

**IN THE SUPREME COURT OF THE STATE OF ALASKA**  
**ORDER NO. 1887**

Amending Criminal Rule 43 concerning the reasons for dismissals and the information required on notices and orders; and

Amending Minor Offense Rules 4 and 17(g) limiting joinder of unauthorized presence, minor consuming offenses, and similar municipal offenses with other offenses.

**IT IS ORDERED:**

1. Criminal Rule 43 is amended, *effective August 1, 2016*, to read as follows:

**Rule 43. Dismissal and Deferred Prosecution.**

**(a) By Prosecuting Attorney.**

(1) The prosecuting attorney may file a dismissal of an indictment, information, or complaint and the prosecution shall thereupon terminate. Such a dismissal shall not be filed during the trial without the consent of the defendant.

(2) If the dismissal by the prosecuting attorney is the result of a plea agreement in another case, the prosecutor must include that information and the associated case number(s) in the dismissal filing. The court system will use this information to identify the cases subject to AS 22.35.030.

**(b) By Court.**

(1) If there is unnecessary delay in presenting the charge to a grand jury or in filing an information against a defendant who has been held to

answer to the superior court, or if there is unnecessary delay in bringing a defendant to trial pursuant to Criminal Rule 45, the court shall dismiss the indictment, information, or complaint.

(2) If the court suspends entry of judgment under AS 12.55.078 and the court finds that the person on probation has successfully completed probation, the court shall discharge the person and dismiss the case in accordance with AS 12.55.078(d).

(c) **In Furtherance of Justice.** The court may, either on its own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action, after indictment or waiver of indictment, to be dismissed. The reasons for the dismissal shall be set forth in the order.

(d) **Identity Error in Charging Document.** If the prosecution initiates or concurs with the dismissal of charges against a defendant because the named defendant was not the person whom the prosecution intended to charge with the offense, the court shall enter a written order of dismissal clearly stating that this is the reason for the dismissal.

(e) **Discharge from Custody—Exoneration of Bail.** Except as provided in AS 12.30.035, when dismissal is ordered pursuant to this rule the defendant shall be discharged from custody, or if admitted to bail, the bail exonerated, or money deposited in lieu thereof refunded to the depositors.

(f) **Information To Be Included in Notice or Order of Dismissal.**  
A notice or order of dismissal must include the following information:

- (1) the defendant's full name, including middle name or initial, if known;
- (2) the defendant's date of birth, if known;

(3) the defendant's Alaska Public Safety Information Network (APSIN) identification number;

(4) the defendant's driver's license number or state identification number, if known, including the issuing state and whether the license is a commercial driver's license;

(5) the arrest tracking number (ATN) on the Criminal Case Intake and Disposition (CCID) form for each offense being addressed;

(6) the three-digit charge tracking number assigned on the CCID form for each offense being addressed; ~~and~~

(7) the statute, regulation, or ordinance, as identified in the Uniform Offense Citation Table,\*\* corresponding to each offense being addressed. Regulations not listed in the Uniform Offense Citation Table must be cited by the regulation number; and

(8) the specific rule subsection or paragraph under which the charged offense is dismissed.

(g) **Information To Be Included in Notice of Deferred Prosecution.** A notice of deferred prosecution must include the defendant and offense information required by subsection (f) of this rule.

2. The Minor Offense Rules are amended, *effective October 4, 2016*, to read as follows:

**Rule 4. Minor Offenses Not Charged on a Citation.**

(a) This rule applies to minor offenses charged on an information or complaint without any related criminal charges.

\* \* \* \*

(g) A violation of AS 04.16.049, AS 04.16.050, or a similar municipal ordinance may not be joined with other minor offenses.

**Rule 17. Minor Offense Joined with Related Criminal Offense.**

\* \* \* \*

(g) A prosecutor may not join a minor offense for a violation of AS 04.16.049, AS 04.16.050, or a similar municipal ordinance with a related criminal offense.

DATED: July 20, 2016

EFFECTIVE DATE: As provided in the Order.

/s/  
Chief Justice Stowers

/s/  
Justice Winfree

/s/  
Justice Maassen

/s/  
Justice Bolger

/s/  
Justice Carney