U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAY - 5 2005
CLERK, U.S. DISTRICT COURT
By Deputy

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

Special Order No. 2-59

1. The District Judges of this Court have considered and adopted amended Miscellaneous Order No. 6, an "Order for the Adoption of Rules for the Exercise of Powers and Performance of Duties by United States Magistrate Judges." This amended order shall take effect immediately and shall apply to all proceedings in civil and criminal actions hereafter commenced and, insofar as just and practicable, all proceedings in civil and criminal actions now pending.

2. All prior miscellaneous and special orders of this Court are superseded by amended Miscellaneous Order No. 6 to the extent they are inconsistent with its terms.

SO ORDERED.

May 5, 2005.

FOR THE COURT:

A. Joe Fish

A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

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CLERK, U.S. DISTRICT COURT
By Kelly
Deputy

LOCAL RULES COMMITTEE PROPOSED REVISION OF
MISCELLANEOUS ORDER NO. 6

ORDER FOR THE ADOPTION OF RULES FOR
THE EXERCISE OF POWERS AND PERFORMANCE
OF DUTIES BY
UNITED STATES MAGISTRATE JUDGES

RULE 1

POWERS AND DUTIES OF MAGISTRATE JUDGES

A magistrate judge appointed to serve in the United States District Court for the Northern District of Texas is hereby granted authority and is specially designated to perform all duties that may be performed by a United States magistrate judge under law. A magistrate judge has all power necessary to perform such duties except as otherwise limited by law. Nothing in this Miscellaneous Order should be construed as limiting the powers of the district judge to perform all such duties, except as otherwise limited by law.

RULE 2

ADDITIONAL POWERS AND DUTIES OF MAGISTRATE JUDGES
UNDER 28 U.S.C. § 636(b)

a. Unless otherwise directed by the presiding district judge, a magistrate judge serving within the Northern District of Texas is authorized, without further order of the court, to perform the following duties in all actions filed by prisoners, persons proceeding *pro se*, or persons seeking leave to proceed *in forma pauperis*:

(1) Review and construe papers presented to the clerk and direct the clerk as to whether

and in what manner said papers will be accepted, if appropriate, for filing or other disposition by the court;

(2) Direct a litigant to resubmit pleadings or other filings on forms approved by the court, or to provide a more definite statement or amended pleadings, and to issue notices of deficiency as authorized by the rules and orders of this court;

(3) Order that the matter be transferred to another district or division if venue is not properly laid in the Northern District of Texas or the particular division in which the action was filed, or when venue is more appropriate in another district or division;

(4) Determine whether leave to proceed *in forma pauperis* should be granted unconditionally or provisionally, and to

(a)(i) enter orders permitting a *pro se* litigant to proceed *in forma pauperis*; (ii) grant leave to proceed *in forma pauperis* to a person seeking relief pursuant to 28 U.S.C. Sections 2241 and 2254, if the average six month balance of the person's inmate trust account and other financial resources are less than Fifty Dollars; and (iii) enter orders to assess and collect filing fees pursuant to the Prison Litigation Reform Act of 1996; or

(b) in the event that the magistrate judge determines that a person is not entitled to proceed *in forma pauperis*, file a recommendation setting out the reasons for the determination pursuant to 28 U.S.C. § 636(b)(1)(B).;

(5) Direct litigants seeking leave to proceed *in forma pauperis* to provide additional financial information necessary to determine whether leave should be granted and to take appropriate steps or make appropriate recommendations in the event that the litigant does not provide the information;

(6) Conduct such proceedings and enter such orders as are necessary to screen matters pursuant to 28 U.S.C. § 1915, 28 U.S.C. § 1915A, 42 U.S.C. § 1997e or other provision of applicable law, including but not limited to the issuance of questionnaires, orders requiring further or more definite statement, and hearings;

(7) After screening, make all necessary and appropriate reports and recommendations if the magistrate judge determines that claims or cases are subject to dismissal under 28 U.S.C. § 1915, 28 U.S.C. § 1915A, 42 U.S.C. § 1997e or other applicable law;

(8) After screening, make all necessary orders for issuance and service of process if leave to proceed *in forma pauperis* is granted;

(9) Make appropriate orders or reports and recommendations in proceedings brought pursuant to 28 U.S.C. Sections 2241, 2254 and 2255;

(10) Upon an order of transfer from the presiding district judge, exercise jurisdiction under 28 U.S.C. § 636(c) if, prior to service of process, the parties to the action consent to proceed before the magistrate judge; and

(11) Make appropriate orders or reports and recommendations on motions for certificates of appealability.

b. A magistrate judge performing any duties under this Rule shall have all powers necessary to perform such duties except as otherwise limited by law.

RULE 3

ASSIGNMENTS TO MAGISTRATE JUDGES

In a division with more than one magistrate judge, the clerk will select a magistrate judge in accordance with the court's random assignment procedure from among all magistrate judges in that division for any matters referred or transferred pursuant to 28 U.S.C. § 636(c) by the presiding district judge. This method of assignment does not limit the district-wide jurisdiction of a magistrate judge.

RULE 4

CONSENT TO EXERCISE OF JURISDICTION BY A MAGISTRATE JUDGE

a. At the time any action that may be tried by consent before a magistrate judge pursuant to 28 U.S.C. § 636(c)(1) is filed or as soon thereafter as is practicable, the clerk will provide plaintiff or plaintiff's representative an approved notice and consent form, along with a sufficient number of copies for the plaintiff to attach to the complaint and summons, when served. The plaintiff, or the defendant if the plaintiff is acting *pro se*, will be primarily responsible for securing the execution of a consent form by the parties and for filing such form with the clerk.

b. If, after the clerk has notified the parties of the availability of a magistrate judge to exercise jurisdiction, and that such consent is wholly voluntary and without any adverse consequences if a party chooses not to consent, and upon the written consents of all parties and upon an order of transfer from the presiding district judge, the clerk will reassign the case to the designated magistrate judge for all further proceedings as provided for in 28 U.S.C. § 636(c). A part-time magistrate judge may exercise consent jurisdiction when the chief judge of the court certifies that

a full-time magistrate judge is not reasonably available in accordance with guidelines established by the judicial council of the Fifth Circuit.

c. Upon the death, retirement, disqualification or resignation of a magistrate judge exercising jurisdiction under this Rule, the case will be reassigned to another magistrate judge, unless a party consented to a specific magistrate judge.

SO ORDERED.

May 5, 2005.

FOR THE COURT:

A. Joe Fish

A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS