

## **Rule 117. Magistrate Judges**

(a) Assignment of duties. Magistrate judges appointed pursuant to the rules of this Court, when specifically designated by the Chief Judge, may perform the duties specified in this Rule and such other functions incidental to these duties as are consistent with the rules of the Superior Court 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 shall determine conditions of release and pretrial detention pursuant to these rules and Title 23 of the District of Columbia Code. Review of the magistrate judge's determination of conditions of release may be made sua sponte and shall be made, upon motion, by the judge to whom the case is assigned. Where the case has not been assigned to a judge at the time the motion is filed, review shall be made by a judge to whom the case is assigned for purposes of review.

(2) Conducting preliminary examinations. A magistrate judge may conduct preliminary examinations in all criminal cases, pursuant to SCR Crim 5, to determine if there is probable cause to believe that an offense has been committed and that the accused committed it.

(3) Other duties. The magistrate judge may appoint counsel for indigent defendants in any criminal action, assign trial dates or certify an action for disposition before a judge, and rule on motions to continue a trial date. In addition, the magistrate judge may issue a judicial summons or warrant, pursuant to SCR Crim 9, for a defendant's failure to appear in Court.

(c) Hearing of certain non-jury matters. Upon consent of the parties, a magistrate judge may make findings and enter final orders or judgments in any criminal action, other than a trial by jury, in which (1) the maximum confinement provided by law is 180 days or less and the maximum fine provided by law for each offense does not exceed \$ 1,000, or (2) the accused is charged with any offense heard in the District of Columbia and Traffic calendars of the Criminal Division. Prior to the commencement of any such proceeding, the magistrate judge shall advise the defendant that the defendant may not appeal to the District of Columbia Court of Appeals without first bringing the appeal to a judge of the Superior Court within 10 days after a final order of judgment has been entered.

(d) Acceptance of guilty pleas and imposition of sentence. A magistrate judge may, with the consent of the parties, accept a defendant's plea of guilty or nolo contendere and impose sentence in any criminal matter in which the maximum confinement provided by law for each offense is 180 days or less and the maximum fine provided by law does not exceed \$ 1,000 and all traffic actions heard in the District of Columbia and Traffic Branch of the Criminal Division.

(e) Notification of right to appeal. After pronouncing sentence in a case which has gone to trial, the magistrate judge shall advise the defendant of the defendant's right to seek a review by a Superior Court judge of any final order or judgment entered or made by the magistrate judge and that 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. Furthermore, the

magistrate judge shall advise the defendant of the right of a person who is unable to pay the cost of an appeal to apply for leave to appeal in forma pauperis. There shall be no duty on the magistrate judge to advise the defendant of any right to appeal after sentence is imposed following a plea of guilty or nolo contendere.

(f) Conducting initial probation revocation hearings. A magistrate judge may conduct initial probation revocation hearings in all criminal cases, pursuant to SCR Crim 32.1, to determine if there is probable cause to hold the probationer for a final revocation hearing.

(g) Review of magistrate judge's order or judgment; appeal.

(1) Upon Motion. With respect to proceedings and hearings under paragraphs (b)(2), (c), (d) and (f) of this Rule, a review of the magistrate judge's order or judgment, in whole or in part, shall be made by a judge designated by the Chief Judge upon motion of a party, which motion shall be filed and served within 10 days after service of the order or judgment upon the party, or, if the magistrate judge order or judgment was stated on the record, within 10 days thereafter. If the defendant is incarcerated as a result of the magistrate judge's judgment, the case shall be assigned for review within 1 court day. The motion for review shall designate the order, judgment, or part thereof, for which review is sought, shall specify the grounds for objection to the magistrate judge's order, judgment, or part thereof, and shall include a written summary of the evidence presented before the magistrate judge relating to the grounds for objection. Within 10 days after being served with said motion, a party may file and serve a response, which shall describe any proceedings before the magistrate judge which conflict with or expand upon the summary filed by the moving party. The judge designated by the Chief Judge shall review those 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 initiative of the Court. Not later than 30 days after entry of a magistrate judge's order or judgment pursuant to paragraphs (b)(2), (c), (d) or (f) of this Rule, the judge designated by the Chief Judge may sua sponte review said order or judgment in whole or in part. After giving the parties due notice and 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. Upon the filing of a motion for review pursuant to subparagraph (g)(1) of this Rule, execution of a judgment of conviction entered by a magistrate judge may be stayed in the same manner as on appeal from a judgment of the Superior Court to the District of Columbia Court of Appeals. During the pendency of a motion for review, the defendant may be released by the magistrate judge or, on motion, by the reviewing judge upon a showing by clear and convincing evidence that the defendant is not likely to flee or pose a danger to any other person or to the property of others and that the defendant's motion for review presents a substantial question of law or fact. Upon such findings, the judge or magistrate judge shall treat the defendant in accordance with the provisions of *D.C. Code § 23-1321*.

(4) Extension of time to file motion for review. Upon a showing of excusable neglect and notice to the parties, the judge designated by the Chief Judge pursuant to subparagraph (g)(1) of this Rule may, before or after the time prescribed by

subparagraph (g)(1) has expired, with or without motion, extend the time for filing and serving a motion for review of a magistrate judge's order or judgment for a period not to exceed 20 days from the expiration of the time otherwise prescribed by subparagraph (g)(1).

(5) Appeal. An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Superior Court has reviewed the magistrate judge's judgment or order pursuant to paragraph (g) of this Rule.

(h) Contempt of Court. A magistrate judge may cite an individual for contempt committed in the presence of the magistrate judge. The magistrate judge shall thereafter certify the contempt proceeding for hearing and disposition before a judge pursuant to SCR Crim 42(b).