

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 159

Amending District Court Rules  
of Criminal Procedure and  
District Court Rules of  
Civil Procedure

IT IS ORDERED that the following District Court Rule  
of Criminal Procedure be amended as set out in the attached rule:

Rule 2. Appeals to the Superior Court

IT IS ORDERED that the following District Court Rule  
of Civil Procedure be amended as set out in the attached rule:

Rule 13. Appeal: Time-Notice-Cost Bond

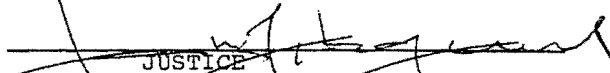
These rules shall be effective Thursday, March 15, 1973.

DATED: at Anchorage, Alaska, this 14th day of February, 1973.

  
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CHIEF JUSTICE

  
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JUSTICE

  
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JUSTICE

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DISTRICT COURT RULES - CRIMINAL

Rule 2. Appeals to the Superior Court.

(a) How Taken - Notice

(1) Written Notice. As provided by AS 22.15.240, an appeal from a judgment of conviction in a district court is taken by filing with the district judge or magistrate a notice in duplicate stating that the defendant appeals from the judgment.

The notice of appeal shall set forth

[a] the title of the case, and

[b] the names and addresses of the appellant and the appellant's attorney, if any, and

[c] a general statement of the nature of the offense, and

[d] the date of the judgment, and

[e] the sentence imposed, and

[f] whether the defendant is in custody, and if so, the place where he is confined, and

[g] a concise statement of the grounds of appeal.

(2) Oral Notice. In lieu of written notice, a defendant may give oral notice of appeal in open court, immediately following the imposition of sentence, which shall be entered by the district judge or magistrate in the docket. When oral notice is given, the defendant shall state to the court the grounds of appeal, each of which the court shall note in the record. Additional grounds of appeal may be set forth by written notice to the court filed within the time allowed for the filing of a written notice of appeal.

(3) Basis of Review. The grounds of appeal stated orally, in writing, or both, shall constitute the sole basis for review by the superior court.

(b) Proceedings on Appeal.

(1) District Court Level. The district judge or magistrate shall promptly forward to the clerk of the superior court of the district the duplicate notice of appeal, together with a copy of all

of his docket entries and the originals or copies of the complaint, the warrant, all orders and judgments entered by him, and the originals of all exhibits received in evidence, certified under his hand and seal. He shall also serve upon or mail to the prosecuting attorney a copy of the notice of appeal, or if oral notice be given in open court he shall inform the prosecuting attorney accordingly; and he shall also furnish the prosecuting attorney copies of his docket entries and other records upon request.

(2) Superior Court Level. From the time of the filing of the district court's record the superior court shall have supervision and control of the proceedings on appeal. At any time and upon 5 days' notice, the superior court may

[a] entertain appropriate motions for directions to the district judge or magistrate, including motions to dismiss, and

[b] vacate or modify any order of the district judge or magistrate in relation to the appeal, including any order for admission to bail

(3) Procedures on Appeal. All appeals shall be in conformity with Appellate Rule 44.

(c) Bail. Admission to bail upon appeal shall be allowed in all cases.

(d) Stay of Execution. A sentence of imprisonment shall be stayed if an appeal is taken and the defendant is admitted to bail. A sentence to pay a fine or a fine and costs may be stayed, if an appeal is taken, by the district judge or magistrate or by the superior court upon such terms as the court deems proper. During appeal the court may require the defendant to deposit the whole or any part of the fine and costs in the registry of the superior court, or to give bond for the payment thereof, or to submit to an examination of assets, and it may make an appropriate order to restrain the defendant from dissipating his assets. An order placing the defendant on probation shall be stayed if an appeal is taken.

## DISTRICT COURT RULES - CIVIL

## Rule 13. Appeal: Time-Notice-Cost Bond

(a) When Taken. All appeals shall be in conformity with Appellate Rule 44. The time within which an appeal may be taken from a judgment of a magistrate court to the superior court shall be 30 days from the date of entry of the judgment appealed from, except that upon a showing of excusable neglect based on a failure of a party to learn of the entry of the judgment the court from which the appeal is taken may, in any action, extend the time for appeal not exceeding 30 days from the expiration of the original time herein prescribed.

(b) Designation of Parties. The party appealing shall be known as the appellant and the adverse party as the appellee.

(c) Notice of Appeal.

(1) Written Notice. A party may appeal from a judgment by filing with the magistrate a notice of appeal in duplicate, with sufficient additional copies for all parties. The notice of appeal shall contain the following:

[a] The title of the action.

[b] The names of the parties taking the appeal.

[c] The judgment or part thereof appealed from and the date of its entry.

[d] The name of the court to which the appeal is taken.

[e] A concise statement of the grounds of appeal.

Notification of the filing of the notice of appeal shall be given by the magistrate by mailing copies thereof to all the parties to the judgment other than the party or parties taking the appeal, but his failure to do so does not affect the validity of the appeal. The notification to a party shall be given by mailing a copy of the notice of appeal to his attorney of record or, if the party is not represented by an attorney, then to the party at his last known address.

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(2) Oral Notice. A written notice of appeal may be dispensed with if at the time the decision is rendered or judgment entered a party gives oral notice of appeal in open court when the other party to the action is present or represented. When oral notice of appeal is given, the appellant shall state to the court the grounds of the appeal, and the court shall note them in the record. Additional grounds for appeal may be set forth by written notice to the court, filed within the time allowed for the filing of a written notice of appeal.

(3) Review Limited to Grounds Stated. The grounds of the appeal stated orally or in writing shall constitute the sole basis for review by the superior court.

(d) Docket Entries. A notice of appeal, whether in writing or oral, shall be entered in the magistrate's docket at the time the notice is filed or given, as the case may be.

(e) Cost Bond on Appeal. A bond on appeal shall be filed with the magistrate not later than 30 days after entry of the judgment appealed from. The bond shall be in an amount to be fixed by the magistrate. It shall have sufficient surety and shall be conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed, or such costs as the superior court may award if the judgment is modified. After a bond on appeal is filed, an appellee may by motion raise objections to the form or amount of the bond or to the sufficiency of the surety which shall be determined by the superior court. If a supersedeas bond is filed, no separate cost bond on appeal is required.

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 159

Amendment 1

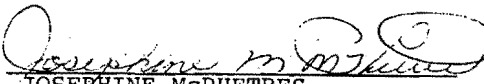
Amending Supreme Court Order  
No. 159

District Court Rules of  
Criminal Procedure and  
District Court Rules of Civil  
Procedure

BY DIRECTION OF THE SUPREME COURT, IT IS ORDERED:

(1) In District Court Rule of Criminal Procedure, Rule 2(b)(3), the reference to Appellate Rule 44 shall be changed to Appellate Rule 45.

(2) In District Court Rule of Civil Procedure, Rule 13(a), the reference to Appellate Rule 44 shall be changed to Appellate Rule 45 and the word "magistrate" shall be changed to "district". In District Court Rule of Civil Procedure, Rule 13(c)(1), the word "magistrate" shall be changed to "judge".

  
JOSEPHINE MCPHETRES  
CLERK OF THE SUPREME COURT

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