

FREE JUST ONE SHEET

A Rockdale Magistrate Court Educational Resource

BENCH WARRANTS

Generally, a bench warrant is issued by the Court when the Defendant failed to appear for a scheduled criminal hearing or trial after a summons or notice to appear was given to the Defendant. The bench warrant process may begin from the prosecutor's motion, or the Court by decree, when the Defendant fails to appear at all or leaves early without the Court's approval. **After a bench warrant issuance, the Defendant may be arrested by any law enforcement agency with arrest powers inside or outside the County.**

If the Defendant takes no action to address the bench warrant and it remains active, then an arrest followed by a first appearance will occur before the Court. Bench warrants are only returnable to the issuing court. The Magistrate Court can only make rulings on its own bench warrants. A bond and new court date may be set during the first appearance.

When a court date is missed in any other court such as State or Superior Court, then the Defendant must address the bench warrant there, including warrant set aside request, bond hearing and scheduling a new court date.

Requesting a Set Aside of Bench Warrant

If the Defendant believes that a legal or good explanation exists to set aside the bench warrant, the Defendant's attorney of record, or the Defendant if self-represented, may directly contact the prosecutor to obtain a consent motion and proposed order to set aside the bench warrant.

A motion can be filed with the Court in the event the prosecutor is unwilling to consent. The Defendant's motion to set aside the bench warrant must be accompanied by the non-refundable bench warrant dismissal fee of \$139.00, exact cash, money order or cashier's check. The Defendant is required by law to serve the prosecutor, by hand delivery or mail, a copy of the motion and must file a certificate of



Just One Sheet Editors

Hon. Phinia Aten
Chief Magistrate Judge

Patricia Carreker
Clerk of Court

Important CONTACTS

County Attorney's Office
(Ordinance Prosecutor
Cheryl Freeman, Esq.)
(404) 955-8183
cheryl@cfreemanlaw.com

Public Defender's Office
882 North Main Street Northwest
Conyers GA 30012
(770) 278-7820

Rockdale County Jail
911 Chambers Drive
Conyers, GA 30012
(770) 278-8200
rockdalesheriff.com

State and Superior Courts
Clerk's Office
922 Court Street
Conyers, GA 30012
(770) 278-7900
rockdaleclerk.com

service. A sample copy of the motion and certificate of service is available at the Clerk's Office. State law prohibits clerks and judges from giving legal advice. The decision to deny or grant the motion is solely a judge's decision. The Defendant may voluntarily surrender to the Rockdale County Jail alternatively.



After a Bench Warrant is Set Aside

If the Court grants the motion to set aside the bench warrant, the Defendant, prosecutor and Rockdale County Sheriff's Office warrant Division will receive a copy of the Court's order.

The Defendant will be notified of the new court date as well. The Defendant is solely responsible for maintaining a current address, in writing, with the Clerk's Office. Failure to appear at the new court date will result in the issuance of a subsequent bench warrant that is not likely to be set aside by the Court. The new court hearing will proceed at the same stage of litigation, which preceded the bench warrant, whether that is arraignment, trial or post sentence compliance or revocation. Both the Defendant and the Defendant's attorney must be prepared accordingly.

Case Status After Arrest on a Bench Warrant

If an arrest is made on a bench warrant, the local detention agency, the Rockdale County Sheriff's Office, is required to bring the Defendant before the Court for first appearance within 72 hours of arrest. The Court will determine bond and set a new court date. In some circumstances, the time served on a bench warrant may be credited for sentencing purposes. Therefore, it is important to discuss any detention relating to the case with the Defendant's attorney or the prosecutor and Court if the Defendant is self-represented.

The new court hearing will proceed at the same stage of litigation that preceded the arrest. Therefore, if fines, restitution or special conditions were already imposed, it is important that the Defendant make diligent efforts to satisfy these obligations prior to the new court date. It is best to appear in court and explain present circumstances rather than fail to appear and risk a bench warrant arrest.

DID YOU KNOW

Criminal defendants have the right to be represented by a licensed attorney. Other important rights that apply to county ordinance cases including the presumption of innocence, remain silent and not testify against yourself, a public trial by jury or judge, the prosecutor must prove your guilt beyond a reasonable doubt, questioning of county witnesses, present your own evidence and have witnesses subpoenaed to testify on your behalf and appeal if you are convicted.

A defendant who has already been sentenced and is experiencing verifiable financial hardship paying fines and restitution, may request a sentence modification converting the financial penalties to community service hours with Rockdale County Public Works.