

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY**

**IN RE:           CASE ASSIGNMENT**

**GENERAL ORDER  
NO. 25-15**

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Pursuant to 28 U.S.C. § 137, LR 40.1(a) and LCrR 50.1(a), all civil, criminal, and miscellaneous cases filed as of this date shall be assigned, or reassigned due to recusal, in accordance with this General Order. The goal of this General Order is to provide a system for assigning the Court's cases among its judges in a manner that ensures an approximately equal distribution of newly filed cases to each of the active judges, and a percentage to whichever of the senior judges elects to take a lower distribution. This Order does not vest any rights in litigants or members of the bar and is adopted for the internal management of the Court's case load.

**I.       DISTRICT JUDGE CASE ASSIGNMENT**

Pursuant to LR 3.2 and LCrR 18.2, and except as hereinafter provided, all cases commenced in or transferred to the Court shall be assigned to an individual jury division, each of which contains an electronic deck of case assignment cards. Once a case is assigned to a division, it will receive a case number. A separate sequence of case numbers is maintained for each division's civil ("cv"), criminal ("cr"), miscellaneous ("mc"), magistrate judge ("mj"), petty offense ("po"), and wiretap ("wt") cases.<sup>1</sup>

Except as otherwise specified herein, these case assignment cards, in turn, contain the name(s) of the judge or judges who draw cases from that division in the percentages set forth herein. To the extent that multiple judges draw cases from a given division, the case assignment cards comprising each case assignment deck shall be electronically shuffled so that the sequence will be random. The cards shall be concealed such that the name of the judge will not be known until the card is drawn.

**A.       LOUISVILLE CASES**

Chief Judge Greg N. Stivers, Judge David J. Hale, Judge Rebecca Grady Jennings, Judge Claria Horn Boom, Judge Benjamin Beaton, and Senior Judge Charles R. Simpson III shall each draw civil, criminal, and miscellaneous cases assigned to the Louisville division on a random basis. In order to equalize the distribution of the newly filed cases among the judges in active service throughout the district each calendar year, the number of cards each judge draws from the case assignment deck will vary based on the number of cases assigned to each judge from the other jury divisions, if any.

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<sup>1</sup> The Court maintains two (2) separate criminal case assignment decks, both of which contain the same proportions of case assignment cards. One deck is reserved for criminal cases in which the jurisdiction of a probationer or supervised releasee is transferred to the Court pursuant to 18 U.S.C. § 3605, and another deck is reserved for all other criminal cases. A case assigned from one deck shall not impact the number of cases to be assigned from the other deck.

Judge Boom shall draw civil, criminal, and miscellaneous cases approximately equal to 50% of the number of each case type assigned to a full-time active judge. Senior Judge Simpson shall draw civil, criminal, and miscellaneous cases approximately equal to 25% of the number of each case type assigned to a full-time active judge.<sup>2</sup>

Any case from which a judge recuses shall be randomly reassigned to another judge who draws cases from the Louisville Division.

**B. BOWLING GREEN CASES**

Chief Judge Greg N. Stivers = 100%

Any case in which Chief Judge Stivers recuses shall be randomly reassigned to Judge Hale, Judge Jennings, or Judge Beaton.

**C. OWENSBORO CASES**

**Owensboro Civil and Miscellaneous Cases.** Chief Judge Greg N. Stivers, Judge David J. Hale, Judge Rebecca Grady Jennings, and Judge Benjamin Beaton shall each draw civil and miscellaneous cases assigned to the Owensboro division on a random, equal basis.

Any case from which a judge recuses shall be randomly reassigned to another judge who draws cases civil and miscellaneous cases from the Owensboro Division.

**Owensboro Criminal Cases.** Chief Judge Greg N. Stivers and Judge Rebecca Grady Jennings shall each draw criminal cases assigned to the Owensboro division on a random, equal basis.

Any case from which Chief Judge Stivers recuses shall be reassigned to Judge Jennings while any case from which Judge Jennings recuses shall be reassigned to Chief Judge Stivers.

**D. PADUCAH CASES**

Judge Benjamin Beaton =100%

Any case from which Judge Beaton recuses shall be reassigned to Chief Judge Stivers.

