

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT OF
FLORIDA

ADMINISTRATIVE ORDER NO.:
AMENDED 97-25
SUPERSEDES 97-25

IN RE: **CRIMINAL - Bonds - Motion Practice**

This order is entered for the purpose of regularizing bail bond motion practice authorized pursuant to Chapter 903, Florida Statutes.

IT IS ADJUDGED:

1. The Clerk of the Court shall give the surety/bondsman at least seventy-two (72) hours notice, exclusive of Saturdays, Sundays, or holidays, before the time of the required attendance of a defendant. Notice shall not be necessary if the time for appearance is within seventy-two (72) hours of the time of arrest, if the time is stated on the bond, or less than seventy-two (72) hours separates the last noticed appearance and the defendant's next scheduled court appearance.
2. Upon the failure of a criminal defendant to appear on the designated date, the clerk shall forfeit the bond. The court shall not preclude such forfeiture. Chapter 903, Florida Statutes, does not authorize the "reinstatement" of bail bonds. Any appearance by the defendant, subsequent to a failure to appear, shall be guaranteed, if a guarantee of appearance is required, by a new surety bail bond or some other form of guarantee.
3. If the forfeiture has been neither paid nor discharged within thirty-five (35) days from the date notice of failure to appear was mailed, the Clerk's Office shall enter a judgment against the surety for the amount of the bond.
The judgment shall be entered in the criminal case in which the bond was forfeited, whether a circuit court case or a county court case, and all further proceedings subsequent to the entry of the judgment shall be conducted in that case.
4. The Clerk's Office shall keep in the court file a certificate indicating the date of mailing to the surety/bondsman of the notice of failure to appear and, when applicable, a certificate indicating the date of mailing to the surety/bondsman of the notice of entry of judgment.
5. The Office of the County Attorney, the Office of the State Attorney and the Sheriff's Office shall be noticed of all motions in which a surety/bondsman seeks relief of any kind.

6. Each motion seeking relief under Sections 903.26, 903.27 or 903.28, Florida Statutes, shall contain the following information and documentation:
 - (a) The style and number of the case;
 - (b) A statement of the relief sought;
 - (c) The statutory authority for the relief sought;
 - (d) The date the bond was written, the case number for which it was written and the power number of the bond;
 - (e) The amount of the bond;
 - (f) The date the defendant failed to appear;
 - (g) The date notice was sent to the surety/bondsman to produce the defendant for the proceeding at which the defendant failed to appear;
 - (h) The date the notice of the failure to appear was sent by the Clerk's Office to the surety/bondsman;
 - (i) A copy of the receipt from the Clerk's Office showing the amount of any payments of the amount required by Chapter 903, Florida Statutes, as prerequisites for the relief sought by the surety/bondsman. The copy of the receipt shall clearly show the defendant's name, the power number of the bond, the criminal case number for which it was written, as well as the date the receipt was written;
 - (j) The date the defendant was arrested or surrendered to the County correctional facility. A copy of the "923 Arrest Form" shall also be attached to the motion
 - (k) When applicable, the date the defendant was admitted to a correctional facility outside of the County with original jurisdiction or admitted to any other institution, the admission to which is relevant under Chapter 903, Florida Statutes. A "923 Arrest Form" or, in the case of an institution other than a correctional facility, documentation from that institution indicating the admission and release shall also be attached to the motion;
 - (l) When applicable, the date a judgment against the surety/bondsman was entered in the case;
 - (m) Any lawfully recognized defenses asserted by the surety/bondsman including legal authority for the same;
 - (n) A signed affirmation that the contents of the motion are truthful and accurate; and
 - (o) A properly executed certificate of service of the motion to County Attorney, State Attorney and the Sheriff.
7. A motion which does not contain all the information and documentation required by Section 6 of this order or, in the case

of a motion to set aside a judgment, does not meet the requirements of Section 903.27(4) (5), Florida Statutes, shall be continued until such time deficiency is corrected. The continuance shall not toll the time periods provided by Chapter 903, Florida Statutes.

8. If the surety/bondsman alleges that notice to produce the defendant at the hearing (at which the failure to appear occurred) was not sent by the Clerk's Office and if the case file shows or if the office of the County Attorney or the Office of the State Attorney presents the Court with competent evidence indicating that notice was sent as required, the surety/bondsman's motion for relief shall be dismissed with prejudice.
9. The inability of the Clerk's Office to mail the surety/bondsman notice of the defendant's failure to appear within five (5) days of that failure to appear shall not constitute grounds for set aside, absent a showing by the surety/bondsman of prejudice.
10. Pursuant to Section 903.26, Florida Statutes, where no money for the right to remission has been paid by the end of thirty-fifth (35th) day, a factually supported motion shall be made, heard and granted by the end of the thirty-fifth (35th) day to prevent judgment from being entered by the Clerk's Office. A motion pursuant to Section 903.26, Florida Statutes, shall be void if made after the thirty-fifth (35) day. No motion pursuant to Section 903.28, Florida Statutes, shall lie where the amount of the bond was not paid prior to the end of the thirty-fifth (35th) day.
11. The Office of the County Attorney shall coordinate the scheduling of motions pursuant to Sections 903.27 and 903.28, Florida Statutes, with the surety/bondsman's attorney and the appropriate court. Reasonable notice of hearing shall be given by the Office of the County Attorney to counsel for the surety/bondsman.
12. Where the court grants the surety/bondsman the relief requested, the surety/bondsman shall pay the costs of any and all subpoenas, warrants, transportation and Clerk's fees made necessary by the failure to appear. The Clerk's Office and the Sheriff's Office shall provide timely reports of the costs and fees incurred relevant to bail bond forfeitures in question.
13. Pursuant to Section 648.421, Florida Statutes, a surety/bondsman shall notify in writing the Clerk's Office of the county in which it issues bail bonds within ten (10) days of a change of address. This requirement shall be strictly adhered to by each surety/bondsman writing bonds in this circuit.

14. Pursuant to Section 903.31, Florida Statutes, a trial bond shall not guarantee the defendant's appearance after adjudication of guilt, unless the surety/bondsman has agreed in the bail bond contract to take responsibility for appearances after adjudication. Absent such agreement on the part of the surety/bondsman, upon adjudication the clerk shall prepare all necessary papers to release the bond.
 15. Pursuant to Section 903.27, Florida Statutes, the County Court Judge assigned to the criminal case in which a judgment has been entered pursuant to paragraph 3 of this order is hereby appointed an acting Circuit Judge to hear and dispose of all motions filed subsequent to the entry of said judgment.
- DONE AND ORDERED this 11th day of July, 1997.

JOHN DEAN MOXLEY, JR.

JOHN DEAN MOXLEY, JR.
CHIEF JUDGE

Distribution:

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