

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In The Matter Of:)
)
The Resolution of Replaced Charges,)
) PJ Order # 823
)
_____)

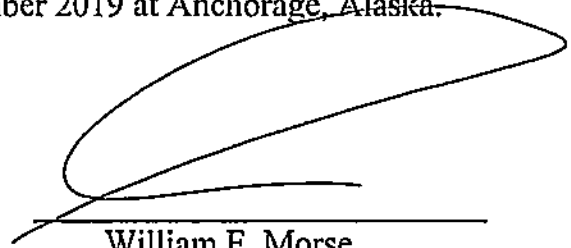
It is common practice for prosecuting attorneys to modify the original set of criminal charges that were filed against the defendant by the police or a prosecutor. Often two or more charges are replaced by fewer charges. This typically, but not always, occurs pursuant to a plea agreement. However, it is also common for the prosecutor not to expressly indicate the fate of the original charges, either at the time of filing the new Information or at the change of plea and sentencing. This means the criminal court clerks have to make a decision about the status of the original charges. It is not appropriate for court staff to interpret the silence or brief comments of the prosecutor to determine if the counts were meant to be dismissed. The prosecutor is the one who decided to abandon or modify the set of original charges; the prosecutor is responsible for expressing that decision.

1. Therefore, the prosecutor shall be required, either at the time of the filing of the new Information (in which case in writing) or at the change of plea (either in writing or orally), to state expressly which specific charges are being dismissed.

2. Judicial officers who preside over hearings where a defendant enters a change of plea shall confirm that the prosecutor has indicated the status of original charges when the new Information was filed. If that written explanation is absent, then the judicial officer shall have the prosecutor expressly dismiss those original charges not contained in the new Information.

3. This Order takes effect on 1 October 2019.

DATED this 23rd day of September 2019 at Anchorage, Alaska.



William F. Morse
Presiding Judge
Third Judicial District

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