Should the recusal process outlined in this Order be exhausted, the Chief Judge shall determine reassignment.

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<sup>2</sup> Senior Judge Simpson's draw of civil cases from the Louisville division shall be adjusted to reflect all Social Security cases assigned to him in accordance with the Social Security case assignment protocol described hereinabove.

**E. MOTIONS UNDER 28 U.S.C. § 2255**

Any motion to vacate, set aside, or correct a sentence shall be assigned to the judge who imposed the relevant sentence. However, motions that relate to a sentence imposed by Senior Judge Joseph H. McKinley, Jr. shall be assigned in the same manner as a newly filed civil case is assigned in the relevant division.

**F. ACTIONS SEEKING STATEWIDE OR NATIONWIDE RELIEF**

The Clerk shall maintain a district-wide case assignment deck through which the following cases shall be randomly assigned to a judge without regard to the division in which the case is filed or assigned:

- Civil actions seeking to bar or mandate statewide enforcement of a state law, including a rule, regulation, policy, or order of the executive branch or a state agency, whether by declaratory judgment and/or any form of injunctive relief; and
- Civil actions seeking to bar or mandate nationwide enforcement of a federal law, including a rule, regulation, policy, or order of the executive branch or a state agency, whether by declaratory judgment and/or any form of injunctive relief.

The party filing the case initiating document must include the following language in section VI. CAUSE OF ACTION on the JS-44 (Civil Cover Sheet) and in the caption of any complaint or amended complaint:

[NATIONWIDE] [STATEWIDE] RELIEF SOUGHT

Chief Judge Greg N. Stivers, Judge David J. Hale, Judge Rebecca Grady Jennings, Judge Claria Horn Boom, Judge Benjamin Beaton, and Senior Judge Charles R. Simpson III shall each draw cases from this district-wide case assignment deck on a random basis, with Judge Boom drawing roughly 50% and Senior Judge Simpson roughly 25% of the number of cases assigned from this deck to a full-time active judge.

If an amended complaint or motion requesting relief applicable to cases assigned pursuant to this district-wide assignment deck is filed within thirty (30) days of when the case is opened, or before significant steps have been taken in the action, the presiding judge may, in his or her discretion, refer to the matter to the Clerk for reassignment through this deck.

## **G. PRO SE PRISONER CASES<sup>3</sup>**

Each case filed within the Western District of Kentucky pursuant to 42 § U.S.C. 1983, 28 U.S.C. § 2241 and 28 U.S.C. §2254 by a prisoner proceeding *pro se* shall be assigned to Senior Judges Charles R. Simpson III and Joseph H. McKinley, Jr.<sup>4</sup> Any such case that is closed in which a motion or other pleading requiring judicial action is filed shall similarly be assigned to Senior Judges Charles R. Simpson III and Judge Joseph H. McKinley, Jr. The proportion of cases assigned to each judge will be adjusted as the Court deems necessary to balance the number of cases assigned to these judicial officers, maximize judicial resources, and ensure the timely handling of cases.

Any *pro se* prisoner case in which Judge Simpson recuses shall be reassigned to Judge McKinley. Any *pro se* prisoner case in which Judge McKinley recuses shall be reassigned to Judge Simpson.

## **H. PRO SE, NON-PRISONER, NON-FEE PAID CASES**

Each *pro se*, non-prisoner, non-fee paid case filed within the Western District of Kentucky, including removal cases where the plaintiff is a *pro se* non-prisoner and is granted *in forma pauperis* status in state court, shall be initially assigned to Senior Judge Joseph H. McKinley, Jr. to screen the action pursuant to 28 U.S.C. § 1915(e)(2). Should Judge McKinley determine that the action should proceed, he shall enter an order directing service on the defendant(s), refer the case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A) for determining all pretrial matters, and direct the Clerk to randomly reassign the case to a judge who draws cases from the jury division to which the case has been assigned. Any *pro se*, non-prisoner, non-fee paid case in which Judge McKinley recuses prior to screening the action shall be randomly reassigned in the same manner.

