

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

I. Court Calendar

Criminal matters will generally be heard on Fridays at 9:30 a.m. and 1:30 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, email Courtroom Deputy Clerk Jessica Ortiz 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 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 must 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, the basis for an exclusion of time under the Speedy Trial Act. All motions shall be filed no later than two (2) business days prior to the scheduled hearing. An acknowledgment of the next court date must be filed by all out of custody defendants simultaneously with the motion.

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 accompanying motion.

III. Motions

A. Scheduling a Hearing Date. The magistrate judge will set the initial date for pretrial motions. Any changes to that date or any other hearing date for motions shall be obtained from the Courtroom Deputy Clerk. *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 that 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 the Courtroom Deputy Clerk at the earliest available time to inform the Court of the disposition.

IV. Under Seal Filing Procedures

A. There is a presumptive right of public access to court records based upon common law and first amendment grounds. Even where a public right of access exists, such access may be denied by the Court in order to protect sensitive personal or confidential information. 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. Therefore, it is suggested that sensitive material be submitted in a separate document.

B. Any motion to seal must set forth: (1) a description of the particular document(s) or part of the document(s) the party seeks to seal; (2) the correct legal standard and an analysis of why the standard has been satisfied with respect to the particular document(s); (3) affidavits or declarations in support of the motion; and (4) the documents to be sealed.

C. The motion to seal, the proposed sealed document(s), and a proposed order in Word format, should be submitted for review directly to the Judge's official email address, which is [efile Robinson@casd.uscourts.gov](mailto:efile_Robinson@casd.uscourts.gov).

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. 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 (2) days of a scheduled motion *in limine* hearing or where the parties are requesting immediate sentencing. Guilty pleas entered by defendants who are on pretrial release pursuant to Title 18, United States Code, Sections 3142(b) or (c), will be handled according to the requirements of Title 18, United States Code, Section 3143(a).

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.

C. Sentencing Materials. The parties are expected to follow Criminal Local Rule 32.1. Additionally, the parties must ensure that their respective Sentencing Guideline recommendations are supported by the record before the Court.

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

VI. 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 (2) weeks before the hearing, with any opposition due one (1) week before the hearing.

B. Jury Instructions. The parties must submit proposed preliminary and final jury instructions to the Court no later than one (1) week prior to the *in limine* motion hearing date, unless otherwise ordered by the Court. The Court prefers to use the Ninth Circuit Criminal Jury Instructions whenever possible. The Court will accept other proposed jury instructions, but 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. The proposed preliminary and final jury instructions must be filed and submitted to the Court in Word format directly to the Judge's official email address, which is efile_Robinson@casd.uscourts.gov. Supplemental instructions must be filed and served as soon as the need for them becomes apparent.

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 carefully to 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 (5) 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 ("strike sheet") at the start of *voir dire*. The Court will conduct the initial jury *voir dire*. On a case-by-case basis, the Court may permit follow-up *voir dire* to be conducted by the attorneys. If *voir dire* by counsel is permitted, ten (10) 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. The exercise of peremptory challenges will follow.

Counsel will exercise their respective challenges using the "blind strike" method. That is, each side will exercise their peremptory challenges simultaneously and confidentially by marking those jurors they wish to excuse on the provided strike sheet. The Courtroom Deputy Clerk will collect the parties' strike sheets and, after reconciling those sheets, will inform the parties of the first twelve (12) remaining (non-challenged) jurors. The parties will also be informed of the four

(4) eligible alternate jurors. The strike sheets will be returned to the parties, who will then use the blind strike method to exercise their one additional peremptory challenge with respect to the four (4) eligible alternate jurors. The Courtroom Deputy Clerk will again collect the strike sheets and, after reconciling those sheets, announce to the parties who the two alternate jurors will be. A final seating chart will be provided to counsel by the Court at the conclusion of this process.

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

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