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Modification 5
Modification 5.22
July 28, 2005

AMENDMENTS TO CRIMINAL RULES 509, 510, 511, 512, 540, 542, 543, AND 571

The Pennsylvania Supreme Court has adopted amendments to Rules 509, 510, 511, 512, 540, 542, 543 and 571 of the Rules of Criminal Procedure, effective August 1. A principal change is that under certain circumstances, the issuing authority is permitted to conduct a preliminary hearing when the defendant fails to appear. On August 1, changes as described below will be made to various processes and forms in the MDJS to comply with the amended Rules of Criminal Procedure.

Summons

Amended Rule 511(A) requires that a criminal summons shall be served upon the defendant by both first class mail and certified mail, return receipt requested. A new mailing code, CRCT, (First Class/Certified) has been created for criminal summons. After recording the issuance of a criminal summons with the mail code CRCT, the case will be placed on the Certified/Restricted Mail Return list.

Before a warrant may be issued due to a summons being returned undelivered or rejected, both the certified mail and first class mail must have been returned undeliverable. If the certified mail is returned rejected or undeliverable, a pop-up window will display on the Certified/Restricted Mail Return list when you record the return of the certified mail. The question, "Has the 1st class mail been returned?" will appear. If you answer Y for yes, the case will move to the Warrants to Print list. If the first class mail has not been returned within 15 days of mailing, you will answer N for no. When the first class mail has not been returned within 15 days of mailing, service is considered made and the preliminary hearing will remain as scheduled.

The language on the Summons for Criminal Case (AOPC 618) has been updated and states, "If you fail to appear for the hearing on the date and at the time and place specified above, the case will proceed in your absence, and a warrant will be issued for your arrest."

Preliminary Hearing

The Notice of Preliminary Hearing (AOPC 629) now states, "If you fail to appear at the time and place above without good cause, you will be deemed to have waived your right to be present at any further proceedings before the Magisterial District Judge. The case will proceed in your absence, and a warrant will be issued for your arrest."

If the defendant fails to appear for the preliminary hearing, the issuing authority must determine (1) if the defendant received notice and (2) if the defendant has good cause for not appearing.

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No Good Cause

Per amended Rule 543(D)(2)(a)-(b), if the issuing authority finds that the defendant's absence is without good cause and after notice, the absence shall be deemed a waiver by the defendant of the right to be present at any further proceedings before the issuing authority. In these cases, the issuing authority shall proceed with the case in the same manner as though the defendant was present and give the defendant notice by first class mail of the results of the preliminary hearing. A new form, Notice of Preliminary Hearing Results (A736), will print when the disposition is recorded and the question, "Is defendant present?" is answered with an N for No. Per amended Rule 543(D)(2)(b), the Notice of Preliminary Hearing Results must be sent to the defendant by first class mail.

Per amended Rule 543(D)(2)(c), where the issuing authority finds that the defendant's absence is without good cause and after notice, if the case is held for court or if the preliminary hearing is continued, the issuing authority shall issue a warrant for the arrest of the defendant. The arrest warrant will remain active until one of the following events occurs: (1) the defendant is apprehended and brought before the issuing authority, (2) the defendant is arraigned at the Court of Common Pleas, or (3) the Court of Common Pleas issues a bench warrant for the defendant. In the first instance, the warrant will be resolved before the issuing authority; in the later two instances, you will receive notice that the warrant needs to be recalled for cancellation. This is described in more detail under the subheading "Warrants to Cancel Batch List."

Good Cause/No Service

Per amended Rule 543(D)(1), if the issuing authority finds that the defendant did not receive notice, or finds that there was good cause explaining the defendant's failure to appear, the issuing authority shall continue the preliminary hearing to a specific date and time, and shall give notice of the new date and time as provided in amended Rule 542(D)(2), described in more detail below.

Continuance

The Continuance Entry screen has two new Reason Codes, S (Good Cause) and P (No Good Cause).

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Good Cause/No Service

The Notice of Continuance of Preliminary Hearing shall be given to the defendant as provided in amended Rule 542(D)(2). When you record S in the Reason Code field on the Continuance screen, you will be taken to the Service of Process screen because notice of the continuance shall be served on the defendant either in person or by both first class mail and certified mail, return receipt request. The Service of Process screen will default the Action Code to ISSU, the Mailing Code to CRCT (First Class/Certified) and the Form Set to NCPH (Notice of Continuance of Preliminary Hearing).

No Good Cause

When you record P (No Good Cause), on the Continuance Entry screen, the Warrant Entry screen will appear so you can issue a warrant for the arrest of the defendant, per amended Rule 543(D)(2)(c).

Warrants to Cancel Batch List

A new nightly batch list and report has been created to track cases that need to have the arrest warrant recalled for cancellation. Cases will appear on this list when there is notice that an arraignment has occurred or a bench warrant has been issued from the Court of Common Pleas. This notification will occur electronically from the CCP system and will place the case on the Warrants to Cancel list. You need to take action on these cases displaying on the list by recalling the warrant for cancellation. A new reason code, FABW (Arraignment/Bench Warrant) has been created for canceling a warrant due to CCP notification.

Warrants to Cancel is Option 9 on the Batch Processing Menu. The report can be scheduled in the same manner as other nightly reports by selecting the Schedule Nightly Reports option from the Nightly Reports Menu.

If you need additional information, please contact the MDJS Help Desk.