



**UNITED STATES DISTRICT COURT
Southern District of California**

Ruth Bermudez Montenegro, U.S. District Judge

**CRIMINAL PRETRIAL & SENTENCING
PROCEDURES**

Please Note: The Court provides this information for general guidance to counsel. The Court may, however, vary these procedures as appropriate in any case.

I. Court Calendar

Criminal matters will generally be heard on Fridays at 9:00 a.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) 695-5877, and address your inquiries to Law Clerks. For docketing, scheduling and calendaring matters, please contact the Courtroom Deputy by filling out the message form located [here](#).
- 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 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 prior to filing), the grounds for good cause for continuance and, if applicable, an exclusion of time under the Speedy Trial Act. All motions shall be filed no later than two (2) Court days prior to the scheduled hearing. The Court prefers that continuance requests be made by joint motion prior to the scheduled date, and **NOT** at the time of the hearing.
- 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_Montenegro@casd.uscourts.gov. Proposed orders should be submitted simultaneously with the motion, no later than two (2) Court days prior to the scheduled hearing. 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 forty-eight (48) hours of the continuance motion being granted.

- E. Transcripts.** For transcript requests, contact Court Reporter Adrian Baule by emailing adrian_baule@casd.uscourts.gov.

III. Compliance with Criminal Local Rule 16.1

Not later than fourteen calendar days after the arraignment on an Indictment or Information, the attorney for the defendant(s) and the attorney for the government must confer and attempt to agree on a timetable and procedures for the pretrial disclosure of materials set forth in Federal Rule of Criminal Procedure 16.

Not later than seven calendar days prior to the first motion hearing, the parties must inform the Court in writing of the agreed upon timetable for the production of discovery, including, but not limited to, the Alien Registration File, body-port-or remote cam video, car/vehicle inspection, DEA drug reports, cell phone extraction data, and/or ESI where applicable, as well as the proposed timing for disclosure of expert witnesses under Rule 16, and any areas of disagreement.

IV. 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. *See* Criminal Local Rule 47.1(a). Motions are generally heard on the Court's Friday calendar.
- B. Courtesy Copies.** Unless otherwise ordered by the Court, for any document which exceeds twenty (20) pages in length (including attachments and exhibits), the filing party must deliver a file-stamped courtesy copy directly to chambers within twenty-four (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 or email the Courtroom Deputy at the earliest available time to inform the Court of the disposition.

V. 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.
- 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.

C. Requests for Probation Report Supporting Documents. Where counsel wish access to documents in the possession of the United States Probation Office in connection with sentencing, they must confer with the probation officer to determine what documents are in fact available and whether the probation officer has any objection to their disclosure. Where no objection exists, counsel must then file an application for a court order authorizing the probation officer to release the documents. Merely filing objections to the probation officer's report indicating a lack of the records or requesting disclosure of the records will not, in and of itself, require the Court to take any action in this regard.

D. Sentencing Deadlines and Materials. The parties are expected to strictly comply with the requirements and deadlines in Criminal Local Rule 32.1. Failure to meet these deadlines will result in a continuance of the sentencing hearing unless counsel is prepared to waive consideration of the late submissions. Judge Montenegro closely reviews all sentencing documents prior to the hearing and will allow each party to supplement their filings on the record, as needed.

Both parties must file a Sentencing Summary Chart and Sentencing Memorandum in all cases. The parties must ensure that their respective Sentencing Guideline recommendations are supported by the record before the Court. No party shall submit more than five (5) letters unless authorized by the court for good cause shown. Counsel may also submit to the court as part of a sentencing memorandum a brief summary of letters in excess of the amount authorized by this order.

The Court expects defense counsel to read, explain, and provide their client with a copy of the Mandatory and Standard Conditions of Supervised Release prior to sentencing.

VI. Motions to Modify or Terminate Supervised Release

Motions and Joint Motions to Modify or Terminate supervised release conditions or the term, must include a statement regarding the positions of the United States Attorney's Office and the United States Probation Officer supervising the defendant.