

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY**

GENERAL ORDER NO. 2014-01

RE: FORFEITURE OF COLLATERAL WITHOUT APPEARANCE FOR DESIGNATED MISDEMEANORS

Pursuant to Rules 57 and 58 of the Federal Rules of Criminal Procedure and Joint Local Rules of Criminal Practice 58.1 of the United States District Court for the Western District of Kentucky, the Court adopts the amounts set forth in Exhibit 1 as the collateral to be forfeited in lieu of appearance by a person charged with the corresponding misdemeanors and petty offenses listed therein, whether said offenses originate under federal statute or regulations or state statute by virtue of the Assimilated Crime Act (18 U.S.C. § 13).

Upon posting the designated amount of collateral and upon the failure of the person charged to appear before a United States Magistrate for trial of the offenses listed in the Forfeiture of Collateral Schedule, collateral in the amount specified shall be forfeited to the United States and the posting of said collateral shall signify that the person charged did not contest the charge or request a hearing before a United States Magistrate. Forfeiting collateral shall be tantamount to a finding of guilt.

Forfeiture will not be permitted for those offenses designated by M.C. (Mandatory Court Appearance), or when in the opinion of the arresting or citing officer the offense charged was aggravated by other circumstances resulting in the issuance of a citation for MC, even when a collateral amount has been designated herein.

Nothing in this Order or Forfeiture of Collateral Schedule shall prohibit a law enforcement officer from physically arresting the person for the commission of any offense, including those for which collateral may be posted and forfeited, and requiring the person charged to appear before a United States Magistrate, or, upon arrest, immediately taking this person before a United States Magistrate, or other judicial officer.

Central Violations Bureau (CVB) shall establish and announce the procedures for the receipt of violation notices from issuing agencies and the receipt of collateral forfeited; the CVB shall refer to a Magistrate Judge for this District any violation notice requiring the appearance of the person cited, including mandatory appearances and any violation notice for which collateral has not been forfeited by the person charged after appropriate notice. The Magistrate Judge may use CVB system for management of his or her misdemeanor docket.

CVB shall provide the Magistrate Judge a docket of those cases referred to the court and shall notify each person charged, of the date and place of the hearing. A schedule of hearing dates is provided to the CVB by each United States Magistrate Judge yearly. The United States Attorney and the agency which issued the citation will be notified by the court of the date and place of the hearing. Hearings shall be conducted in accordance with Rule 58, Federal Rules of Criminal Procedure and other applicable federal regulations or statutes. The notice to appear shall advise the person of his right to appear as directed, or to forfeit the collateral as authorized by this Rule, prior to the time of his appearance; and the notice shall advise the person of the consequences if he fails to forfeit the collateral or fails to appear before the Magistrate when notified.

In the event the person failed to forfeit the collateral or fails to appear before the Magistrate when notified, then the Magistrate, upon a showing of probable cause, may issue notice, summons, or warrant directing such person to forfeit collateral double the amount otherwise established by this Rule. The notice, summons, or warrant shall advise such person of the consequences if he fails to forfeit collateral double the amount, or to appear as ordered. Upon motion of the attorney for the government, the Magistrate Judge may issue a warrant instead of a summons.

If such person failed to forfeit the doubled collateral and failed to appear as summoned, the Magistrate Judge shall issue a warrant for the immediate arrest of such person and may assess any penalty which is provided by statute. Upon appearance, the Magistrate Judge shall proceed in accordance with Rule 5 of Federal Rules of Criminal Procedure and all other applicable federal regulations and statutes.

If doubling the amount of collateral which may be forfeited as provided above results in a collateral of more than the maximum fine established by the statute or regulation involved, then, in that event, the amount of collateral which may be forfeited is the maximum fine allowed by statute or regulation. In the event a statute or code section as cited in this Rule is amended so as to change its section number, the catch phrase describing the offense as listed in this Rule shall control in determining the amount of collateral which may be forfeited or whether the person charged must appear.

IT IS ORDERED that this General Order is adopted and shall become effective on April 1, 2014. General Orders 2005-01, 2006-09, and 2008-07 are hereby superseded and vacated as of that date except that persons issued violation notices before the effective date of this General Order may forfeit the collateral listed in the previously entered orders.

DATED this 14th day of March, 2014.



JOSEPH H. MCKINLEY, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT