

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1648

Amending Criminal Rule 43
concerning dismissal for
identity error.

IT IS ORDERED:

Criminal Rule 43 is amended by adding a new subsection as follows:

Rule 43. Dismissal and Deferred Prosecution.

(a) **By Prosecuting Attorney.** The prosecuting attorney may file a dismissal of an indictment, information or complaint and the prosecution shall thereupon terminate. Such a dismissal shall not be filed during the trial without the consent of the defendant.

(b) **By Court.** If there is unnecessary delay in presenting the charge to a grand jury or in filing an information against a defendant who has been held to answer to the superior court, or if there is unnecessary delay in bringing a defendant to trial pursuant to Criminal Rule 45, the court shall dismiss the indictment, information or complaint.

(c) **In Furtherance of Justice.** The court may, either on its own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action, after indictment or waiver of indictment, to be dismissed. The reasons for the dismissal shall be set forth in the order.

(d) **Identity Error in Charging Document.** If the prosecution initiates or concurs with the dismissal of charges against a defendant because the named defendant was not the person whom the prosecution intended to

charge with the offense, the court shall enter a written order of dismissal clearly stating that this is the reason for the dismissal.

(e) Discharge from Custody — Exoneration of Bail.

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(f) Information To Be Included in Notice or Order of Dismissal.

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(g) Information To Be Included in Notice of Deferred Prosecution.

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DATED: May 24, 2007

EFFECTIVE DATE: October 15, 2007

/s/
Chief Justice Fabe

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Bryner

/s/
Justice Carpeneti