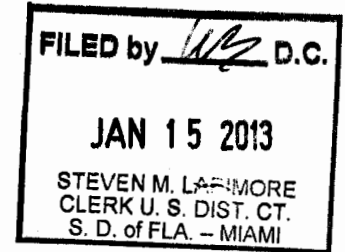


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2013-4

IN RE: POLICY GOVERNING  
INITIAL APPEARANCES OF  
DEFENDANTS

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Former Chief Judge William Zloch set forth the policy governing the initial appearances of defendants in this District in a 2003 Memorandum in response to problems that had arisen under the rules that required defendants to be taken to the "nearest available" magistrate judge. The revised rule provides that defendants be taken "without unnecessary delay" before a magistrate judge. The prior rule had resulted in agents and prosecutors having to appear in different divisions for initial appearances and bond hearings.

The 2003 Memorandum directed that:

1. Where a defendant is arrested on a complaint or indictment, that defendant should be presented before the duty magistrate judge in the division where the magistrate judge whose name appears on the charging document is sitting.
2. When a defendant is arrested before a complaint or indictment is filed, the defendant should be presented in the division where the prosecutor overseeing the case is based.
3. The bond hearing should be held before the duty magistrate judge in the division where the initial appearance was held, unless a later-filed indictment results in the transfer of the prosecution from one division to another. In that event, any deferred bond hearing should occur in the division where the indictment is assigned.

Because the assigned prosecutor may not always be based in the division in which the case will be prosecuted, this order revises the policy as follows:

1. Where a defendant is arrested on a warrant issued pursuant to an indictment, that defendant should be presented for an initial appearance before the duty magistrate judge in the division where the assigned district judge sits.
2. Where a defendant is arrested on a warrant issued pursuant to a criminal complaint, that defendant should be presented for an initial appearance before the duty magistrate judge in the division where the magistrate judge who signed the complaint sits.
3. Where a defendant is not arrested on a warrant, but solely on probable cause, the defendant should be presented for an initial appearance before the duty magistrate judge in the division where the criminal complaint will be sought and the case prosecuted.

4. Where a bond hearing has not been held at the initial appearance, a defendant should receive such hearing in the same division as the initial appearance, unless an indictment returned thereafter is assigned to a district judge in a different division. In that instance, any hearing should be held in the division in which the assigned district judge sits.
5. In exceptional cases, where compliance with the above practices may raise serious safety concerns relating to the transport or housing of defendants or create significant hardships for law enforcement or U.S. Marshals personnel, the assigned Assistant United States Attorney may seek an exception from the Court, providing for the initial appearance to be held in a different division. In those few instances, the assigned Assistant United States Attorney must first obtain supervisory approval. That supervisor must then personally contact the duty magistrate judge, who would normally be conducting the initial proceedings, to formally request that an exception be granted. The transferring magistrate judge may then, with the consent of the receiving magistrate judge, transfer the proceeding.

**DONE AND ORDERED** in Chambers in Miami, Miami-Dade County, Florida this 14 day

of January 2013.

  
FEDERICO A. MORENO  
CHIEF UNITED STATES DISTRICT JUDGE

Copies furnished to:

All Southern District Judges and Magistrate Judges  
Wifredo Ferrer, United States Attorney  
Michael Caruso, Federal Public Defender  
Steven M. Larimore, Court Administrator, Clerk of Court  
Neil Desousa, Acting United States Marshal  
Reginald D. Michael, Chief Probation Officer  
Library