

Rule 117. Magistrate Judges

(a) **ASSIGNMENT OF DUTIES.** Magistrate judges appointed under the Superior Court rules, when specifically designated by the Chief Judge, may perform the duties specified in this rule and any other functions incidental to these duties that are consistent with the Superior Court rules and the Constitution and laws of the United States and of the District of Columbia.

(b) **PRETRIAL PROCEEDINGS.**

(1) *Determining Pretrial Release or Detention.* A person accused of committing a criminal offense in the District of Columbia may be brought before a magistrate judge. The magistrate judge will determine conditions of release and pretrial detention under these rules and D.C. Code §§ 23-1321 to -1333 (2012 Repl. & 2019 Supp.).

(2) *Conducting Preliminary Examinations.* A magistrate judge may conduct preliminary examinations under Rules 5 and 5.1 to determine if there is probable cause to believe that an offense has been committed and that the accused committed it.

(3) *Other Duties.* A magistrate judge may appoint counsel for indigent defendants. A magistrate judge may issue a judicial summons or warrant in accordance with Rule 9 when a defendant fails to appear in court.

(c) **NON-JURY, NON-FELONY MATTERS.**

(1) *With Consent of Parties.* With the consent of the parties, a magistrate judge may make findings and enter final orders or judgments in any criminal action, other than a jury or felony trial.

(2) *Advising Defendant.* Prior to commencing any contested proceeding under Rule 117(c)(1), a magistrate judge must advise the defendant that:

(A) the defendant may not appeal to the District of Columbia Court of Appeals without first requesting review by a Superior Court judge; and

(B) the request for review by a Superior Court judge must be filed within 14 days after a final order or judgment has been entered.

(d) **ADVISING OF RIGHT TO APPEAL.**

(1) *In Case of Trial.* After pronouncing the sentence in a case which has gone to trial, the magistrate judge must advise the defendant that:

(A) the defendant has the right to seek a review by a Superior Court judge of any final order or judgment entered or made by the magistrate judge;

(B) any claim of error not raised before a Superior Court judge may not ordinarily be raised in a subsequent appeal which the defendant is otherwise entitled to make to the District of Columbia Court of Appeals; and

(C) a defendant who is unable to pay the cost of an appeal may apply for leave to appeal in forma pauperis.

(2) *In Case of Plea.* The magistrate judge does not have a duty to advise the defendant of a right to appeal after sentence is imposed following a plea of guilty or nolo contendere.

(e) **INITIAL PROBATION REVOCATION HEARINGS.** A magistrate judge may conduct initial probation revocation hearings in all criminal cases, in accordance with Rule 32.1, to determine if there is probable cause to hold the probationer for a final revocation hearing.

(f) **REVIEW OF ORDER OR JUDGMENT; APPEAL.**

(1) *On Motion.* On motion, a judge designated by the Chief Judge or the judge assigned to the case must review the magistrate judge's order or judgment, in whole or in part.

(A) *Timing.* The motion must be filed and served within 14 days after:

- (i) the order or judgment was served on the party; or
- (ii) the order or judgment was stated on the record.

(B) *Assignment for Review.* If the defendant is incarcerated as a result of the magistrate judge's judgment or order, the case will be assigned for review within one court day.

(C) *Content.* The motion for review must:

- (i) designate the order, judgment, or part thereof, for which review is sought;
- (ii) specify the grounds for objection to the magistrate judge's order, judgment, or part thereof; and
- (iii) include a written summary of the evidence presented before the magistrate judge relating to the grounds for objection.

(D) *Response.* Within 14 days after being served with the motion, a party may file and serve a response, which must describe any proceedings before the magistrate judge which conflict with or expand on the summary filed by the moving party.

(E) *Review by Judge.* The judge designated by the Chief Judge or the judge assigned to the case must review the portions of the magistrate judge's order or judgment to which objection is made. The judge may decide the motion for review with or without a hearing and may affirm, reverse, modify, or remand, in whole or in part, the magistrate judge's order or judgment and enter an appropriate order or judgment.

(2) *On the Court's Own Initiative.* No later than 30 days after entry of a magistrate judge's order or judgment, a judge designated by the Chief Judge or the judge assigned to a case may, on the judge's own initiative, review an order or judgment in whole or in part. After giving the parties notice and an opportunity to make written submissions on the matter, the judge, with or without a hearing, may affirm, reverse, modify, or remand, in whole or in part, the magistrate judge's order or judgment.

(3) *Stay of Execution; Release Pending Review.* On the filing of a motion for review under Rule 117(f)(1), the court may stay the sentence under Rule 38. During the pendency of a motion for review, the defendant may be released under D.C. Code § 23-1321 (2019 Supp.) by the magistrate judge or, on motion, by the reviewing judge if the defendant shows by clear and convincing evidence that:

(A) the defendant is not likely to flee or pose a danger to any other person or to the property of others; and

(B) the defendant's motion for review presents a substantial question of law or fact.

(4) *Extension of Time to File Motion for Review.* On a showing of excusable neglect and notice to the parties, the judge designated by the Chief Judge or the judge assigned to the case may, before or after the time prescribed by Rule 117(f)(1)(A) has expired, with or without motion, extend the time for filing a motion for review of a magistrate judge's order or judgment for a period not to exceed 21 days from the expiration of the time otherwise prescribed by Rule 117(f)(1)(A).

(5) *Appeal.* An appeal to the District of Columbia Court of Appeals may be made only after a Superior Court judge has reviewed the magistrate judge's judgment or order in accordance with Rule 117(f).

(g) CONTEMPT. A magistrate judge may cite an individual for contempt committed in the presence of the magistrate judge. The magistrate judge must certify the contempt proceeding for hearing and disposition before a judge under Rule 42(a).

COMMENT TO 2020 AMENDMENTS

This rule has been amended consistent with the general restyling of the federal rules in 2002. The rule has also been modified to more closely track the language in D.C. Code § 11-1732 (2019 Supp.). Finally, 10-day time periods were changed to 14 days to reflect the time-calculation changes previously made to Rule 45.