

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

**In Re: CASE ASSIGNMENT AND CASE
REASSIGNMENT DUE TO RECUSALS**

**GENERAL ORDER
NO. 23-10**

By unanimous agreement of the judges of this Court and 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.

DISTRICT JUDGE CASE ASSIGNMENT

Pursuant to LR 3.2 and LCrR 18.2, 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") and petty offense ("po") cases.¹

With the exception of certain cases filed by *pro se* prisoners, 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 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.

PRO SE PRISONER CASES

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 Judge Joseph H. McKinley, Jr.² Any such case that is closed in which a motion or other pleading requiring judicial action is filed shall similarly be assigned to Senior Judge Joseph H. McKinley, Jr.

¹ 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.

² 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.

Any *pro se* prisoner case in which Judge McKinley recuses shall be reassigned in the same manner as newly filed civil cases are assigned in the relevant division.

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.

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.

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.

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.³

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

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.

³ 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 Court's Social Security case assignment protocol described hereinabove.

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.

PADUCAH CASES

Judge Benjamin Beaton =100%

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

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.

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

MAGISTRATE JUDGE CASE REFERRALS AND ASSIGNMENT

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. 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.

LOUISVILLE CASES

Civil and miscellaneous case referrals shall be randomly divided as follows:

Louisville Magistrate Judges =50% each

Criminal case referrals shall be randomly, but evenly, divided among the Louisville Magistrate Judges.

BOWLING GREEN CASES

Bowling Green Magistrate Judge =100%

OWENSBORO CASES

Bowling Green Magistrate Judge =100%

PADUCAH CASES

Paducah Magistrate Judge =100%

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.

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:

LOUISVILLE CASES, INCLUDING FT. KNOX CASES

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

BOWLING GREEN CASES

Bowling Green Magistrate Judge= 100%

OWENSBORO CASES

Bowling Green Magistrate Judge= 100%

PADUCAH CASES, INCLUDING FT. CAMPBELL CASES

Paducah Magistrate Judge= 100%

Habeas Cases

Habeas cases⁴ shall be referred to the magistrate judges on a proportionate basis as determined by the District Judges, giving due consideration to the existing caseload. 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 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.

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.

BOWLING GREEN CASES

Bowling Green Magistrate Judge= 100%

OWENSBORO CASES

Bowling Green Magistrate Judge= 100%

PADUCAH CASES

Paducah Magistrate Judge= 100%

Transfers

Transfers 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.

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.


⁴ 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.

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 Judge Joseph H. McKinley, Jr. was the sentencing judge shall be assigned to a judge in the same manner as a newly filed civil action is assigned in the relevant division.

This General Order supersedes and vacates General Order 23-07.

DATED: June 6, 2023


Greg N. Stivers, Chief Judge
United States District Court

ENTERED
JAMES J. VILT JR., CLERK
6/6/2023

U.S. DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY