

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1194

Amending Criminal Rule 11(e)  
concerning plea agreements.

IT IS ORDERED:

1. Criminal Rule 11(e) is amended to read:

(e) **Plea Agreement Procedure.**

~~(1) In General. The attorney for the state and the attorney for the defendant may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty or nolo contendere to a charged offense or to a lesser or related offense, the attorney for the state will move for dismissal of other charges, or will recommend or not oppose the imposition of a particular sentence, or will do both.~~

~~(2) (1) Notice of Such Disclosure of Agreement. If the parties reach a plea charge or sentencing agreement whereby a plea of guilty or nolo contendere will be entered by the defendant in the expectation that a specific sentence will be imposed or other charges before the court will be dismissed, then the court shall require the disclosure of the agreement in open court at the time the plea is offered. Once the agreement has been disclosed, the court may accept or reject the agreement, or may defer ~~its~~ that decision ~~to accept or reject the agreement~~ until receipt of a presentence report.~~

~~(3) (2) Acceptance of Plea Agreement.~~ If the court accepts the plea agreement, the court shall ~~inform the defendant that the judgment and sentence will embody either the disposition provided for in the plea agreement or another disposition more favorable to the defendant~~ impose sentence in accordance with the terms of that agreement.

~~(4) (3) Rejection of Plea Agreement.~~ If the court rejects the plea agreement, the court shall inform the parties of this fact and advise the prosecuting attorney and the defendant personally in open court that the court is not bound by the plea agreement. The If the court rejects the agreement as too lenient, the court shall then afford the defendant the opportunity to withdraw the plea, ~~and advise the defendant that if the defendant persists in the plea of guilty or nolo contendere, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement. If~~ the court rejects the agreement as too severe, the court shall then afford the prosecuting attorney the opportunity to withdraw from the agreement.

~~(5) Time of Plea Agreement Procedure.~~ ~~Except for good cause shown, notification to the court of the existence of a plea agreement shall be given at the arraignment or at such other time, prior to trial, as may be fixed by the court.~~

~~(6) Inadmissibility of Plea Discussions in Other Proceedings. Neither the plea discussion nor any resulting agreement, plea, or judgment shall be admissible against the defendant in any criminal or civil action or administrative proceeding if:~~

~~(i) a plea discussion does not result in a plea of guilty, or~~

~~(ii) a plea of guilty is not accepted or is withdrawn, or~~

~~(iii) judgment on a plea of guilty is reversed on direct or collateral review.~~

DATED: March 30, 1995

EFFECTIVE DATE: July 15, 1995

/s/  
Chief Justice Moore

/s/  
Justice Rabinowitz

/s/  
Justice Matthews

/s/  
Justice Compton

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Justice Eastaugh