

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 127

Amending Rules 4 and 9 (a) and
(b), Rules of Criminal Procedure

IT IS ORDERED:

Rules 4 and 9 (a) and (b), Rules of Criminal Procedure, are amended as set out below:

Rule 4. Warrant or Summons Upon Complaint.

(a) Issuance.

(1) Warrant. If it appears from the complaint, or from an affidavit or affidavits filed with the complaint, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue to any officer authorized by law to execute it if the person taking the complaint has reason to believe that the defendant will not appear in response to a summons.

(2) Summons. A summons instead of a warrant should issue if the person taking the complaint has reason to believe that the defendant will appear in response thereto, or if the defendant is a corporation. In any case in which it is lawful for an officer to arrest a person without a warrant, he may give such person a summons instead of arresting him.

(3) Failure of Defendant to Appear After Summons. If a defendant who has been duly summoned fails to appear or if there is reasonable cause to believe that he will fail to appear, a warrant of arrest shall issue. If a defendant corporation fails to appear after having been duly summoned, a plea of not guilty shall be entered by the court if it is empowered to try the offense for which the summons was issued and it may proceed to trial and judgment without further process; if the court is not so empowered it shall proceed as though the defendant had appeared.

(4) Additional Warrants or Summonses. More than one warrant or summons may issue on the same complaint.

Rule 9. Warrant or Summons Upon Indictment or Information.

(a) Issuance. Upon the return of the indictment or filing of the information the court shall issue a warrant of arrest for each defendant named in the information, if it is supported by oath, or in the indictment, except that no warrant should be issued for any defendant who has theretofore been held to answer for the offense or offenses charged or who is on bail or recognizance for that offense or offenses, and in other cases no warrant should be issued unless the court has reason to believe that the defendant will not

appear in response to a summons. The clerk shall issue a summons instead of a warrant upon the request of the prosecuting attorney, or by direction of the court. Upon like request or direction he shall issue more than one warrant or summons for the same defendant. He shall deliver the warrant or summons to a peace officer or other person authorized by law to execute or serve it. If a defendant fails to appear in response to the summons, a warrant shall issue.

(b) Form.

(1) Warrant. The form of the warrant shall be as provided in Rule 4 (b) (1) except that it shall be signed by the clerk, it shall describe the offense charged in the indictment or information and it shall command that the defendant be arrested and brought before the court. The amount of bail shall be fixed by the court and endorsed on the warrant.

(2) Summons. The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before the court at a stated time and place.

EFFECTIVE DATE: April 29, 1971

/s/ George F. Boney
Chief Justice

/s/ John H. Dimond
Associate Justice

/s/ Jay A. Rabinowitz
Associate Justice

/s/ Roger G. Connor
Associate Justice

/s/ Robert C. Erwin
Associate Justice

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