

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 649

Repealing and reenacting
District Court Criminal
Rule 8, relating to minor
offenses

IT IS ORDERED:

District Court Criminal Rule 8 is repealed and reenacted to read as follows:

Rule 8. MINOR OFFENSES

(a) Scope, Purpose and Construction. This rule governs the procedure in cases involving minor offenses. It is intended to provide for the just determination of these cases and to that effect shall be construed to secure simplicity and uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

(b) Minor Offenses. As used in this rule, "minor offenses" means

(1) an offense classified by statute as an infraction or a violation; or

(2) any offense for which a bail forfeiture amount has been authorized by statute and established by supreme court order; or

(3) any offense under statute or municipal ordinance for which a conviction cannot result in incarceration, a fine greater than \$300, or the loss of a valuable license.

(c) Complaint and Summons.

(1) The charging document for a minor offense may be in the form of a citation. If a citation is used, it shall state that the defendant is entitled to a trial, to engage counsel, to confront and question witnesses, to testify and to subpoena witnesses in the defendant's behalf. The citation shall further indicate whether a court appearance is mandatory or can be waived, shall state the bail forfeiture amount if the appearance can be waived, the procedure the defendant must follow in responding to the citation, and the consequences of a failure to respond. A citation for a fish and game offense shall further

state that all seized equipment will be forfeited if the appearance is waived.

(2) An offense for which a bail forfeiture amount has been established shall be charged on a citation and shall not be filed, numbered or processed as a criminal case.

(d) Disposition Without Court Appearance.

(1) A person charged with a minor offense for which a bail forfeiture amount has been established in a bail forfeiture schedule adopted by supreme court order may within the time period stated on the citation mail or deliver to the court location listed on the citation the amount of bail indicated in the schedule for that offense, together with either:

A. a signed waiver of the right to appear for arraignment, plea of no contest and a direction to forfeit the bail in lieu of a fine; or

B. a signed waiver of the right to appear for arraignment, plea of not guilty and a request for trial.

(2) A person who mails or delivers an unsigned waiver of right to appear for arraignment along with the bail forfeiture amount shall be deemed to have entered a plea of no contest unless the person designates otherwise. A person who mails or delivers a plea of not guilty but fails to forward the bail amount is not subject to issuance of a bench warrant unless the person also fails to appear for trial.

(3) When bail has been forfeited under the provisions of paragraph (d)(1) of this rule, the clerk shall enter a judgment of conviction and court proceedings shall thereupon terminate. When trial is requested, the case shall be set on the calendar and notice sent to the parties.

(4) When a person is charged with a minor offense, and the statute, regulation or ordinance provides that the citation shall be dismissed upon providing proof to a law enforcement agency of compliance with the requirements of the state statute, regulation or ordinance, the court shall dismiss the citation upon notification from the agency.

(e) Mandatory Court Appearance. Any person charged with a minor offense:

1. for which no bail forfeiture amount has been established in a bail forfeiture schedule; or

2. who has not waived appearance and entered a plea under paragraph (e) of this rule; or

3. who has failed to provide proof of compliance to a law enforcement agency under a statute, regulation or ordinance that permits dismissal of the citation upon a showing of compliance, shall appear for arraignment at the time and place designated on the citation. A person under 18 years of age at the time of the offense must be accompanied by a parent, guardian or legal custodian. Arraignment shall be conducted in accordance with District Court Criminal Rule 1. The defendant shall be admitted to bail in accordance with AS 12.30.020 without regard to the bail amounts established in the applicable bail forfeiture schedule and with preference to release on the person's own recognizance. A defendant shall not be incarcerated solely for inability to post a bail amount which may be established.

(f) Disposition of Records of Conviction. Notice of conviction will be transmitted to the following agencies:

1. In the case of a motor vehicle offense, the conviction will be transmitted to the Department of Public Safety, division of motor vehicles, to become a part of the defendant's driving record and for the department to assess points pursuant to statute and regulation.

2. In the case of a fish and game violation the conviction will be transmitted to the Department of Public Safety, fish and wildlife division, for the department to determine whether it has a basis for petitioning for license revocation.

3. In the case of a smoking violation the conviction will be transmitted to the Department of Environmental Conservation, division of environmental health.

(g) Failure to Respond to Citation, Complaint or Summons.

1. A defendant who fails to respond to a citation within the time period stated is subject to arrest on a bench warrant,

without issuance of a summons or other notice. The bench warrant shall be signed by a judicial officer, and shall state that the defendant has failed to respond to the citation. A defendant who is served with a bench warrant under this subsection and cannot post bail shall be brought before a judicial officer

i. immediately, if the defendant will be taken to the court which issued the warrant;

ii. without unnecessary delay within a period not to exceed 24 hours after arrest on the warrant if the defendant will be taken before a court other than the court which issued the bench warrant.

2. The court in its discretion may issue a summons or other notice to a defendant before issuing a bench warrant for the defendant's arrest. If the court has issued a summons or other notice to the defendant prior to issuance of the bench warrant, and the person has failed to respond to the summons or notice and is arrested on a subsequent bench warrant, the person shall be taken before a judicial officer without unnecessary delay within a period not to exceed twenty-four hours after arrest on the warrant.

(h) Longevity of Warrants.

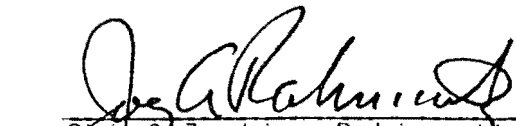
After a period of two years the presiding judge for a judicial district may, upon the request of a clerk of court and after notice to the agency which issued the citation, order that warrants for minor offenses which have been outstanding for two years or more shall be quashed and the cases closed statistically.

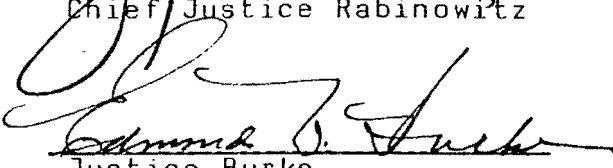
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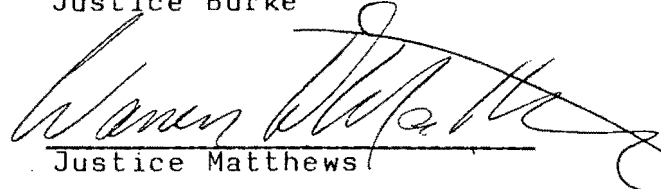
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DATED: June 6, 1985

EFFECTIVE DATE: July 1, 1985


Chief Justice Rabinowitz


Justice Burke


Justice Matthews


Justice Compton

Justice Moore