

Replied by D. J. 9-2-93

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

SEP 09 1993

GENERAL ORDER

No. 93-5

DAVID J. MALONE, CLERK
BY DEPUTY *Jay Landave*

The succeeding procedures will be followed by the United States Probation Office to bring a revocation of probation or supervised release to the attention of the Court and such proceedings will be conducted pursuant to Rules 32.1 and 46(c) of the Federal Rules of Criminal Procedure:

I. PROBATION CASES:

A. FELONY CASES:

1. For an arrest warrant:

The probation officer shall contact the U.S. magistrate judge on criminal duty to present the application for a warrant of arrest. Upon arrest of the probationer, he or she will be taken before the magistrate judge on criminal duty for an initial appearance.

The magistrate judge who conducts the initial appearance will likewise conduct the preliminary examination, if required. The district judge who originally sentenced the probationer will conduct the final revocation hearing.

2. For a summons:

The probation officer shall contact the U.S. magistrate judge on criminal duty for a date and time of the initial appearance. The Clerk will thereafter file probation Form 12 and issue the summons. The probation officer is authorized to serve the summons pursuant to Rule 4(d)(3) of the Federal Rules of Criminal Procedure.

The magistrate judge who set the summons date will conduct the initial appearance and advise the probationer of the revocation hearing procedures and date of the hearing. The district judge who originally sentenced the probationer will conduct the final revocation hearing.

B. MISDEMEANOR CASES:

1. For an arrest warrant:

The probation officer shall contact the U.S. magistrate judge on criminal duty to present the application for a warrant of arrest. Upon arrest of the probationer, he or she will be taken before the magistrate judge on criminal duty for an initial appearance.

The magistrate judge who conducts the initial appearance will likewise conduct the preliminary examination, if any. The district judge or magistrate judge who originally sentenced the probationer will conduct the final revocation hearing.

2. For a summons:

The probation officer shall contact the magistrate judge who originally sentenced the probationer, or the duty magistrate judge if the probationer was sentenced by a district judge, for a date and time of the initial appearance. The Clerk will thereafter file probation Form 12 and issue the summons which may be served by the probation officer.

At the initial appearance, the magistrate judge will advise the probationer of the revocation hearing procedures and date of the hearing. The revocation hearing will be conducted by the sentencing district or magistrate judge on the scheduled date.

II. SUPERVISED RELEASE CASES:

A. FELONY CASES:

1. For an arrest warrant:

The probation officer shall contact the U.S. magistrate judge on criminal duty to present the application for a warrant of arrest. Upon arrest, the releasee will be taken before the magistrate judge on criminal duty for an initial appearance.

The magistrate judge who conducts the initial appearance will likewise conduct the preliminary examination, if any, as well as the revocation hearing. Thereafter, a report and recommendation will be filed and the district judge who imposed the original sentence can adopt, modify, or reject and remand the magistrate judge's report. The sentencing district judge will thereafter enter the final order in the case.

2. For a summons:

The probation officer shall contact the magistrate judge on criminal duty for a date and time of the initial appearance. The Clerk will thereafter file probation Form 12 and issue the summons which the probation officer is authorized to serve.

The magistrate judge who set the summons date will conduct the initial appearance as well as the revocation hearing. After the revocation hearing, the magistrate judge will file a report and recommendation which the district judge who imposed the original sentence can adopt, modify, or reject and remand. The sentencing district judge will thereafter enter the final order in the case.

B. MISDEMEANOR CASES:

1. For an arrest warrant:

The probation officer shall contact the magistrate judge on criminal duty to present the application for an arrest warrant. Upon arrest, the releasee will be taken before the magistrate judge on criminal duty for an initial appearance and consideration of conditions of release or a detention hearing.

The magistrate judge who conducts the initial appearance will likewise conduct the preliminary examination, if any. The magistrate judge who originally sentenced the releasee will conduct the final revocation hearing.

2. For a summons:

The probation officer shall contact the magistrate judge who originally sentenced the releasee, or the duty magistrate judge if the releasee was sentenced by a district judge, for a date and time of the initial appearance. The Clerk will thereafter file probation Form 12 and issue the summons which may be served by the probation officer.

At the initial appearance, the magistrate judge will advise the releasee of the revocation hearing procedures and date of the hearing. The revocation hearing will be conducted by that same magistrate judge.

III. PROBATION/SUPERVISED RELEASE REPORTS

Prior to any revocation hearing, the probation officer shall prepare a written report on the case which shall set forth a description of the original offense and the grounds for revocation. The report will also set forth the sentencing guidelines provisions that apply to the case. This report will be served on the U.S. Attorney and the defense attorney within five days of the revocation hearing. The probation officer will also prepare a separate sentencing recommendation which will be for the Court's use only.

IV. PRIOR GENERAL ORDERS

Any prior general orders relating to probation or supervised release revocations are VACATED by the entry of this Order.

So ORDERED this 10th day of March, 1993, on behalf of the Court.


ROBERT M. PARKER
CHIEF JUDGE