

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

ORDER REGULATING PRACTICE

for criminal cases assigned to

THE HONORABLE J. CAMPBELL BARKER

Pursuant to Federal Rule of Criminal Procedure 57(b), this order regulating practice applies while this case is assigned to the undersigned judge. Pro se litigants are exempt from this order. This order is not effective until signed and entered on the docket of a given case. *See* Fed. R. Crim. P. 55.

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REGULATIONS

JCB-CR-32. SENTENCING PROCEDURE

A form for a defendant’s waiver before a sentencing hearing (Form JCB-CR-32) is available on the undersigned’s court webpage, in the Forms tab. Before the sentencing hearing, defense counsel must file a memorandum stating (1) the defendant’s position on the appropriate sentence and (2) whether the defendant and defense counsel have reviewed and signed a waiver using Form JCB-CR-32. If such a waiver is signed, it should accompany the sentencing memorandum. If one is not signed, the sentencing memorandum may explain why not.

The prosecution must also file a sentencing memorandum stating its position on the appropriate sentence.

Any objection to the Presentence Investigation Report is deemed waived if not made in a sentencing memorandum.

Explanatory note:

Execution of this waiver form will help avoid a “word-for-word recitation” of supervision or probation conditions that may result in a “robotic delivery” during the sentencing hearing, and the form may also facilitate “more opportunity to review and consider objections to [supervision or probation] conditions than [for] defendants who hear about them for the first time when the judge announces them.” *United States v. Diggles*, 957 F.3d 551, 560–61, 562 (5th Cir. 2020) (en banc) (internal quotation marks omitted). It will achieve similar benefits with respect to oral pronouncement of a forfeiture order and oral advisement of appellate rights.

JCB-CR-49. PAGE FORMAT AND COUNT

- (a) Any document that is submitted for filing in the case—except for exhibits, attachments, and forms prepared independently of the case—must bear a page number on each page, starting with 1 on the first page (even if a cover page). Roman numerals are not allowed. The page number must be in the bottom margin of each page.
- (b) Sentencing memoranda may not exceed 30 pages.
- (c) All motion papers and briefs of more than 30 pages must contain a table of contents and table of authorities.
- (d) Every page in a document must be counted towards any page limitation, including each page with a case caption, table of contents, table of authorities, signature block, or certificate of conference. Incorporating a previously filed document by reference requires counting its pages.
- (e) The parties are reminded that only lead counsel need appear in a signature block.

Explanatory note:

This regulation first ensures that the page numbering assigned by the court’s Electronic Case Filing system matches the numbering assigned by a party, avoiding confusion in pinpoint citations. This order broadly applies to any document prepared and submitted for filing in the case. But the order’s exception applies to documents like preexisting exhibits and to forms like those created by the Administrative Office of the U.S. Courts. The rest of the regulation clarifies page-limit requirements.

So ordered by the court.

J. CAMPBELL BARKER
United States District Judge