

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

AMENDMENT OF LOCAL CRIMINAL
RULES 56.5 and 56.6 REGARDING
RELATED CASES AND COGNATE CASES

Administrative Order
No. 16-RL-016

By Administrative Order entered January 4, 2016, (Administrative Order No. 16-RL-001), the Court published for comment proposed amendments to Local Criminal Rules 56.5 and 56.6 regarding related cases and cognate cases. The public comment period closed on January 29, 2016, without receipt of any comment. Accordingly:

IT IS ORDERED that W.D. Mich. LCrimR 56.5 and 56.6 are amended as written in the attachment to this order, effective March 1, 2016.

IT IS FURTHER ORDERED that the Clerk shall provide a copy of this Administrative Order to the Judicial Council of the Sixth Circuit and the Administrative Office of the U.S. Courts. All attorneys registered for electronic service on the CM/ECF system shall be given electronic notice of this rule amendment, and the official rules posted on the Court's website will be amended accordingly.

FOR THE COURT:

Dated: February 8, 2016



Robert J. Jonker
Chief United States District Judge

56.5 Assignment of cases to judges

- (a) New criminal cases - Upon the filing of an initial indictment or information, the Clerk must assign the case the next sequential number. The case must be assigned to a district judge by automated means at random, in the proportions established from time to time by administrative order. The Clerk will cause the case number and the name of the assigned judge to be reflected on the official record.
- (b) [Repealed.]
- (c) [Repealed.]
- (d) Exceptions
 - (i) Refilings - If a case is dismissed and later refiled, either in the same or similar form, upon refiled it shall be assigned or transferred to the judge to whom it was originally assigned.
 - (ii) Subsequent proceedings - Post-conviction proceedings in criminal cases (including motions under section 2255 and proceedings to modify or revoke probation or supervised release) shall be assigned to the judge who sentenced the defendant.
 - (iii) Related cases
 - (A) Definition - Cases are deemed related when (1) a superseding indictment or information has been filed; or (2) any other indictment or information is pending against the same defendant(s); (3) an indictment or information charges contempt of court or other crime arising from alleged violation of an order entered in a previous case; (4) an indictment is returned against a defendant who is then on probation or supervised release to a judge, provided the new case involves only the same defendant; or (5) two or more cases are based upon a substantial common nucleus of facts, events, or transactions.
 - (B) Determination - When it appears to the United States Attorney that two or more cases may be related cases, the United States Attorney shall file at the earliest practicable time a statement in all affected cases, describing the basis for concluding that the cases may be related. The duty magistrate judge shall promptly determine whether the cases are related. If related, the cases will be assigned to the same judge. If cases are found to be related cases after assignment to different judges, they may be reassigned by the Chief Judge to the judge having the related case earliest filed.

- (e) Miscellaneous docket - The miscellaneous docket of the Court shall be conducted in the same manner as the assignment of cases covered in this rule and it shall include all grand jury matters.
- (f) Effect - This rule is intended to provide for an orderly division of the business of the Court and not to grant any right to any litigant.
- (g) Duty of parties - All parties shall notify the Court in writing of all pending related cases and any dismissed or remanded prior cases.

56.6 Reassignment of Cases

- (a) Reassignment to promote judicial economy - The Court may reassign cases from one district judge to another (i) to equalize and balance workloads among judges; (ii) to assign cases to senior or visiting judges or remove cases from their dockets as necessary; (iii) to comply with the requirements of the Speedy Trial Act, or (iv) for other reasons of judicial economy. Any case may be reassigned under this rule from one judge to another judge with the consent of both judges. Cases may also be reassigned by administrative order of the Chief Judge if approved by a majority of active district judges.
- (b) Reassignment of Cognate Cases
 - (i) Definition – Cognate cases are pending criminal actions that have substantial questions of fact or law in common such that their assignment to a single judge is likely to effect a substantial saving of judicial effort and to avoid wasteful and duplicative proceedings for the court and the parties.
 - (ii) Procedure for Reassignment – When a judge determines that reassignment of cognate cases would serve the interests of justice and judicial economy, the judge will contact all other judges to whom cognate cases have been assigned. If all those judges agree to reassignment, the Chief Judge will enter an administrative order reassigning such cognate cases to the judge with the earliest numbered case. The administrative order may also provide for automatic assignment of future cognate cases to that judge, and for an adjustment of future case assignments to that judge to compensate for the increased workload.