

## HANDOUT FOR CONTRACT COURT INTERPRETERS

### PRETRIAL HEARINGS

There are several different types of pretrial hearings. Some are incident to the early stages of a case, such as detention hearings, bail hearings, Rule 20 or Rule 40 hearings, identity hearings, arrival of process hearings, and removal hearings. These types of hearings are usually presided over by a magistrate judge, who retains jurisdiction until a case is indicted, at which time it is assigned to a district judge.

The court applies the provisions of the Bail Reform Act of 1984 in deciding whether to release or detain a defendant. Under the Bail Reform Act, a *detention hearing* may be held in cases where defendants are charged with felonies or who are likely to flee or pose a serious danger to the community if released prior to trial. If the magistrate judge finds that there are no pretrial release conditions that will reasonably ensure the appearance of the defendant in court, the safety of the community or that of another person, the defendant may be ordered detained without bail pending trial. A *bail hearing* may be held if either the government or the defense seeks modifications to a bail previously set by the court, or if there is a renewed request to set bail in a case where bail was denied.

If a defendant/material witness is to be released on bail, the interpreter must interpret the bond form before leaving the courtroom.

In keeping with Rule 20, defendants who are arrested in a district other than where the alleged offense was committed may request permission to plead guilty to the charges in the district where the arrest occurred (*Rule 20 hearing*). For this to happen, the defendant must state in writing his wish to plead guilty, waive trial in the district where the charges are pending, and consent to disposition of the case in the district where he was arrested. The U.S. Attorneys for

each district must approve of the transfer, and the clerk of the district court where the charges are pending transmits the charging papers to the clerk of court for the district where the arrest occurred (*arrival of process hearing*). The defendant may then enter a guilty plea in the district where he was arrested, and will be sentenced by a judge of that district.

Rule 40 also applies when a defendant is arrested in a district other than where the offense is alleged to have been committed. The defendant has the right to be taken without unnecessary delay before the nearest available federal magistrate, where a determination is made as to the defendant's identity (*Identity hearing*). If it is determined that the defendant is the person who is being sought, the defendant is held to answer in the district court where the prosecution is pending (*Rule 40 hearing*). A *removal hearing* may be held to accord safeguards to a defendant against an improvident removal to a distant point for trial if the place of the defendant's arrest is more than 100 miles distant from the district where the charges originated.

If the court must resolve questions of fact in order to rule on the motion, an *evidentiary hearing* may be held. Evidentiary hearings can be lengthy due to the introduction of evidence and witness testimony. If the duration of the evidentiary hearing is estimated at more than 90 minutes, two interpreters may be needed.

The attached glossary of terms contains a selection of words and phrases that are used frequently during pretrial hearings. Reviewing the meaning of these terms ahead of time will be helpful to you.

*Frequently used terms or phrases*

Abide by the conditions of release	Affidavit in support of the complaint
Allegations in the complaint/indictment/information	Alleged offense
Appointed counsel	Arrest warrant
Arrival of process	Bail Reform Act
Bond form	Career criminal
Cash bail	Charging papers
Collateral bond in the amount of	Community ties
Conditions of release	Confidential informant
Continuing bond, including any proceeding on appeal or review	Corporate surety
Curfew	Danger to the community
Deeding of property	Deny the bail application
Detention hearing	Discovery motion
Disposition of the case	Electronic monitoring
Evidentiary hearing	Equity (real estate)
Execution of judgment	Facts alleged in the complaint
Family ties	Fair market value of property
Felony	Financial affidavit
Firearms or destructive devices	Forfeit bond to the United States of America
Hold without bail	Home confinement/detention
Illegal alien/reentry	Interests and costs
Immigration status	Improvident removal

Intensive pretrial services supervision	Intimidate any witness, juror, or officer of the court
Introduction of evidence	Issue an order of detention
Issues of fact	Joint tenancy/tenancy in common
Jointly and severally	Jump bail

Justification of surety	Make bail
Material witness	Mental health counseling
Misdemeanor	Motion to dismiss the case
Obstruct a criminal investigation	On probation or parole
Ordered detained without bail	Personal recognizance bond
Pose a risk of flight	Post bail
Pre-conditions of release	Premises of any airport, seaport, or terminal
Pre-trial release conditions	Preponderance of the evidence
Presumption case	Pretrial conference
Pretrial report recommendation	Priors
Rap sheet	Real or personal property
Reasonably assure the appearance of the defendant in court	Release on bail
Removal hearing	Renew the request for bail
Reporting requirements	Residential drug/alcohol program
Retained counsel	Revocation of release
Ruling by the court	Secure a bond with cash or property
Seek modifications to a bail previously set	Set aside the forfeiture
Severance motion	Signatories
Status conference	Strict pretrial supervision
Summary judgment	Supporting affidavit
Suppression motion	Surety agreements and affidavits .
Surrender of passport and travel documents	Swear to the complaint
Tamper with, harass or retaliate against any alleged witness	Temporarily detained
Travel restrictions	Uncorroborated evidence
Undercover agent	Unsecured appearance bond
Verify information	Violate conditions of release
Vouch for the defendant	With/without prejudice