

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1127

Amending Criminal Rule 45
concerning time for trial.

IT IS ORDERED:

1. Criminal Rule 45(c) is amended to provide:

(c) **When Time Commences to Run.**

(1) *Generally.* Except as provided in subparagraphs (2) through (6), the time for trial shall begin running, without demand by the defendant, from the date the charging document is served upon the defendant.

(2) *Refiling of Original Charge.* If a charge is dismissed by the prosecution, the refiling of the charge shall not extend the time. If a charge is dismissed upon motion of the defendant, the time for trial shall run from the date of service of the second charge.

(3) *New Charges.* The Rule 45 commencement date for a new charge arising out of the same criminal episode shall be the same as the commencement date for the original charge, unless the evidence on which the new charge is based was not available to the prosecution on the commencement date for the original charge. When the new charge is based on new evidence and the prosecution has acted with due diligence in investigating and bringing the new charge, the Rule 45 commencement date for the original charge shall be the same as the commencement date for the new charge.

(4) *Defendant in Custody.* If the alleged offense is committed by a defendant in custody or incarcerated on other charges, the time for trial shall begin running 10 days from either referral in writing by correctional officials to the prosecuting attorney, or commencement of formal disciplinary proceedings, whichever is earlier.

(5) *Mistrial, New Trial or Remand.* If the defendant is to be tried again following a mistrial, an order for a new trial, or an appeal or collateral attack, the time for trial shall run from the date of mistrial, order granting a new trial, or remand.

(6) *Withdrawal of Plea.* If the defendant is to be tried after withdrawal of a plea of guilty or nolo contendere previously entered, the time for trial shall run from the date of the order permitting the withdrawal.

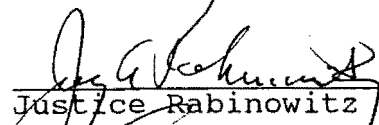
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DATED: April 14, 1993

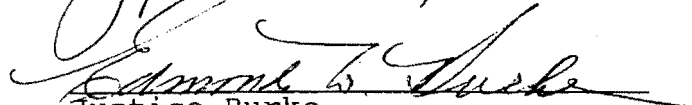
EFFECTIVE DATE: July 15, 1993



Chief Justice Moore



Justice Rabinowitz



Justice Burke



Justice Matthews



Justice Compton