

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
SECOND JUDICIAL DISTRICT AT NOME

STATE OF ALASKA, )  
 )  
Plaintiff, )  
vs. )  
 )  
ALL DEFENDANTS. )  
\_\_\_\_\_ )

**STANDING FELONY PRETRIAL ORDER**

**Judicial Assignment.** At arraignment, all Superior Court criminal cases are assigned to Superior Court Judge Romano D. DiBenedetto.

**Calendaring:** At arraignment, all Superior Court criminal cases shall be scheduled for an Omnibus hearing approximately 45-60 days from the date of arraignment. All cases will be set for a trial week approximately 75-90 days from the date of arraignment. Any objections by the Defense to the set Trial Week as possibly violating AK CrR 45, shall be filed within five (5) days of arraignment. Any request for a continuance or change in date of the pretrial and trial proceedings must show good cause.

**Continuances: Omnibus:** The above deadlines may only be modified subject to court approval upon a showing of good cause. Specifically, any request for an omnibus hearing will have to be supported by specific reasons provided by the party asking for the additional omnibus hearing. Moreover, if a party is missing discovery, that party must announce that issue at the earliest omnibus hearing; and that announcement should include a list of the specific discovery items missing. Any case having more than four (4) omnibus hearings, including the initial hearing and in consecutive one month cycles thereafter, will be deemed an older case on the court's calendar.

**Trial:** All requests for continuance of a trial will have to be supported by a specific reason provided by the party asking for the continuance. Moreover, such requests must comply with Criminal Rule 45 (2) and (3). Finally, a presumptively valid reason for movement of a trial date is the unavailability of a witness or attorney due either to illness or to pre-planned or emergency leave.

**Prosecutor's Discovery Obligations.** Within ten (10) days after the entry of this Order, the prosecuting attorney shall disclose to defense counsel and make available for inspection and copying all information and material within the possession and control of the prosecuting attorney which is required to be disclosed by AK CrR 16. Such materials coming into the prosecuting attorney's possession or control after that date shall be disclosed promptly without necessity of a request or further order of this Court. Counsel shall comply with AK CR 5(d)(2).

Unless otherwise directed, the prosecuting attorney shall, upon the written request served by the defense counsel, disclose and permit inspection, testing, copying and photographing of any relevant material and information regarding: specified searches and seizures; the acquisition of specified statement from the accused; and the relationship, if any, of specified witnesses to the prosecuting attorney.

**Defense's Discovery Obligations.** Within forty (40) days prior to trial, defense counsel shall disclose to the prosecuting attorney and make available for inspection and copying, any reports or statements of experts made in connection with the case, including results of physical or mental examinations and of scientific tests, experiments or comparisons which are intended by the defendant to be used at trial. Such materials coming into defense counsel's possession or control after that date shall be disclosed promptly without the necessity of a request or further order of this Court.

**Time for Confrontation Clause Objections to Analyst Reports.** Any objection to the testimony of an expert witness based upon AK ER. 104(a), 401, 403, 702 or 703 will be deemed waived unless filed, in writing, not later than ten days after receipt of the written description of the substance of the proposed testimony required by AK CrR 16. The prosecuting attorney shall provide notice to the defendant of any intent to use an analyst's report as evidence at trial, after which the defense counsel shall have ten (10) days to object in writing to the admission of the evidence absent the

analyst's appearance live at trial. Without written objection the report shall be admissible.

**Grand Jury CD & Transcript Request.** If counsel wishes CD discs of the grand jury testimony, pursuant to AK CrR. 6(m), such may be requested from the court. If any party thereafter wishes a typed transcript of any grand jury testimony, they shall be responsible for its preparation.

**Defense Disclosure of Alibi, Affirmative & Excuse Based Defenses.** No later than the time of the Omnibus Hearing, defense counsel shall disclose to the District Attorney's office any intention to present an alibi, diminished capacity, entrapment, and/or coercion defense. [Notice of any insanity defense and/or mentally ill defense is governed by the time requirements of AS 12.47.020(a)].

**Pre-Trial Motions.** Any and all motions shall be served and filed no later than ten (10) days prior to the date scheduled for the Omnibus Hearing. Any and all oppositions shall be served and filed no later than five (5) days before the date scheduled for the Omnibus Hearing. Any and all replies shall be served and filed no later than one (1) day before the date scheduled for the Omnibus Hearing.

**Requests for Oral Argument / Evidentiary Hearings.** Oral arguments may be permitted at the Omnibus Hearing. If counsel requires an evidentiary hearing, or a hearing as to a motion or matter, they shall comply with AK CR 77(e) and contact the Calendaring Clerk for a suitable time.

**Request for Interpreter.** The court must be notified no later than the date of the Omnibus Hearing of any need for translation services at the trial. Counsel are to notify the court at least ten (10) days prior to any hearing of any translation services needed.

**Presence Required.** Defendant must appear personally or telephonically for trial call. Any written consent to proceed in defendant's absence must be filed at least five (5) days prior to the hearing. Defendant must be present personally for trial. Criminal Rule 38 and 38.1.

**Jury Instructions.** Jury instructions, including, but not limited to, the elements of the offense, defense, and lessor-included offenses, shall be filed by no later than five (5) days prior to trial.

**Guilty Finding, Pre-Sentence Report.** In the event the defendant is found guilty a sentencing hearing will be set by the court. Unless otherwise ordered a pre-sentence report shall be prepared by the Department of Corrections. In the event a defendant seeks to challenge any information in the pre-sentence report, notice of intent to enter a testimonial denial shall be filed in writing with the court within ten days after the report is received.

**Order of Compliance, Sanctions.** It is the responsibility of counsel to notify the Court and opposing counsel of (1) any inability to meet the above deadlines, and (2) any discovery materials that are known to exist and that have not been provided as set forth herein. Upon a showing of good cause an application may be made for adjustment of the deadlines or the disclosure required by this Order. Unless otherwise ordered, the prosecuting attorney and defense counsel are HEREBY ORDERED to comply with the terms of the foregoing or to appear at the Omnibus Hearing prepared to show cause why appropriate sanctions under AK CR. 50(c) or AK CR. 95(b) should not be imposed.

ENTERED at Nome, Alaska, this 24<sup>th</sup> day of January, 2022.



A handwritten signature in blue ink, appearing to read "ROMANO D. DIBENEDETTO".

ROMANO D. DIBENEDETTO  
Superior Court Judge, Nome, Alaska