

that it was committed in the presence of the court. Rule 42(a) of the Federal Rules of Criminal Procedure. The circumstances which preclude application of the rules of evidence in this situation are not present, however, in other cases of criminal contempt.

Proceedings with respect to release on bail or otherwise do not call for application of the rules of evidence. The governing statute specifically provides:

“Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.” 18 U.S.C.A. §3146(f). This provision is consistent with the type of inquiry contemplated in A.B.A. Project on Minimum Standards for Criminal Justice, Standards Relating to Pretrial Release, §4.5(b), (c), p. 16 (1968). The references to the weight of the evidence against the accused, in Rule 46(a)(1), (c) of the Federal Rules of Criminal Procedure and in 18 U.S.C.A. §3146(b), as a factor to be considered, clearly do not have in view evidence introduced at a hearing.

The rule does not exempt habeas corpus proceedings. The Supreme Court held in *Walker v. Johnston*, 312 U.S. 275, 61 S.Ct. 574, 85 L.Ed. 830 (1941), that the practice of disposing of matters of fact on affidavit, which prevailed in some circuits, did not “satisfy the command of the statute that the judge shall proceed ‘to determine the facts of the case, by hearing the testimony and arguments.’” This view accords with the emphasis in *Townsend v. Sain*, 372 U.S. 293, 83 S.Ct. 745, 9 L.Ed.2d 770 (1963), upon trial-type proceedings, *Id.* 311, 83 S.Ct. 745, with demeanor evidence as a significant factor, *Id.* 322, 83 S.Ct. 745, in applications by state prisoners aggrieved by unconstitutional detentions. Hence subdivision (e) applies the rules to habeas corpus proceedings to the extent not inconsistent with the statute.

Subdivision (e). In a substantial number of special proceedings, *ad hoc* evaluation has resulted in the promulgation of particularized evidentiary provisions, by Act of Congress or by rule adopted by the Supreme Court. Well adapted to the particular proceedings, though not apt candidates for inclusion in a set of general rules, they are left undisturbed. Otherwise, however, the rules of evidence are applicable to the proceedings enumerated in the subdivision.

NOTES OF COMMITTEE ON THE JUDICIARY, HOUSE
REPORT NO. 93-650

Subdivision (a) as submitted to the Congress, in stating the courts and judges to which the Rules of Evidence apply, omitted the Court of Claims and commissioners of that Court. At the request of the Court of Claims, the Committee amended the Rule to include the Court and its commissioners within the purview of the Rules.

Subdivision (b) was amended merely to substitute positive law citations for those which were not.

NOTES OF ADVISORY COMMITTEE ON RULES—1987
AMENDMENT

Subdivision (a) is amended to delete the reference to the District Court for the District of the Canal Zone, which no longer exists, and to add the District Court for the Northern Mariana Islands. The United States bankruptcy judges are added to conform the subdivision with Rule 1101(b) and Bankruptcy Rule 9017.

NOTES OF ADVISORY COMMITTEE ON RULES—1988
AMENDMENT

The amendments are technical. No substantive change is intended.

NOTES OF ADVISORY COMMITTEE ON RULES—1993
AMENDMENT

This revision is made to conform the rule to changes in terminology made by Rule 58 of the Federal Rules of Criminal Procedure and to the changes in the title of United States magistrates made by the Judicial Improvements Act of 1990.

COMMITTEE NOTES ON RULES—2011 AMENDMENT

The language of Rule 1101 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

AMENDMENT BY PUBLIC LAW

1988—Subd. (a). Pub. L. 100-690, §7075(c)(1), which directed amendment of subd. (a) by striking “Rules” and inserting “rules”, could not be executed because of the intervening amendment by the Court by order dated Apr. 25, 1988, eff. Nov. 1, 1988.

Pub. L. 100-690, §7075(c)(2), substituted “courts of appeals” for “Courts of Appeals”.

1982—Subd. (a). Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims” and struck out “and commissioners of the Court of Claims” after “these rules include United States magistrates”.

1978—Subd. (a). Pub. L. 95-598, §252, directed the amendment of this subd. by adding “the United States bankruptcy courts,” after “the United States district courts,” which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

Pub. L. 95-598, §251(a), struck out “, referees in bankruptcy,” after “United States magistrates”.

Subd. (b). Pub. L. 95-598, §251(b), substituted “title 11, United States Code” for “the Bankruptcy Act”.

1975—Subd. (e). Pub. L. 94-149 substituted “admiralty” for “admirality”.

CHANGE OF NAME

References to United States Claims Court deemed to refer to United States Court of Federal Claims, see section 902(b) of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment of subds. (a) and (b) of this rule by section 251 of Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of the Appendix to Title 11, Bankruptcy. For Bankruptcy Jurisdiction and procedure during transition period, see note preceding section 1471 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

Rule 1102. Amendments

These rules may be amended as provided in 28 U.S.C. §2072.

(Pub. L. 93-595, §1, Jan. 2, 1975, 88 Stat. 1948; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 26, 2011, eff. Dec. 1, 2011.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991
AMENDMENT

The amendment is technical. No substantive change is intended.

COMMITTEE NOTES ON RULES—2011 AMENDMENT

The language of Rule 1102 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

Rule 1103. Title

These rules may be cited as the Federal Rules of Evidence.

(Pub. L. 93-595, §1, Jan. 2, 1975, 88 Stat. 1948; Apr. 26, 2011, eff. Dec. 1, 2011.)

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-540, §1, Oct. 28, 1978, 92 Stat. 2046, provided: “That this Act [enacting rule 412 of these rules and a provision set out as a note under rule 412 of these rules] may be cited as the ‘Privacy Protection for Rape Victims Act of 1978’.”

COMMITTEE NOTES ON RULES—2011 AMENDMENT

The language of Rule 1103 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.