



United States District Court

DISTRICT OF SOUTH DAKOTA

LR 32.1 SENTENCING

- A. Sentencing Motions.** Unless otherwise permitted by the court, any request that the court depart or vary from the advisory United States Sentencing Guidelines range, either upward or downward, must be asserted in a written motion stating with particularity the basis for the requested departure or variance. A motion for departure or variance may be joined with a party's sentencing memorandum.
- B. Confidential Sentencing Documents.** Whether filed by the U.S. Probation Office or by the parties, documents relating to the sentencing process are confidential and must not be distributed beyond the court and counsel unless otherwise ordered by the court. Pretrial services reports and related documents are also subject to these restrictions. Counsel or an employee of counsel must review confidential pretrial services and sentencing documents with their clients but may not provide copies to their clients. Clients may not review these documents unless counsel or an employee of counsel is present to ensure that the documents are not copied, photographed, retained, or removed. These documents include, but are not limited to, presentence, supplemental or predisposition reports; objections to such reports; addendums to such reports; letters of support; victim impact statements; evaluations; written allocution statements; and Rule 35 or U.S.S.G. 5K1.1 motions and materials.
- C. Procedure.** After a guilty plea has been accepted or a guilty verdict is received, a sentencing date will be set. Unless otherwise ordered, the following deadlines apply:
1. The Probation Office must file the draft presentence report in CM/ECF using the Draft Presentence Report event no later than 35 days before sentencing.
 2. After the draft presentence report is filed, the parties will have 14 days to file and serve objections. Objections must be filed by counsel in CM/ECF using the Objections to Presentence Report event. If counsel has no objections, counsel must so indicate by using the Notice of No Objections to Presentence Report event.

3. The Probation Office must file the final presentencing report in CM/ECF using the Final Presentence Report event no later than 7 days before sentencing using the Final Presentence Report event. An addendum setting forth any unresolved objections, the grounds for those objections, and the probation officer's response must be filed in CM/ECF on the same date using the Addendum to Final Presentence Report event.
4. Counsel must file all letters of support in CM/ECF using the Sealed Letter(s) of Support event no later than 28 days after the Draft Presentence Report is filed.
5. All other sentencing documents must be filed no later than 7 days before sentencing as follows.
 - a. Motions for departure or variance or sentencing memoranda must be filed by counsel in CM/ECF using the appropriate events under Other Filings/Sealed Plea & Sentencing Related Documents.
 - b. The filer must manually serve a copy of sealed sentencing documents on those case participants entitled to notice under the federal and local rules per the CM/ECF User Manual and Administrative Procedures. None of these documents should be submitted directly to the Probation Office or the Court.