

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 185

Amending Criminal Rule 25

IT IS ORDERED:

1) That Criminal Rule 25 be amended by adding subsection (d), which is hereby adopted as follows:

(d) Change of Judge as a Matter of Right. In all courts of the State where a master calendar system has been adopted, a judge may be peremptorily challenged as follows:

(1) Entitlement. In any criminal case in superior or district court, the prosecution and the defense shall each be entitled as a matter of right to one change of judge. When multiple defendants are unable to agree upon the judge to hear the case, the trial judge may, in the interest of justice, give them more than one change as a matter of right; the prosecutor shall be entitled to the same number of changes as all the defendants combined.

(2) Procedure. At the time required for filing the omnibus hearing form, or within 5 days after a judge is assigned the case for the first time, a party may exercise his right to change of judge by noting the request on the omnibus hearing form or by filing a "Notice of Change of Judge" signed by counsel, if any, stating the name of the judge to be changed. A judge may honor a timely informal request for change of judge, entering upon the record the date of the request and the name of the party requesting it.

(3) Re-Assignment. When a request for change of judge is timely filed under this rule, the judge shall proceed no further in the action, except to make such temporary orders as may be absolutely necessary to prevent immediate and irreparable injury before the action can be transferred to another judge. However, if the named judge is the presiding judge, he shall continue to perform the functions of the presiding judge.

(4) Timeliness. Failure to file a timely request precludes a change of judge under this rule as a matter of right.

(5) Waiver. A party loses his rights under this rule to change a judge when he agrees to the assignment of the case to a particular judge or participates before him in an omnibus hearing, any subsequent pretrial hearing, a hearing under Rule 11, or the commencement of trial. No provision of this rule shall bar a stipulation as to the judge before whom a plea of guilty or of nolo contendere shall be taken under Rule 11.

2) This order shall be effective July 1, 1974.

DATED: June 28, 1974

/s/ Jay A. Rabinowitz
Chief Justice

/s/ Roger G. Connor
Justice

/s/ Robert C. Erwin
Justice

/s/ Robert Boochever
Justice

/s/ James M. Fitzgerald
Justice

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