

Rule D. Magistrate Judges

(a) Assignment of duties. Magistrate judges appointed by designation by the Chief Judge in consultation with the Presiding Judge of Family Court, pursuant to D.C. Code §§ 11-1732 or 11-1732A, 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 the laws of the United States and of the District of Columbia.

(b) Expedited proceedings for establishment, enforcement or modification of child support orders.

(1) In any case brought under D.C. Code § 11-1101(a)(1), (3), (10), or (11) involving the establishment of paternity, establishment or enforcement of child support, or in any case seeking to modify an existing child support order, a hearing shall be scheduled within 45 days from the date the application is filed with the clerk's office and that office shall issue notice to the alleged responsible relative which complies with D.C. Code § 46-206(a).

(2) Cases with Complex Issues. If in a case under subparagraph (b)(1), the magistrate judge finds that a duty of support exists and makes a finding that the case involves complex issues requiring resolution by an associate judge, the magistrate judge shall establish a temporary support obligation and refer unresolved issues to the Presiding Judge of the Family Court, who shall assign the case to an associate judge for resolution of the unresolved issues, except that the magistrate judge shall not establish a temporary support order if parentage is at issue.

(3) Where a magistrate judge in the Family Court finds that there is an existing duty of support, the magistrate judge shall conduct a hearing on support and within 30 days from the conclusion of the hearing, the magistrate judge shall issue written findings of fact and conclusions of law, and enter either a temporary or final judgment or order as provided by law and in accordance with D.C. Code § 16-916.01, 16-924, and 46-205.

(4) If a magistrate judge finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceeding under any applicable statute or court rule, and if that individual fails to appear or otherwise respond, the magistrate judge shall enter a default order.

(5) Any final judgment or order issued by a magistrate judge shall constitute a final judgment or order of the Superior Court. Such order or judgment shall contain notice that a party may within 30 days after entry of a magistrate judge's judgment or order file a motion for review of that judgment or order pursuant to subparagraph (e)(1) of this rule.

(c) Other family court proceedings. Subject to the other provisions of these rules, a magistrate judge may conduct proceedings in any other contested or uncontested matter in the Family Court, excluding jury trials and felony juvenile trials. In these proceedings, the magistrate judge may make findings and enter final orders or judgments which shall constitute final orders or judgments of the Superior Court.

(d) Other duties. A magistrate judge may issue a bench warrant or custody order for a respondent who fails to appear in Court or is otherwise in abscondence, and may quash such a bench warrant or custody order.

(e) Review of magistrate judge's order or judgment.

(1) Upon motion.

(A) Final judgment or orders. An appeal of a final order or judgment, in whole or in part, shall be taken by filing and serving on all parties a motion for review. Upon receipt of

such motion, the Chief Judge, or his or her designee, shall designate an associate judge to act on the motion.

(B) Such motion shall be filed and served on all parties not later than 30 days after entry of the order or judgment pursuant to paragraph (b) of this rule and 10 days after the entry of the order or judgment pursuant to paragraph (c) of this rule. The motion for review shall designate the order, judgment, or part thereof, for which review is being sought, shall specify the grounds for the objection to the magistrate judge's order, judgment, or part thereof, and shall include a written summary of any evidence presented before the magistrate judge relating to the grounds for the 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 associate judge designated by the Chief Judge, or his or her designee, shall review those portions of the magistrate judge's order or judgment to which objection is made together with relevant portions of the record, and may affirm, reverse, modify, or remand, in whole or in part, the magistrate judge's order or judgment and enter an appropriate order of judgment.

(2) On initiative of Court. Not later than 30 days after entry of a magistrate judge's order or judgment pursuant to paragraphs (a), (b), (c), (d) or (g) of this rule, the associate judge designated by the Chief Judge, or his or her designee, 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 associate judge may affirm, reverse, modify, or remand, in whole or in part, the magistrate judge's order or judgment.

(3) Stay of proceedings. A magistrate judge may stay his or her order or judgment pending review by an associate judge either by motion or sua sponte. Upon a showing that the magistrate judge has refused or otherwise failed to stay an order or judgment pending review under this rule, the movant may, with reasonable notice to all parties, apply to the Presiding Judge of the Family Court or, after assignment, to the assigned associate judge for a stay. The stay may be conditioned upon the filing of a bond or other appropriate security.

(4) Extension of time to file motion for review. Upon a showing of excusable neglect and notice to the parties, the Presiding Judge of the Family Court, or his or her designee, may, before or after the time prescribed by subparagraph (e)(1)(B) has expired, with or without motion, extend the time for filing and serving a motion for review of a magistrate judge's final order or judgment for a period not to exceed 20 days from the expiration of the time otherwise prescribed by subparagraph (e)(1)(B).

(5) Standard of Review. The standard of review by the associate judge of a magistrate judge's final order or judgment shall be the same as applied by the Court of Appeals on appeal of a judgment or order of an associate judge of the Superior Court. In accordance with this standard a magistrate judge's finding of fact may not be set aside unless clearly erroneous; nor may the magistrate judge's final order or judgment be set aside except for legal error or abuse of discretion.

(f) Appeal. An appeal to the District of Columbia Court of Appeals may be made only after an associate judge of the Superior Court has reviewed the magistrate judge's order or judgment pursuant to paragraph (e) of this rule.

(g) Contempt. Pursuant to D.C. Code § 11-1732A, a magistrate judge sitting in the Family Court may order an individual to show cause why the individual should not be held in civil

or criminal contempt for disobedience or resistance to any lawful order, process, or writ issued by an associate or magistrate judge or for any other act or conduct committed before a magistrate judge which would constitute contempt. An order to show cause why the individual should not be held in contempt shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. A finding of civil or criminal contempt by a Family Court magistrate judge may not, pursuant to D.C. Code § 11-1732A(d)(3), result in the detention of an individual for more than 180 days.

COMMENT

See D.C. Code §§ 11-1732, 11-1732A, 16-924, and 46-201 et seq. (2010 Supp.). The Child Support Guideline is set forth in D.C. Code § 16-916.01 (2010 Supp.), and the Schedule of Basic Child Support Obligations is Appendix I to the statute.

The standard of review of a magistrate judge's decision pursuant to subparagraphs (e)(1) and (2) is the same as applied by the Court of Appeals on appeal of a judgment or order of the Superior Court. In accordance with that standard, a magistrate judge's judgment or order may not be set aside except for errors of law unless it appears that the judgment or order is plainly wrong, without evidence to support it, or an abuse of discretion.

Subsequent to *In re A.O.T.*, 10 A.3d 160 (D.C. 2010), section (c) of the rule was amended, pursuant to D.C. Code § 11-1732A(d)(2) (2010 Supp.), to permit a magistrate judge to conduct proceedings authorized by the rule without consent of the parties.

The term "final order or judgment" as used in this rule embraces the final decision concepts of D.C. Code § 11-721(a) and permits review of a magistrate judge's decision by an associate judge only in those situations in which an appeal from an associate judge to the Court of Appeals would lie.