

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 85-20

IN RE: POLICY STATEMENT REGARDING  
PROPERTY BONDS TO SECURE  
APPEARANCE OF DEFENDANTS

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This Court is presently processing almost 3,000 defendants in criminal cases each year. Many of these persons are released on bonds secured by mortgages on real property. Some have been released upon signing bonds secured by chattel mortgages. These bonds have generated voluminous paperwork and record keeping far beyond the capacity of our already over-burdened Clerk's staff. The Clerk has had to request additional personnel solely to process these bonds. Moreover, despite all efforts to ensure that proper collateral is posted, efforts to foreclose on these mortgages have been largely futile because of errors, discrepancies, and documentary defects. The problem is particularly egregious in a district such as this, where there are presently approximately 2,000 outstanding fugitive warrants.

The recent effort to make legally binding the local practice, by use of the form captioned "Promissory Agreement and Indenture Executed in Support of the Appearance Bond of Defendant" has not helped to resolve the procedural difficulties created by such bonds.

In short, the practice of releasing defendants on bonds secured by real or personal property has proved only to hinder and not expedite the administration of justice in this district.


FILED  
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The Court is mindful that the Bail Act provides at 18 U.S.C. §3142(c)(2)(K) that the forfeiture of collateral is one condition which may lawfully be imposed in connection with release of a defendant upon bond. It is solely for this reason that the Court has not foreclosed the possibility of such a bond condition by local rule. It may be that under very extraordinary circumstances such a condition might be appropriate.

It is the policy of this Court, however, that the practice of routinely securing bonds in criminal cases by real or chattel mortgages is to cease immediately. Many acceptable alternative bond conditions are provided in the statute. Moreover, persons with genuine and substantial real property assets may obtain a private mortgage and use the proceeds to post either a corporate surety or cash bond.

DONE and ORDERED in chambers at the United States Courthouse, Federal Courthouse Square, Miami, Florida, this 19th day of July, 1985.

FOR THE COURT:

  
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JAMES LAWRENCE KING  
CHIEF U. S. DISTRICT JUDGE  
SOUTHERN DISTRICT OF FLORIDA