## **I. DEATH PENALTY CASES**

[General Order No. 2012-06](#) shall govern the assignment of all habeas corpus petitions filed pursuant to 28 U.S.C. § 2254 by a petitioner under a sentence of death, regardless of whether an execution date has been set, and all civil actions filed by a plaintiff under a sentence of death challenging the manner or method of execution, regardless of whether an execution date has been set.

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<sup>3</sup> The term "prisoner" shall mean any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

<sup>4</sup> Any petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 challenging a detainee's confinement by the United States Immigration and Customs Enforcement shall be assigned in the same manner as civil actions as set forth in Section I(A) to (D) of this Order, except that Senior Judge Simpson will not participate in the draw of this case type.

## **J. SOCIAL SECURITY CASES**

[General Order No. 23-02](#), in conjunction with this Order, shall govern the assignment of all cases instituted by a plaintiff against the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g). Senior Judge Charles R. Simpson III shall draw 50% of all such cases filed during a given calendar year in which the parties have not consented to Magistrate Judge jurisdiction, regardless of the division to which the case is assigned.

## **K. TITLE III APPLICATIONS**

Each application for an order authorizing approving the interception of a wire, oral, or [electronic communication](#) under 18 U.S.C. §§ 2510-22 shall be assigned to a district judge by the Clerk of Court using a case assignment deck comprised of all active district judges along with those senior district judges who have opted to review such applications. Consistent with Section I.K. below, the United States Attorney shall designate whether a given Title III application is related to a previously filed Title III application or criminal action. Each application shall be assigned at random unless the court concludes that a given application is related to a previously filed application or case and that assigning that application to the judge to whom the previously filed application or case was assigned is in the interests of justice and judicial economy.

## **L. ASSIGNMENT OF RELATED CRIMINAL CASES**

**1. Conditions for Reassignment.** A criminal case may be reassigned to another judge if it is found to be related to a lower-numbered criminal case assigned to that judge and each of the following criteria is met:

- the cases share one or more common defendant(s), or the cases are based upon the same set of facts, events or offenses;
- the handling of both cases by the same judge is likely to result in an overall saving of judicial resources; and
- neither case has progressed to the point where reassigning a case would likely delay substantially the proceedings in either case, or the court finds that the assignment of the cases to the same judge would promote consistency in resolution of the cases or otherwise be in the interest of justice.

**2. Motion to Reassign.** A motion for reassignment based on relatedness may be filed by any party to a case. The motion must be filed with and will be decided by the judge to whom the lowest numbered case of the claimed related set is assigned for trial or other final disposition. If the set includes both felony cases, and one or more misdemeanors assigned to a magistrate judge, then the motion must be filed with, and will be decided by the district judge assigned to the lowest numbered felony case in the set. Copies of the motion must be served on all parties and on the judges for all of the affected cases. The motion must:

- set forth the points of commonality of the cases in sufficient detail to indicate that the cases meet the criteria for reassignment required by subsection 1, and
- indicate the extent to which the conditions required by subsection 1 will be met if the cases are found to be related.

Any objection to the motion must be filed within 7 days of the filing of the motion.

**3. Order.** The judge must enter an order finding whether or not the cases are related, and, if they are, whether the higher numbered case or cases should be reassigned to that judge. Where the judge finds that reassignment should occur, the clerk must reassign the higher numbered case or cases to the judge deciding the motion and to whom the lowest numbered case is assigned. A copy of any finding on relatedness and whether or not reassignment should take place must be sent to each of the judges before whom any of the higher numbered cases are pending.

**4. Conditions for Reassignment of Cases Involving Pending Supervised Release Violations.** If a defendant in an open criminal case has a supervised release violation pending in another criminal case, the open criminal case may be reassigned to the judge presiding over the case in which the supervised release violation is pending on the court's own motion. The reassignment will occur by order of the court in the open criminal case.

**5. Scope of Reassignment Order.** An order under this rule reassigning cases as related does not constitute a joinder order under Fed. R. Crim. P. 13.

## **II. MAGISTRATE JUDGE CASE REFERRALS AND ASSIGNMENT**

### **A. Civil, Criminal and Miscellaneous Cases**

A District Judge may refer a matter to a Magistrate Judge either directly or by way of a Magistrate Judge referral deck. Any reference, and the scope thereof, whether made directly or through the Magistrate Judge referral deck, shall be solely within the discretion of the District Judge to whom the case is assigned.

