

RULE CR-58. PROCEEDINGS BEFORE MAGISTRATE JUDGES

(a) Authority of Magistrate Judges.

- (1) The magistrate judges of this district are authorized to perform all duties assignable to magistrate judges as set forth in 28 U.S.C. § 636.
- (2) The magistrate judges of this district are specially designated to exercise jurisdiction over misdemeanor offenses as provided by 18 U.S.C. § 3401.
- (3) Proceedings before the magistrate judges are governed by the “Local Rules for the Assignment of Duties to United States Magistrate Judges,” set forth in Appendix C.

(b) Paying a Fixed Sum in Lieu of Appearance.

- (1) ***Waiver of Appearance and Forfeiture of Collateral.*** Unless otherwise ordered by a magistrate judge, a person charged with a petty offense as defined in 18 U.S.C. § 19, and listed in subsection (b)(2), may, in lieu of appearance:
 - (A) post collateral in the amount indicated for the offense;
 - (B) waive appearance before the magistrate judge; and
 - (C) consent to forfeiture of collateral.
- (2) ***Offenses Subject to Forfeiture in Lieu of Appearance.*** The offenses for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of collateral to be posted, are identified in the exhibits referred to below, copies of which are available in the office of the clerk in each division of this court:
 - (A) any petty offense listed in the schedule of offenses designated as Exhibit A, occurring on a U. S. Military Installation within the Western District of Texas;
 - (B) any violation listed in Exhibit B, and set forth in Title 36, Code of Federal Regulations, Chapters 2-5, occurring in a National Park or National Recreation area situated within the Western District of Texas;
 - (C) any violation of Fish and Wildlife laws listed in Exhibit C, and set forth in 16 U.S.C. § 703, 16 U.S.C. § 718a, 16 U.S.C. § § 851- 856, 18 U.S.C. § § 41, 42, 44 and Parts 10 and 16 of Title 50, Code of Federal Regulations, occurring within the Western District of Texas;

- (D) any petty offense listed in the schedule of offenses designated as Exhibit D, involving the public use of Veterans Administration properties, occurring within the Western District of Texas;
 - (E) any violation of Title 36, Code of Federal Regulations, Chapter III, Part 327, (Corps of Engineers), listed in Exhibit E, occurring within the Western District of Texas;
 - (F) any petty offense listed in Exhibit F, set forth in 40 U.S.C. § 318 and Title 41, Code of Federal Regulations, Chapter 101, occurring on General Services Administration property within the Western District of Texas;
 - (G) any petty offense listed in Exhibit G, set forth in 16 U.S.C. §§ 433, 460, 670, 18 U.S.C. §§ 1361, 1852, 1853, 1856, 1857, 1858, 43 U.S.C. § 1061 and Title 43, Code of Federal Regulations, occurring on Bureau of Land Management property within the Western District of Texas; and
 - (H) any petty offense listed in Exhibit H, set forth in 39 U.S.C. § 401 and Title 39, Code of Federal Regulations, as made available to the United States Postal Service by Title VI of Public Law 93-143, State. 525, occurring on Postal Service property within the Western District of Texas.
- (3) ***Punishment Other than Forfeiture of Collateral.*** If a person charged with an offense described in subsection (b)(2) fails to post and forfeit collateral, any punishment, including fine, imprisonment, or probation, may be imposed within the limits established by law upon conviction.
- (4) ***Other Offenses.*** A person charged with a petty offense which is not listed in subsection (b)(2) must appear before a magistrate judge.
- (5) ***Arrest and Appearance Before Magistrate Judge. Nothing contained in this rule prohibits a law enforcement officer from:***
- (A) arresting a person for the commission of any offense covered by this rule; or
 - (B) requiring the person arrested or charged for any offense covered by this rule to appear before a magistrate judge.
- (6) ***Special Assessment.*** The collateral amounts set forth in Exhibits A through H include any special assessment required by 18 U.S.C. § 3013.

Committee Notes

1. Rule CR-58 is a new rule, consisting of the substance of former Rules CR-1(f) and CR-61. The language of Rule CR-58 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. The changes are intended to be stylistic only.
2. Subsections (b)(2)(F) and (b)(2)(H) correspond to subsection (a)(6) of former Rule CR-61 and conform to the separate schedules of collateral currently on file as Exhibits F and H. Exhibits A through H are also available on the Western District of Texas website at www.txwd.uscourts.gov in the Local Rules area.