

## **RULE 132 - SENTENCING**

(To be effective ~~July~~December 1, 2022)

### **(a) Time for Filing Objections to Presentence Report**

The United States Probation Office will make initial disclosure of the presentence report (PSR) to both counsel via ECF and to the defendant. The sentencing judge will not read or otherwise consider the initial disclosure of the presentence report or any objections thereto unless the sentencing judge expressly states on the record or in an order that the judge has read or otherwise considered the same. Any objections that either counsel or the defendant may have as to any material information, sentencing classification, sentencing guideline ranges or policy statements contained in or omitted from the initial disclosure of the report shall be filed electronically into the ECF system within 14 days after disclosure of the report.

### **(b) Submission of Revised Presentence Report**

The probation officer shall conduct any further investigation and make any revisions to the PSR that may be necessary and shall file the PSR electronically into the ECF system for delivery to the sentencing judge, to counsel for both parties, and to the defendant no more than 77 days after the verdict or finding of guilt. The PSR shall include an addendum setting forth any objections counsel may have, together with the submission of the officer's comments thereon.

### **(c) Presentence Conference**

Upon receipt of the PSR the Court may schedule a presentence conference with all counsel and with the probation officer present and with the defendant if proceeding pro se. Any such conference shall be conducted by telephone upon the record but not transcribed except on specific request of counsel, for discussion of the application of the Guidelines to the case and for the identification of all remaining contested issues. At the request of a party or on the Court's own motion, the presentence conference may be held in person or by video.

#### **(d) Disputed Issues**

Except with regard to any unresolved objection made under subsection (a), the PSR may be accepted by the Court as accurate. The Court, however, for good cause shown, may allow objections to be raised at any time before the imposition of sentence.

#### **(e) Modification of Time Limits**

The times set forth in this rule may be modified by the Court for good cause shown, except that the 14-day period set forth in subsection (a) may be diminished only with consent of the defendant.

#### **(f) Disclosure**

Nothing in this rule requires the disclosure of any portions of the PSR that are not disclosable under Fed. R. Crim. Proc. 32. The recommendations of the probation officer as to the sentence to be imposed shall not be disclosed without the Court's permission.

The PSR shall be deemed to have been disclosed to counsel and the defendant when the report is filed electronically into the ECF system.

#### **(g) Sentencing Exhibits and Documents (formerly Local Rule 159)**

Unless ordered otherwise by the assigned judge, sentencing exhibits and documents shall be submitted as follows:

1. **Motions for Cooperation Departures or Cooperation Variances:** These documents shall be filed with the Court as sealed docket entries and sealed documents five (5) business days prior to the sentencing hearing. ~~They must be accompanied by a motion to seal, which shall specify the duration of sealing in accordance with Local Rule 157.6.~~

2. **Documents in Support of Motions for Cooperation Departures or Cooperation Variances:** These documents shall be submitted to the U.S. Probation Office which shall, in turn, provide them to the assigned judge five (5) business days prior to the sentencing hearing. The documents shall be returned to the Probation Office after the sentencing hearing.

3. **Sentencing Exhibits:** Courtesy copies of exhibits that will be referenced to or moved into evidence at the sentencing hearing shall be submitted to the Court five (5) business days prior to the sentencing hearing either by e-mail to [MaineECFIntake@med.uscourts.gov](mailto:MaineECFIntake@med.uscourts.gov)~~[newcases.portland@med.uscourts.gov](mailto:newcases.portland@med.uscourts.gov)~~ in PDF format or in hard copy with an index as directed by the assigned judge in the presentence conference order to allow the Court time to review the proposed exhibits. When transmitting courtesy copies of exhibits to the Court, counsel shall include the U.S. Probation Office and opposing counsel in the e-mail. Courtesy copies of exhibits will not be docketed or treated as the official Court exhibit. It is the responsibility of counsel to provide the Court with marked paper exhibits at the sentencing hearing.

In cases in which a presentence conference will not be held, the docket entry reflecting the scheduling of the sentencing hearing shall reflect that courtesy copies of sentencing exhibits to be used at sentencing will be submitted to the Court in accordance with this Rule five (5) business days prior to the sentencing hearing.