

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 550

Amending Rule 32, Alaska Rules of Criminal Procedure, Relating to Procedure for Determining Mitigating and Aggravating Factors and Effect of Prior Convictions.

IT IS ORDERED:

Rule 32, Alaska Rules of Criminal Procedure, is amended by adding a new paragraph (c) and by re-lettering existing paragraphs (c) through (e) as paragraphs (d) through (f), to read as follows:

(c) Procedure for Determining Mitigating and Aggravating Factors and Effect of Prior Convictions.

(1) At the time guilt is established by verdict or plea, counsel shall inform the court and the defendant of any prior convictions which bring into effect the presumptive sentencing provisions of AS 12.55.125; any dispute over the fact of prior convictions shall be set for hearing pursuant to paragraph (2)(ii), and the court shall order a presentence investigation by the Division of Corrections.

(2) At the time guilt is established, the court shall set:

(i) the time for the submission by counsel of affidavits setting forth aggravating and mitigating factors pursuant to AS 12.55.155 and extraordinary circumstances pursuant to AS 12.55.165, which time shall be not less than five working days after the finding of guilt;

(ii) a hearing not less than five working days from the time set for submission of the affidavits required by paragraph (2)(i) above, if there is any dispute between the parties concerning the requirement of presumptive sentencing, aggravating and mitigating factors and extraordinary circumstances which may exist.

(3) At the presentence hearing provided for by paragraph (2)(ii) the court shall enter an order establishing if presumptive sentencing applies, setting forth the aggravating and mitigating factors. A copy of this order shall be given to the Division of Corrections. If presumptive sentencing applies and there are no aggravating or mitigating factors, only a short form of the presentence report is required.

(4) At the time guilt is established the court shall establish the date for sentencing and provide that the presentence report be made available to the attorneys ten calendar days before sentencing in order that any factual errors in the report may be resolved among the attorneys and the Division of Corrections or at a hearing before the judge to whom the case is assigned for sentencing unless good cause is shown for the hearing to be before another judge.

(d) [c] [Pre-Sentence] Presentence Investigation.

\* \* \*

(e) [d] Sentencing Referrals to Three-Judge Panel.


\* \* \*

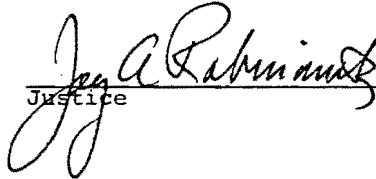
(f) [e] Transcript of Sentencing Proceedings.

\* \* \*

DATE: December 14, 1982

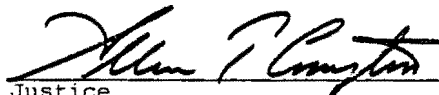
EFFECTIVE DATE: February 1, 1983

  
Chief Justice

  
Justice

Justice

  
Justice

  
Justice