions for the Ninth Circuit whenever possible. The Court will accept other proposed jury instructions, but counsel must cite the authority supporting the proposed instructions. Counsel must specifically identify any modification made to Ninth Circuit Model Instructions.

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.

5. **Jury Selection.** The courtroom deputy will provide counsel with a list of the jury panel in random order before *voir dire*.

The courtroom deputy will seat all prospective jurors (44 prospective jurors will

generally be summoned for criminal cases). Unless authorized by the Court, parties should not submit jury questionnaires. The Court will conduct the initial jury *voir dire*. Counsel may propose questions to be posed to jurors during the court-conducted *voir dire*. In appropriate cases, the Court may permit follow-up *voir dire* by the attorneys. The Court will generally permit fifteen minutes per side in non-complex cases.

After *voir dire* of the entire panel has been completed, counsel may make any challenges for cause at side bar. If a challenge for cause is sustained, the excluded panelist shall remain in his or her seat for the time being.

Counsel will exercise peremptory challenges using the “Double Blind Method,” whereby the parties simultaneously exercise their challenges.

After each side has exercised its peremptory challenges, the first 12-14 persons not challenged peremptorily or successfully challenged for cause shall constitute the jury and/or alternate jurors. All remaining prospective jurors will be excused at that time.

6. **Presentation of Evidence.** Counsel may not enter the well, except during *voir dire*, opening statements, and closing arguments.

Counsel must examine all witnesses from the podium.

Counsel must seek permission from the Court before approaching witnesses. When permission is granted, counsel must keep his or her visit to the witness stand brief, i.e., by quickly orienting the witness to an exhibit and then returning to the podium.

When objecting, counsel may only state the legal ground for the objection, e.g., “Objection. Hearsay.” Counsel need not provide further information unless the Court requests it.

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

7. **Sidebar Conferences.** The Court strives to use the jurors’ time efficiently by starting on time and otherwise avoiding unnecessary delays during trial. To that end, *sidebar conferences are discouraged*. Where feasible, counsel shall raise issues that should be considered outside the jury’s presence before the court session begins, at the beginning of a recess, during the jury’s lunch break, or at the end of the trial day.
8. **Exhibits.** Government counsel must provide a list of exhibits to the courtroom deputy clerk prior to 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’s Office or the courtroom deputy clerk in advance of trial.
9. **Trial Schedule.** Generally, trials are scheduled from 9:00 a.m. to 5:00 p.m., Tuesday through Friday. Jury deliberations proceed from 9:00 a.m. to 5:00 p.m. The Court will notify the parties of deviations from this schedule and will attempt to accommodate jurors, witnesses, and counsel if a conflict arises.

Sentencing

Sentencing procedures are set forth in Criminal Local Rule 32.1. If the parties request, the Court may elect to proceed with immediate sentencing in immigration cases, but only where the Court has sufficient information in the record to meaningfully exercise its sentencing authority.

A party seeking a continuance of a sentencing hearing must notify the courtroom deputy clerk at the earliest possible time, but in no event later than close of business **three court days** before the sentencing hearing.

Counsel shall file the completed sentencing summary charts required by Criminal Local Rule 32.1.a.8 in the record no later than **seven calendar days** before the sentencing hearing.

Requests to Modify Conditions of Relief, especially for travel

A party seeking a modification of their conditions of release to travel must file the request at least **four court days** in advance of their anticipated date of travel or show good cause why the request was submitted later than that. This rule applies to any request to modify conditions of release that the party would like to be granted by a certain date.