

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1929

Amending Criminal Rules 4(a)(2) and
9(a) to align standards for issuing
summonses and warrants.

IT IS ORDERED:

1. Criminal Rule 4 is amended to read as follows:

Rule 4. Warrant or Summons Upon Complaint.

(a) **Issuance.**

(1) *Probable Cause.* * * * *

(2) *Summons or Warrant.* The court must issue a summons as opposed to a warrant unless the judge or magistrate judge finds that an arrest is necessary to ensure the defendant's presence in court, or that an arrest is necessary because the defendant poses a danger to a victim, other persons, or the community. ~~A summons shall be issued in all cases unless the judge or magistrate judge has reason to believe that the defendant will not appear in response to a summons or that the defendant poses a danger to other persons and the community.~~

~~No warrant shall issue where bail has previously been established in that case except upon a showing that conditions of release have been violated, that a warrant is necessary to assure the presence of the defendant in court, or that the defendant poses a danger to other persons and the community. In any case in which it is lawful for an officer to arrest a person without a warrant, the officer may give the person a summons instead of arresting the person.~~

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2. Criminal Rule 9 is amended to read as follows:

Rule 9. Warrant or Summons Upon Indictment or Information.

(a) Issuance of Summons or Warrant. Upon the return of the indictment or filing of the information, the court shall issue either a summons or a warrant for each defendant named in the indictment or information unless the defendant is already on bail or recognizance for the same offense(s). The court must issue a summons as opposed to a warrant unless the court finds that an arrest is necessary to ensure the defendant's presence in court, or that an arrest is necessary because the defendant poses a danger to a victim, other persons, or the community. No summons or warrant may issue for a defendant named in an information unless the allegations are supported by statements made under oath. 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 the clerk shall issue more than one warrant or summons for the same defendant. The clerk 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.

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DATED: August 7, 2018

EFFECTIVE DATE: October 15, 2018

/s/
Chief Justice Bolger

/s/
Justice Winfree

/s/
Justice Stowers

/s/
Justice Maassen

/s/
Justice Carney