

Referred to Ct. 94-38

GENERAL ORDER NO. 94-18

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

APR 26 1994

DAVID S. MALANDU, CLERK

BY DEPUTY *Joyce Almon*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

GENERAL ORDER

The following rules and procedures shall be in effect for all cases sentenced pursuant to the Sentencing Act of 1987.

(a) Not less than 25 days prior to the date set for sentencing, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the government. Within 10 days thereafter, counsel shall file with the clerk's office any objection(s) they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report. Such communication shall be in affidavit form and shall state specific objection(s) and evidence relied upon to assert the stated objection(s). Copies of all objection(s) shall be served contemporaneously on the probation officer and opposing counsel by the filing party. The original objections shall be placed under seal by the clerk and made a part of the record. Any response thereto by the government should likewise be filed with the clerk's office and placed under seal and the filing party shall contemporaneously serve the probation officer and opposing counsel.

(b) After receiving counsel's objection(s), the probation officer shall conduct any further investigation and make any revisions to the presentence report that may

be necessary. The officer may require counsel for both parties to meet with the officer to discuss unresolved factual and legal issues.

(c) Five (5) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objection(s) counsel may have made that have not been resolved, together with the officer's comments thereon. The probation officer shall certify that the contents of the report, including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and the government, that the contents of the addendum have been communicated to counsel, and that the addendum fairly states any remaining objection(s).

(d) Except with regard to any objection made under subdivision (a) that has not been resolved, the report of the presentence investigation may be accepted by the court as accurate. The court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the court may consider any reliable information presented by the probation officer, the defendant, or the government.

(e) The times set forth in this rule may be modified by the court for good cause shown, except that the 10-day period set forth in subsection (a) may be diminished only with the consent of the defendant.

(f) Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under Rule 32 of the Federal Rules of Criminal Procedure.

(g) The presentence report shall be deemed to have been disclosed to the defendant's attorney, or if not represented by counsel, the defendant (1) when a copy of the report is physically delivered; (2) one day after the report's availability for inspection is orally communicated; or (3) three days after a copy of the report or notice of its availability is mailed.

(h) All copies of the presentence report shall be returned to the U.S. Probation Office after the sentencing hearing. The original PSI presented to the court shall be filed under seal. Subsequent release of copies of the PSI or information contained therein should be in accordance with local Court Policy 9, subsection 2, adopted in July, 1980.

SIGNED this 26th day of April, 1994, for THE COURT.



ROBERT M. PARKER
CHIEF JUDGE