

BENCH WARRANT

Wichita Division - Judge Nugent Guidelines
Effective 9/17/09

Bench Warrants are usually approved by the Judge at a hearing. The party requesting the Bench Warrant (trustee/counsel) is responsible for preparing and submitting the Bench Warrant Order to the Court.

To assure the sanctity of this Court's orders for turnover, appearance, etc., the Court will occasionally issue a Bench Warrant directed to the United States Marshal Service (USMS) to bring the party who has failed to comply with a court order (hereafter "offender") before the Court to show cause why the court should not find the offender in contempt. Bench Warrants are usually granted after the offender has had significant notice of the existence of the court order requiring action. In Topeka, the USMS has adopted a procedure of sending a warning letter to the offender upon receipt of the Bench Warrant, indicating that if the matter is not immediately resolved, the USMS will bring the offender before the Court for a determination of whether the offender is in contempt, and if so, what remedy is appropriate. The Wichita division, however, will not require the USMS to send a warning letter to the offender.

Processing Bench Warrants takes valuable time from other important USMS business. The Court is aware that sometimes, when the USMS has physically located the offender at a residence, job site, or otherwise, the offender represents to the USMS that he has, in fact, complied, or the offender requests additional time to comply. More often the offender has not, in fact, complied, or upon being given additional time, does not comply. **Therefore, this Court has directed the USMS to proceed to bring the offender in on a Bench Warrant the first time,** leaving the task of determining whether or not compliance has occurred, to the Court. This will result in more offenders being detained and brought before the Court, which should be communicated to represented parties by their counsel.

USMS Procedure

It is the Court's understanding that the USMS will proceed in the following manner upon receipt of a Bench Warrant from the Clerk's Office:

1. Clerk's Office will provide USMS with a copy of the Bench Warrant and current address for offender as well as SSN, if available.
2. USMS staff will check with Court personnel to verify Judge Nugent's schedule before Marshal staff proceed to apprehend the offender.
Court contacts: Janet Swonger (269-6404); Mel Davis (269-6435); or Annette Albright (269-6477)
3. Offender will be detained by USMS pending an appearance before the Bankruptcy Judge.
4. If an offender is apprehended by the USMS for purpose of forcing offender to appear at a show cause hearing, the following policies are applicable:
 - A. The USMS is **not** responsible for providing return transportation to the offender.
 - B. The Court will award costs to the USMS for its time and expenses incurred in processing these warrants.
 - C. Costs must be paid before the debtor will receive a discharge, if the debtor is the offender.