

GENERAL ORDER NO. 05-10

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

GENERAL ORDER REFERRING HABEAS CORPUS ACTIONS

Pursuant to 28 U.S.C. § 636(b)(1) and (3) and Appendix B to the LOCAL COURT RULES, it is hereby **ORDERED** that all habeas corpus actions filed under 28 U.S.C. §§ 2241, 2254 and 2255 are **REFERRED** to the magistrate judge stationed in the division where the action was filed. In divisions with more than one magistrate judge in active service, the U.S. district clerk shall randomly assign habeas corpus filings between the magistrate judges.

Regarding all cases referred by operation of this order, the magistrate judge may enter preliminary orders and conduct evidentiary hearings and other proceedings as the need arises. The referral magistrate judge shall submit to the presiding district judge a report containing proposed findings of fact and recommendations for disposition of motions seeking injunctive relief, judgment on the pleadings, summary judgment, dismissal and default. All other pretrial matters may be heard and determined by the referral magistrate judge.

With respect to cases arising under 28 U.S.C. § 2255, the magistrate judge may recommend that the trial judge vacate the referral when a ground for relief involves facts within the personal knowledge of the trial judge that are not reflected in the court's official record.

Petitioners filing suit under 28 U.S.C. § 2241 and 28 U.S.C. § 2254 may consent to disposition of the action before a magistrate judge. In such cases, the magistrate judge to whom the case was originally referred will conduct all proceedings and order entry of judgment.

A district judge may retain habeas corpus actions assigned thereto by entering a standing order opting out of this general order.

This order supercedes General Order 05-5 entered on February 22, 2005.

SIGNED this the 4th day of April, 2005.

FOR THE COURT:


Thad Heartfield, Chief Judge