



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE: ALL 42 U.S.C. § 405(g) §
SOCIAL SECURITY DISABILITY APPEALS § STANDING ORDER
ASSIGNED TO JUDGE MARY GEIGER §
LEWIS §

**STANDING ORDER REGARDING ALL 42 U.S.C. § 405(g)
SOCIAL SECURITY DISABILITY APPEALS ASSIGNED TO
JUDGE MARY GEIGER LEWIS**

In accordance with the policy of the Judicial Conference of the United States, the Administrative Office of the United States Courts (AO) recently completed a Survey of Magistrate Judge Positions in the District of South Carolina. The report is a district-wide review of the Court's Magistrate Judge positions.

By local rule, all social security appeals are automatically referred to Magistrate Judges on a district-wide rotation for reports and recommendations or final disposition by consent of the parties. According to the report, for the period of 2015-2019, social security appeals in this district increased by thirty-seven percent, and felony criminal cases increased by over sixteen percent.

As a result of the COVID-19 pandemic, grand jury proceedings were postponed, and criminal jury trials have been continued through September 1, 2020. Most detention facilities have initiated mitigation measures, which limit the transportation of inmates and in-person visits, including attorney visits. These events have necessarily resulted in a backlog of criminal cases

that will require attention as such restrictions are relaxed. New criminal cases will be generated once grand jury proceedings resume.

Criminal cases take priority over civil cases due, in part, to the Speedy Trial Act. Once restrictive measures are released, the Court anticipates a flood of criminal matters requiring disposition, which must be given priority over civil matters, including social security appeals. This is in addition to a recent increase in filings by federal inmates seeking reduction in sentences, compassionate release, and other collateral relief pursuant to the First Step Act of 2019 and recent appellate court opinions.

The Federal Magistrates Act of 1968 established the Magistrate Judge's system as a supplemental judicial resource to assist the District Courts and provide better service to litigants. The AO report notes that in 2019, of the 350 social security appeals decided in the District of South Carolina, only twenty-seven (or 7.7%) were disposed of by Magistrate Judges with the parties' consent. According to the report:

Many districts around the country have had great success in encouraging consent to [M]agistrate [J]udges in social security appeal cases. Maximizing dispositions on consent rather than through reports and recommendations could be part of the court's strategy, to the extent it is feasible, for maintaining the just, speedy, and inexpensive determination of these cases, as well as realizing the benefits of consent outlined below. Consent to disposition by the [M]agistrate [J]udge can bring about a quicker resolution of the appeal than the report and recommendation process.

Therefore, the court may wish to remind the government and members of the social security bar of the consent option, and its time savings for litigants, by appropriate means (e.g., form letters to parties, status conferences, speaking engagements before the bar).

The completion of the AO report is prescient considering recent events that will place additional strains on District Court resources.

In accordance with 28 U.S.C. § 631, the District Court appoints United States Magistrate Judges after a rigorous application and screening process. Under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, a United States Magistrate Judge may, upon consent of the parties, conduct any or all proceedings in a jury or non-jury civil matter and enter a final order in the case.

Other jurisdictions recognize the impact of COVID-19 will include the backlog of civil cases and foresee the need to utilize Magistrate Judges to address this problem. As noted by Mark A. Berman, former chair of the commercial and federal litigation section of the New York State Bar Association, “It became clear that civil litigators, who need to move their cases forward, have overlooked that, upon consent, Magistrate Judges can conduct all proceedings in a civil action.

The impact of the pandemic now offers the opportunity to take advantage of the offices of Magistrate Judges who, upon consent, can decide motions to dismiss and for summary judgment and to hold bench and jury trials.” Letter to the Editor, Civil Litigators Have an Option in Federal Courts: Magistrate Judges, N.Y.L.J. (Jun. 25, 2020, 2:53 PM), <https://www.law.com/newyorklawjournal/2020/06/25/civil-litigators-have-an-option-in-federal-courts-magistrate-judges/?slreturn=20200630173953>.

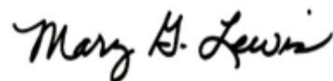
It has been the practice of this Court to give particular attention to social security appeals, given the nature of such actions. The impact of increased caseloads, the direct and indirect effects of the COVID-19 pandemic, and requirement of docket priority for criminal cases, however, will necessarily affect the Court's ability to provide for prompt adjudication of social security cases.

Although parties have the right to adjudication of such matters by a District Court and may withhold consent without adverse substantive consequences, based on the foregoing, careful and strong consideration should be given to the referral of social security appeals to a United States Magistrate Judge for final disposition. The United States Attorney for the District of South Carolina has entered a Standing Consent Agreement for such referrals. See Notice of Commissioner's Consent to Proceed Before a United States Magistrate Judge in 42 U.S.C. § 405(g) Social Security Disability Appeals, 3:04-mc-5005, (filed May 3, 2004).

Accordingly, not later than thirty days after the Court's text order calling the parties' attention to this Standing Order, Plaintiff's counsel shall consult with Plaintiff concerning the foregoing and file a (1) signed and completed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, a blank copy of which is attached to this Order, or (2) status report informing the Court Plaintiff withholds consent to disposition of Plaintiff's appeal by a United States Magistrate Judge.

IT IS SO ORDERED.

Signed this 3rd day of August, 2020, in Columbia, South Carolina.

A handwritten signature in black ink that reads "Mary G. Lewis". The signature is written in a cursive, flowing style.

MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
v.)	Civil Action No.
_____)	
<i>Defendant</i>)	

NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

<i>Printed names of parties and attorneys</i>	<i>Signatures of parties or attorneys</i>	<i>Dates</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Reference Order

IT IS ORDERED: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: _____

District Judge's signature

Printed name and title

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.