United States District Court

DISTRICT OF SOUTH DAKOTA

LR 17.1 SUBPOENAS AND WRITS

A. Subpoenas to be served by the United States Marshals Service. A defendant unable to pay must file an ex parte motion at least 14 calendar days before a hearing or trial for a subpoena to be served within the district by the United States Marshals Service. A defendant unable to pay must file an ex parte motion at least 21 calendar days before a hearing or trial for a subpoena to be served outside the district by the United States Marshals Service. All ex parte motions must be filed with an attached, prepared AO 89 or AO 89B and must include a physical address for service. The form should include the date and time it is reasonably anticipated the witness will be called to testify. Ex parte documents are not part of the public records of the court.

B. Private Service of Process Not Authorized by CJA. Unless prior approval is obtained from a judge, a lawyer appointed under the Criminal Justice Act may not use private process servers or investigators to serve subpoenas for criminal hearings or trials but must use the United States Marshals Service for such service. If a private process server is used without prior approval, service is valid but reimbursement under the Criminal Justice Act is subject to court approval.

C. Deadline for Application for Writ of Habeas Corpus Ad Testificandum. An application for a writ of habeas corpus ad testificandum to be served by the United States Marshals Service within the district must be filed at least 14 calendar days before the hearing or trial at which the witness is to testify, and an application for a writ of habeas corpus ad testificandum to be served by the United States Marshals Service outside of the district must be filed at least 21 calendar days before the hearing or trial at which the witness is to testify. All applications must be filed with an attached proposed writ.

D. Confidentiality. All subpoenas and writs of habeas corpus ad testificandum obtained *ex parte* are confidential. This confidentiality requirement applies to everyone, including court personnel, the United States Marshals Service, and anyone assisting the United States Marshals Service with service of process.