

PART D. Arrest Procedures In Summary Cases

PART D(1). Arrests With a Warrant

RULE **[75] 430**. ISSUANCE OF ARREST WARRANT.

[(1)] (A) A warrant for the arrest of the defendant shall be issued when:

[(a)] (1) the defendant fails to respond to a citation or summons that was served upon the defendant personally or by certified mail return receipt requested; or

[(b)] (2) the citation or summons is returned undelivered; or

[(c)] (3) the issuing authority has reasonable grounds to believe that the defendant will not obey a summons.

[(2)] (B) A warrant for the arrest of the defendant may be issued when a defendant has entered a not guilty plea and fails to appear for the summary trial, if the issuing authority determines, pursuant to Rule **[84] 455(A)**, that the trial should not be conducted in the defendant's absence.

[(3)] (C) A warrant for the arrest of the defendant may be issued when:

[(a)] (1) the defendant has entered a guilty plea by mail and the money forwarded with the plea is less than the amount of fine and costs specified in the citation or summons; or

[(b)] (2) the defendant has been sentenced to pay restitution, a fine, or costs and has defaulted on the payment; or

[(c)] (3) the issuing authority has, in the defendant's absence, tried and sentenced the defendant to pay restitution, and/or to pay a fine and costs and the collateral deposited by the defendant is less than the amount of fine and costs imposed.

[(4)] (D) No warrant shall issue under **[Rule 75] paragraph (C)** unless the defendant has been given notice in person or by first class mail that failure to pay the amount due or to appear for a hearing may result in the issuance of an arrest warrant, and the defendant has not responded to this notice within 10 days. Notice by first class mail shall be considered complete upon mailing to the defendant's last known address.

COMMENT: Personal service of a citation under paragraph **[(1)(a)] (A)(1)** is intended to include the issuing of a citation to a defendant as provided in Rule **[51] 400 [(a)] (A)** and the rules of **Chapter 4**, Part **[IIA] B(1)**.

An arrest warrant may not be issued under paragraph **[(1)(a)] (A)(1)** when a defendant fails to respond to a citation or summons that was served by first class mail. See Rule **[80] 451**.

Ordinarily, pursuant to Rule **[84] 455**, the issuing authority must conduct a summary trial in the defendant's absence. However, if the issuing authority determines that there is a likelihood that the sentence will include imprisonment or that there is other good cause not to conduct the summary trial, the issuing authority may issue a warrant for the arrest of the defendant pursuant to paragraph **[(2)] (B)** in order to bring the defendant before the issuing authority for the summary trial.

The arrest warrant issued under paragraph **[(3)] (C)** should state the amount required to satisfy the sentence.

When a defendant is arrested pursuant to paragraph **[(3)] (C)**, the issuing authority must conduct a hearing to determine whether the defendant is able to pay the amount of restitution, fine, and costs that is due. See Rule **[85] 456**.

When contempt proceedings are also involved, see Chapter **[30] 1 Part D** for the issuance of arrest warrants.

See Rule **[76] 431** for the procedures when a warrant of arrest is executed.

NOTE: **Rule 75 [A]** adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; amended April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999 **[.]** ; **renumbered Rule 430 and amended March 1, 2000, effective April 1, 2001.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Final Report explaining the April 18, 1997 amendments concerning arrest warrants when defendant fails to appear for trial published with the Court's Order at 27 Pa.B. 2117 (May 3, 1997).

Final Report explaining the October 1, 1997 amendments in paragraph (3) and the provisions of new paragraph (4) published with the Court's Order at 27 Pa.B. 5414 (October 18, 1997).

Final Report explaining the July 2, 1999 amendments to paragraph (3)(c) and the Comment concerning restitution published with the Court's Order at 29 Pa.B. 3718 (July 17, 1999).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at Pa.B. (_____, 2000).