
AMENDMENTS TO FEDERAL RULES OF CRIMINAL PROCEDURE

The following amendments to the Federal Rules of Criminal Procedure were prescribed by the Supreme Court of the United States on April 11, 1997, pursuant to 28 U.S.C. §2072, and were reported to Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *post*, p. 1314. The Judicial Conference report referred to in that letter is not reproduced herein.

Note that under 28 U.S.C. §2074, such amendments shall take effect no earlier than December 1 of the year in which they are transmitted to Congress unless otherwise provided by law.

For earlier publication of the Federal Rules of Criminal Procedure, and the amendments thereto, see 327 U.S. 821, 335 U.S. 917, 949, 346 U.S. 941, 350 U.S. 1017, 383 U.S. 1087, 389 U.S. 1125, 401 U.S. 1025, 406 U.S. 979, 415 U.S. 1056, 416 U.S. 1001, 419 U.S. 1136, 425 U.S. 1157, 441 U.S. 985, 456 U.S. 1021, 461 U.S. 1117, 471 U.S. 1167, 480 U.S. 1041, 485 U.S. 1057, 490 U.S. 1135, 495 U.S. 967, 500 U.S. 991, 507 U.S. 1161, 511 U.S. 1175, 514 U.S. 1159, and 517 U.S. 1285.

LETTER OF TRANSMITTAL

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

APRIL 11, 1997

*To the Senate and House of Representatives of the United
States of America in Congress Assembled:*

By direction of the Supreme Court of the United States, I have the honor to submit to the Congress the amendments to the Federal Rules of Criminal Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying these rules are excerpts from the report of the Judicial Conference of the United States containing the Advisory Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

(Signed) WILLIAM H. REHNQUIST
Chief Justice of the United States

SUPREME COURT OF THE UNITED STATES

APRIL 11, 1997

ORDERED:

1. That the Federal Rules of Criminal Procedure for the United States District Courts be, and they hereby are, amended by including therein amendments to Criminal Rules 16 and 58.

[See *infra*, pp. 1317–1321.]

2. That the foregoing amendments to the Federal Rules of Criminal Procedure shall take effect on December 1, 1997, and shall govern all proceedings in criminal cases thereafter commenced and, insofar as just and practicable, all proceedings in criminal cases then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Criminal Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

AMENDMENTS TO THE FEDERAL RULES
OF CRIMINAL PROCEDURE

Rule 16. Discovery and inspection.

(a) *Governmental disclosure of evidence.*

(1) *Information subject to disclosure.*

(E) *Expert witnesses.*—At the defendant's request, the government shall disclose to the defendant a written summary of testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. If the government requests discovery under subdivision (b)(1)(C)(ii) of this rule and the defendant complies, the government shall, at the defendant's request, disclose to the defendant a written summary of testimony the government intends to use under Rules 702, 703, or 705 as evidence at trial on the issue of the defendant's mental condition. The summary provided under this subdivision shall describe the witnesses' opinions, the bases and the reasons for those opinions, and the witnesses' qualifications.

(2) *Information not subject to disclosure.*—Except as provided in paragraphs (A), (B), (D), and (E) of subdivision (a)(1), this rule does not authorize the discovery or inspection of reports, memoranda, or other internal government documents made by the attorney for the government or any other government agent investigating or prosecuting the case. Nor does the rule authorize the discovery or inspection of statements made by gov-

ernment witnesses or prospective government witnesses except as provided in 18 U. S. C. § 3500.

(b) *The defendant's disclosure of evidence.*

(1) *Information subject to disclosure.*

(C) *Expert witnesses.*—Under the following circumstances, the defendant shall, at the government's request, disclose to the government a written summary of testimony that the defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial: (i) if the defendant requests disclosure under subdivision (a)(1)(E) of this rule and the government complies, or (ii) if the defendant has given notice under Rule 12.2(b) of an intent to present expert testimony on the defendant's mental condition. This summary shall describe the witnesses' opinions, the bases and reasons for those opinions, and the witnesses' qualifications.

Rule 58. Procedure for misdemeanors and other petty offenses.

(a) *Scope.*

(1) *In general.*—This rule governs the procedure and practice for the conduct of proceedings involving misdemeanors and other petty offenses, and for appeals to district judges in such cases tried by United States magistrate judges.

(b) *Pretrial procedures.*

(2) *Initial appearance.*—At the defendant's initial appearance on a misdemeanor or other petty offense charge, the court shall inform the defendant of:

(C) the right to request the appointment of counsel if the defendant is unable to obtain counsel, unless the charge is a petty offense for which an appointment of counsel is not required;

(E) the right to trial, judgment, and sentencing before a district judge, unless:

(i) the charge is a Class B misdemeanor motor-vehicle offense, a Class C misdemeanor, or an infraction; or

(ii) the defendant consents to trial, judgment, and sentencing before a magistrate judge;

(F) the right to trial by jury before either a United States magistrate judge or a district judge, unless the charge is a petty offense; and

(G) the right to a preliminary examination in accordance with 18 U. S. C. § 3060, and the general circumstances under which the defendant may secure pretrial release, if the defendant is held in custody and charged with a misdemeanor other than a petty offense.

(3) *Consent and arraignment.*

(A) *Plea before a United States magistrate judge.*—A magistrate judge shall take the defendant's plea in a Class B misdemeanor charging a motor-vehicle offense, a Class C misdemeanor, or an infraction. In every other misdemeanor case, a magistrate judge may take the plea only if the defendant consents either in writing or orally on the record to be tried before the magistrate judge and specifically waives trial before a district judge. The defendant may plead not guilty, guilty, or with the consent of the magistrate judge, *nolo contendere*.

(B) *Failure to consent.*—In a misdemeanor case—other than a Class B misdemeanor charging a motor-vehicle offense, a Class C misdemeanor, or an infraction—magistrate judge shall order the de-

fendant to appear before a district judge for further proceedings on notice, unless the defendant consents to trial before the magistrate judge.

(g) *Appeal.*

(1) *Decision, order, judgment or sentence by a district judge.*—An appeal from a decision, order, judgment or conviction or sentence by a district judge shall be taken in accordance with the Federal Rules of Appellate Procedure.

(2) *Decision, order, judgment or sentence by a United States magistrate judge.*

(A) *Interlocutory appeal.*—A decision or order by a magistrate judge which, if made by a district judge, could be appealed by the government or defendant under any provision of law, shall be subject to an appeal to a district judge provided such appeal is taken within 10 days of the entry of the decision or order. An appeal shall be taken by filing with the clerk of court a statement specifying the decision or order from which an appeal is taken and by serving a copy of the statement upon the adverse party, personally or by mail, and by filing a copy with the magistrate judge.

(B) *Appeal from conviction or sentence.*—An appeal from a judgment of conviction or sentence by a magistrate judge to a district judge shall be taken within 10 days after entry of the judgment. An appeal shall be taken by filing with the clerk of court a statement specifying the judgment from which an appeal is taken, and by serving a copy of the statement upon the United States Attorney, personally or by mail, and by filing a copy with the magistrate judge.

(D) *Scope of appeal.*—The defendant shall not be entitled to a trial de novo by a district judge. The

scope of appeal shall be the same as an appeal from
a judgment of a district court to a court of appeals.

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