The Magistrate Judge referral deck for civil, criminal, and miscellaneous cases shall include Magistrate Judge cards that are apportioned among the Magistrate Judges as set forth below. The decks will be periodically adjusted to reflect all referrals made to the Magistrate judges, whether through the referral deck or directly.

#### **1. LOUISVILLE CASES**

Civil and miscellaneous case referrals shall be divided among the Louisville and Paducah Magistrate Judges in a fashion that provides the Paducah Magistrate Judge and the Louisville Magistrate Judges with a roughly equal number of district-wide referrals.

**2. BOWLING GREEN CASES**

Bowling Green Magistrate Judge =100%

**3. OWENSBORO CASES**

Bowling Green Magistrate Judge =100%

**4. PADUCAH CASES**

Paducah Magistrate Judge =100%

**B. Misdemeanor Cases**

Upon the filing of an information, complaint or violation notice, or the return of an indictment, all misdemeanor cases shall generally be assigned to a Magistrate Judge who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Fed. R. Crim. P. 58. Such cases shall be assigned to an individual jury division at which time it will receive either an "mj" case number if it involves a Class A misdemeanor or "po" case number if it involves a Class B misdemeanor. Such cases are to be assigned to a Magistrate Judge as follows:

**1. LOUISVILLE CASES, INCLUDING FT. KNOX CASES**

Whichever Louisville Magistrate Judge has designated criminal duty at the time of filing.

**2. BOWLING GREEN CASES**

Bowling Green Magistrate Judge= 100%

**3. OWENSBORO CASES**

Bowling Green Magistrate Judge= 100%

**4. PADUCAH CASES, INCLUDING FT. CAMPBELL CASES**

Paducah Magistrate Judge =100%

**C. Habeas Cases**

Habeas cases shall be referred to the magistrate judges on a proportionate basis as determined by the District Judges, giving due consideration to the existing caseload.<sup>5</sup> Such referrals may be made directly or through the use of Magistrate Judge referral decks. One referral deck shall exist for cases filed pursuant to 28 U.S.C. §§ 2241 or 2254 and

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<sup>5</sup> Any habeas corpus petition filed pursuant to 28 U.S.C. § 2254 by a petitioner under a sentence of death, and any civil action filed by a plaintiff under a sentence of death challenging the manner or method of execution, shall be assigned and referred pursuant to GO 2012-06.

another referral deck shall exist for cases filed pursuant to 28 U.S.C. § 2255. These decks shall include Magistrate Judge cards that are apportioned among the Magistrate Judges as set forth below.

**1. LOUISVILLE CASES**

All Magistrate Judges shall draw referrals from habeas cases assigned to the Louisville division. The case assignment cards comprising both Louisville habeas case referral decks shall be electronically shuffled so that the sequence will be random. The number of cards each Magistrate Judge draws from the referral deck will vary based on the number of habeas cases referred to each Magistrate Judge from the other divisions, if any.

**2. BOWLING GREEN CASES**

Bowling Green Magistrate Judge= 100%

**3. OWENSBORO CASES**

Bowling Green Magistrate Judge= 100%

**4. PADUCAH CASES**

Paducah Magistrate Judge= 100%

**D. Case Transfers**

Transfers of cases between Magistrate Judges to equalize dockets and for other appropriate reasons shall be entered from time to time upon concurrence of both the transferee and transferor judges.

**III. ASSIGNMENT OF CLOSED CASES**

Any closed case that was previously assigned to the docket of a judge who is no longer in active service and in which a motion or other pleading requiring judicial action is filed, is referred to the Clerk of this Court for reassignment to another judge in the same fashion as new cases are assigned in the relevant division.

Any case in which a prisoner seeks modification of an imposed term of imprisonment pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) in which Senior Judge Joseph H. McKinley, Jr. was the sentencing judge shall be reassigned to a judge in the same manner as newly filed civil actions are assigned in the relevant division.

This General Order supersedes and vacates General Order 25-08.

**DATED:**

