

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1775

Amending Criminal Rule 16(d) and (e)(2) concerning discovery motions, tolling of time, and sanctions, and Criminal Rule 45(d)(1) concerning tolling of time for defense discovery motions.

IT IS ORDERED:

Criminal Rules 16(d) and (e)(2), and 45(d)(1) are amended to read as follows:

Rule 16. Discovery.

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(d) **Regulation of Discovery.**

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(8) *Motions.*

(A) A party may file a motion to enforce discovery obligations. The motion should be captioned "Expedited Motion under Criminal Rule 16(d)(8)." The motion must include copies of the documents showing that the moving party has asked the other party to produce the materials, and that the request described the materials with sufficient specificity to put the other party on notice of the materials sought. The motion must also include copies of any response by the other party to the request for production. Finally, the motion must include an affidavit by the moving party that it has conferred, or has attempted to confer, with the other party in an effort to secure the requested disclosure without court action.

(B) Any opposition to a motion to enforce discovery obligations must be filed within 10 days of service of the motion; any reply must be filed within five days of service of the opposition. No enlargement of time will be granted without a showing of extraordinary and compelling circumstances.

(C) All motions to enforce the discovery obligations established by this rule, or by a court order under this rule, shall be decided promptly. Unless good cause exists to allow more time, any motion to enforce the government's disclosure duties under subsection (b) of this rule, or to enforce the defendant's disclosure duties under subsection (c) of this rule, must be decided by the court within 20 days after the motion becomes ripe for decision, whether or not the opposing party files an opposition. If the court fails to decide the motion within this period, any additional delay will not be excluded in computing the time for trial under Rule 45(d)(1).

(D) If the court issues an order directing the production of materials within the possession of a law enforcement agency, the prosecutor shall promptly serve that order on the law enforcement agency responsible for providing the materials.

(e) **Sanctions.**

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(2) *Willful Violations.* The court may impose appropriate sanctions on any attorney who willfully violates the disclosure duties imposed by this rule, or who willfully violates an applicable discovery order issued under this rule.

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Rule 45. Speedy Trial.

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(d) **Excluded Periods.** The following periods shall be excluded in computing the time for trial:

(1) The period of delay resulting from other proceedings concerning the defendant, including but not limited to motions to dismiss or suppress, examinations and hearings on competency, the period during which the defendant is incompetent to stand trial, interlocutory appeals, and trial of other charges. Except as provided by Rule 16(d)(8)(C) for defense discovery motions, no pretrial motion shall be held under advisement for more than 30 days and any time longer than 30 days shall not be considered as an excluded period.

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DATED: August 8, 2019

EFFECTIVE DATE: October 15, 2019

/s/
Chief Justice Bolger

/s/
Justice Winfree

/s/
Justice Stowers

/s/
Justice Maassen

/s/
Justice Carney