

F.R.Crim.P. 5. Initial Appearance

LRCrim 5.1

ASSIGNMENT OF CASES AND MATTERS; CRIMINAL; JUVENILE

(a) **Assignment of Criminal Cases.** Unless otherwise provided in these Rules or ordered by the Court, the Clerk must assign criminal cases to District Judges within each division by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys will be able to make a deliberate choice of a particular Judge. At the conclusion of the preliminary hearing and detention hearing in Tucson, or at the conclusion of the grand jury return in Phoenix, the Clerk must randomly refer the criminal case to a Magistrate Judge. The cases so assigned or referred will remain with the Judges to whom assigned or referred unless otherwise ordered by the Court. With the exception of defense counsel, any officer of the Court who determines that a new charge has been filed against a defendant who is under federal Court supervision must immediately notify the presiding judge before whom the new case is pending.

(1) New Cases in Which the Defendant is on Supervised Release or Probation. The Clerk of Court must directly assign new cases in which the defendant is already on probation or supervised release to the judge to whom the probation or supervised release case is assigned, except as provided in subsections (A), (B), and (C) below.

(A) If the judge to whom the probation or supervised release case is assigned is on Senior Status and ~~does not want~~declines to accept both cases, or if the judge is retired or otherwise unavailable, the Clerk of Court must randomly assign both the new case and the petition to revoke probation or supervised release to a District Judge, except as provided in subsections (B) and(C) below.

(B) If the new case and the probation or supervised release case are in different divisions, the new case will remain in its division, and the petition to revoke probation or supervised release must be reassigned to that division's judge, unless the judge to whom the probation or supervised release case is assigned wants to keep the petition.

(C) In the case of a consolidated plea agreement which resolves both a new felony illegal reentry after deportation, and a probation or supervised release violation for illegal reentry, alien smuggling, or drug trafficking, the judge to whom the new offense is assigned must also decide the request for unsuccessful termination of supervision, unless the judge to whom the supervised release violation is assigned objects, in which case both the new case and the supervised release case must be assigned to the objecting judge. In all such cases, defense counsel must be assigned to handle the entire consolidated proceeding, the sentencing and disposition must be consolidated, and the clerk must file the minutes in both cases.

(2) Inter-District Probation and Supervised Release Transfer Cases. The Clerk of Court must randomly assign probation or supervised release cases transferred from another district to a District Judge in accordance with these rules, except that if a criminal case involving the same defendant has been filed in this district, the transferred case must be assigned to the same District Judge.

(3) Escape Cases. In all cases filed that allege an escape in violation of 18 U.S.C. § 751 and/or § 4082, the Clerk of Court shall directly assign the escape case to the judge who issued the Judgment and Commitment that ordered the original confinement. If the judge who issued the Judgment and Commitment is on Senior Status and declines to accept the new escape case, or if the judge who issued the Judgment and Commitment is retired or otherwise unavailable, the Clerk of Court must randomly assign the new case to a District Judge. If the new escape case is in a different division than the original confinement case, the new case will remain in its division.

(b) Assignment of Juvenile Matters and Related Cases. Except as provided in subsection (1) below, the Clerk of Court must assign juvenile matters to the District Judges within each division by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys will be able to make a deliberate choice of a particular Judge. The cases so assigned will remain with the Judge to whom assigned unless otherwise ordered by the Court.

(1) Upon filing an indictment against an adult or an information against a juvenile(s) for conduct that arises from substantially the same event as a case already pending against a juvenile or an adult, the United States Attorney must file a Notice of Related Case in all affected cases. The judicial officer to whom the lowest numbered case is assigned will make a determination as to reassignment of these cases based on the factors set forth in LRCiv 42.1(a) and (d) and, if appropriate, direct the Clerk to reassign the cases accordingly.

(2) If there are multiple juveniles charged with conduct that arises from substantially the same event, the United States Attorney must file a Notice of Related Case with each juvenile information. The judicial officer to whom the lowest numbered case is assigned will make a determination as to reassignment of these cases based on the factors set forth in LRCiv 42.1(a) and (d) and, if appropriate, direct the Clerk to reassign the cases accordingly.

(3) If the government moves to transfer a juvenile to adult status and the motion to transfer is granted, the Clerk of Court must reassign the case and any related cases by automated random selection to one District Judge upon return of an indictment by the grand jury.

(c) Assignment of Misdemeanor Cases. All misdemeanor cases filed by indictment, complaint, or information must be assigned to a Magistrate Judge who will proceed in accordance with 18 U.S.C. § 3401 and Rule 58 of the Federal Rules of Criminal Procedure. Class A misdemeanor cases filed by indictment or information must be assigned to a Magistrate Judge by automated random selection, with the exception of cases brought before the Magistrate Judges sitting in Flagstaff and in Yuma, which must be directly assigned such cases. In the Phoenix Division, Class B and C misdemeanors must be assigned to the Magistrate Judge who signed the complaint. In the Tucson Division, misdemeanors initiated by complaint must be assigned to the Magistrate Judge who signed the complaint but may be heard by any Magistrate Judge designated to try misdemeanors. Any Magistrate Judge may act in the absence or unavailability of the assigned Magistrate Judge. In the case of a Class A misdemeanor, if the defendant does

not waive trial, judgment, and sentencing before a District Judge of the District Court and does not consent to those proceedings before the Magistrate Judge, the case will be promptly referred to the Clerk of Court for assignment to a District Judge and the defendant will be directed to appear before the assigned District Judge.

(d) Temporary Reassignment of Cases. With regard to temporary reassignment of cases above, see Rule 3.87(g) of the Local Rules of Civil Procedure.

(e) Cases Refiled After Dismissal. With regard to cases refiled after dismissal, see Rule 3.87(a)(2) of the Local Rules of Civil Procedure.

(f) Voluntary Judicial Reassignment of Cases. With regard to voluntary judicial reassignment of cases, see Rule 42.1(e) of the Local Rules of Civil Procedure.

(g) Assignment of Judge to Changes of Plea Hearings. All changes of plea are automatically referred to an available United States Magistrate Judge who shall, provided that the defendant and government consent in writing, thereafter conduct plea proceedings and make findings and recommendations pursuant to Rule 11, Federal Rules of Criminal Procedure.