



January 11, 2018

Palmetto Surety Family,

All bondsmen in the state of South Carolina have been facing a challenging task in obtaining an understanding of the procedure for misdemeanor bench warrants in our state. In early October, it was released that South Carolina had been issuing bench warrants in the summary courts (misdemeanor) against due process of law. These issues have come from defendants not being advised of their right to counsel in the summary courts. This opinion had been rendered and broadcast to all magistrates by Chief Justice Beatty.

In response to the opinion many magistrates recalled misdemeanor bench warrants for defendants within their territorial jurisdiction. As a result, officers were advised not to make arrests on those defendants with misdemeanor bench warrants, and detention centers statewide refused to book them into their facilities.

I reached out to court administration to gain an understanding of the procedure we as bondsmen should follow. I was advised that this was not a court order, but was rather a recommendation for magistrate judges to do with what they will. Leaving the bondsmen in this state between a rock and a hard place as they face losing their own hard-earned money because their right to put a summary court absconder in custody was thwarted by governmental agencies. It was stated that the bondsmen should reach out to their county or municipality prior to making an arrest on a defendant for which they faced a rule to show cause hearing and ultimately judgement of the full bond amount.

As a bondsman, an arrest is not performed to serve a bench warrant. All apprehensions are instituted upon a certified copy of the bond undertaking based on the violation of a contractual obligation. Therefore, giving no statutory right for any jail or detention center to refuse a fugitive from a bondsman when the bondsman has provided a certified copy of the bond undertaking, affidavit of surrender, and motion to be relieved on bond. **A jail may not refuse a defendant from a bondsman when the above referenced forms are utilized properly!**

Please contact me with any questions or concerns you may have!

Sincerely,

Donnie Mescia

Agent relations