

MAGISTRATE RULE 4 | REVIEW AND APPEAL**(a) Appeal of Non-dispositive Matters-Government Appeal of Release Order.**

(1) *Appeal of Non-dispositive Matters* – 28 U.S.C. §636(b)(1)(A). Any party may appeal from a Magistrate Judge's order determining a motion or matter under subsection 1(c) of these rules, *supra*, within fourteen (14) days after being served with the Magistrate Judge's order, unless a different time is prescribed by the Magistrate Judge or District Judge. Such party shall file with the Clerk of the Court, and serve on all parties, written objections which shall specifically set forth the order, or part thereof, appealed from; a concise statement of the alleged error in the Magistrate Judge's ruling; and statutory, rule, or case authority, in support of the moving party's position. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof, or within such other time as may be allowed by the Magistrate Judge or District Judge. Absent prior permission from the Court, no party shall file any objections or responses to another party's objections exceeding twenty pages in length. The District Judge shall consider the appeal and shall set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. The District Judge may also reconsider *sua sponte* any matter determined by a Magistrate Judge under this rule.

(2) *Government Appeal of Release Order*. At the conclusion of a hearing pursuant to 18 U.S.C. §3142 in which a Magistrate Judge has entered an order granting pretrial release, the government may make an *ore tenus* motion that the Magistrate Judge exercise discretion to stay the release order for a reasonable time, to allow the government to pursue review or appeal of the release order, in accordance with 18 U.S.C. §3145.

If a stay is ordered pursuant to this rule, the Clerk of the Court is directed to obtain the tape recording or cassette immediately after the hearing and deliver the cassettes or tapes promptly to the appropriate court reporter so that an expedited transcript can be delivered to the District Judge within forty-eight (48)



hours of the hearing at which the release order is entered. The United States Attorney's Office is to pay the court reporter's charges.

(b) **Review of Case-Dispositive Motions and Prisoner Litigation - 28 U.S.C. §636(b)(1)(B).** Any party may object to a Magistrate Judge's proposed findings, recommendations or report under subsections 1(d), (e), and (f) of these rules, supra, within fourteen (14) days after being served with a copy thereof, or within such other time as may be allowed by the Magistrate Judge or District Judge. Such party shall file with the Clerk of the Court, and serve on all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made, the specific basis for such objections, and supporting legal authority. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof, or within such other time as may be allowed by the Magistrate Judge or District Judge. Absent prior permission from the Court, no party shall file and serve any objections or responses to another party's objections exceeding twenty (20) pages in length. A District Judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The District Judge, however, need conduct a new hearing only in his discretion or where required by law, and may consider the record developed before the Magistrate Judge, making his own determination on the basis of that record. The District Judge may also receive further evidence, recall witnesses, or recommit the matter to the Magistrate Judge with instructions.

(c) **Special Master Reports - 28 U.S.C. §636(b)(2).** Any party may seek review of, or action on, a special master report filed by a Magistrate Judge in accordance with the provisions of Federal Rules of Civil Procedure 53(e).

(d) **Appeal From Judgments in Misdemeanor Cases - 18 U.S.C. §3402 [Deleted].** Replaced by Federal Rule of Criminal Procedure 58.



(e) Appeal From Judgments in Civil Cases Disposed of on Consent of the Parties – 28 U.S.C. §636(c).

(1) *Appeal to the Court of Appeals.* Upon the entry of judgment in any civil case disposed of by a Magistrate Judge on consent of the parties under authority of 28 U.S.C. §636(c) and subsection 1(h) of these rules, *supra*, an aggrieved party shall appeal directly to the United States Court of Appeals for this Circuit in the same manner as an appeal from any other judgment of this Court.

(2) *Appeal to a District Judge [Deleted].* See Pub.L. No. 104-317 §207, 110 Stat. 3847 (Oct. 19, 1996) (repealing 28 U.S.C. §636(c)(4) and (5).

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 1998; April 15, 1999; April 15, 2007; April 15, 2010; December 1, 2011; December 1, 2015; December 2, 2019; December 1, 2020.

