

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1827

Amending Minor Offense Rules 3
and 10(g)(1) and adding a note
following Rule 3.

IT IS ORDERED:

1. Minor Offense Rule 3(f) is amended to read as follows:

Rule 3. Citation.

* * * *

- (f) Required Statements.** The officer must state on the citation that the officer has probable cause to believe the defendant committed the offense but need not state the grounds for the probable cause determination beyond the essential facts. The officer must certify, under penalty of perjury, that the information in the citation is true and that the officer served the citation on the defendant as required by AS 12.25.175-12.25.190.
2. The following note is repealed and a new note added to the end of Minor Offense Rule 3:

~~**Note:** The personal service requirement in Rule 3(f), (g), and (h) is based on AS 12.25.180 and .190 which contemplate that the citation will be issued when “a peace officer stops or contacts a person for the commission of an infraction or a violation...” Alaska Statute 12.25.175(a)(2) requires that the citation state that the citation “was personally served on the person charged.”~~

Note to SCO 1827: Minor Offense Rule 3(f) was amended by § 3 of ch. 53 SLA 2014 (CSSB 116), effective June 24, 2014, to delete the word “personally” and add “as required by AS 12.25.175 – 12.25.190” in the second sentence. Section 1 of this Order was adopted for the sole reason that the legislature has mandated the amendments.

3. Minor Offense Rule 3(g) is repealed.
4. The “Note to SCO 1827,” added in section 2 of this order, is amended by adding the following paragraph:

Minor Offense Rule 3(g) Personal Service was repealed by § 4 of ch. 53 SLA 2014 (CSSB 116), effective June 24, 2014. Section 3 of this Order was adopted for the sole reason that the legislature has mandated the repeal.

5. Minor Offense Rule 3(g) is re-adopted to read as follows:

Rule 3. Citation.

* * * *

(g) Methods of Service of Citation.

(1) *Offenses Requiring Personal Service.* The issuing officer must personally serve the citation on the defendant by handing the citation to the defendant if the citation charges one of the following:

- (A) an offense involving a moving motor vehicle, or
- (B) an offense punishable by a fine of more than \$500.

(2) *Other Offenses.* For all other offenses, the citation may be served by one of the following methods.

- (A) personal service as provided in (1) above;

(B) property service under AS 12.25.175(d)(1) by leaving the citation in a conspicuous place on the vehicle or other personal or real property that was the subject of the infraction or violation; or

(C) any other method of service allowed by Civil Rule 4, including:

(i) other methods of personal service by an officer, a process server, or other person authorized to serve process as provided in Civil Rule 4(d); or

(ii) certified mail, restricted delivery, with return receipt requested as provided in Civil Rule 4(h). If certified mail is used, the postal return receipt shall be addressed so it is returned to the person serving the citation. Service of process by mail is completed when the return receipt is signed.

(3) *Proof of Service.* If the citation was served by any method in subparagraph 2(C), proof of service must be filed with the citation. The proof of service must set forth the method, place, and date of service of the citation.

6. The “Note to SCO 1827,” added in section 2 and amended by section 4 of this order, is amended by adding the following sentence to the last paragraph:

Section 5 of this Order re-adopted a new subsection (g) Methods of Service of Citation.

7. Minor Offense Rule 3(a), (c), (h), and (i), are amended to read as follows:

Rule 3. Citation.

(a) Charging Document. The charging document for a minor offense may be in the form of a citation. Each citation may name only one defendant and only one offense. Except as provided in subsection (h) below, a citation must name an individual as the defendant. Citations may not be filed with the court until the defendant has been served.

* * * *

(c) Content and Format. The administrative director shall establish content and format requirements for minor offense citations by administrative bulletin, including requirements that the citations include:

- (1) the essential facts constituting the offense charged,
- (2) notice of the defendant's rights listed in AS 12.25.200,
- (3) the procedure for responding to the citation,
- (4) the consequences of a failure to respond,
- (5) if forfeiture of seized items is authorized by statute or ordinance, the citation must list the seized items and state that they will be forfeited if defendant waives appearance by entering a no contest plea or if a default judgment is entered, and
- (6) the method used to serve the citation on the defendant.

* * * *

(h) Corporations, Limited Liability Companies and Other Entities. A citation issued to a corporation or limited liability company must name the corporation or company as the defendant. The officer must serve the citation on the on-site manager, a managing member, an officer, a managing or general agent, or on any other agent authorized by appointment

or by law to receive service of process. If service cannot be made on one of the above in Alaska, service may be made as provided in AS 10.06.175(b) or 10.50.065(b). A citation issued to a sole proprietorship must name the owner of the business as the defendant and must be served on that person. A citation issued to a partnership, unincorporated association or other entity must name the entity as the defendant and must be served on a person designated for that entity in Civil Rule 4.

(i) Authority of Clerk.

The clerk shall return any citation for correction if the citation is deficient because

- (1) the offense listed on the citation is not in the court system's uniform table of minor offenses;
- (2) the citation does not state the method of service; or
- (3) proof of service of the citation is not provided, if required by paragraph (g)(3) of this rule because the citation was served by a method other than personal service or property service.

8. Minor Offense Rule 10(g)(1) is amended to read:

Rule 10. Judgment, Costs, Fees, and Relief from Default Judgment.

* * * *

(g) Relief from Default Judgment.

- (1) Upon a motion filed within two years after entry of a default judgment under Rule 9(a), (b), or (c), the court may vacate the judgment if the defendant shows that either

(A) there is a good reason for the failure to respond or appear and the defendant has a meritorious defense to the offense charged, or

(B) the proceedings were not fair to the defendant because the defendant did not receive notice of the charge or the procedure for responding to the charge or that a default judgment would be entered if defendant did not respond to the charge.

(2) If the judgment is vacated, the case must be set for trial unless the prosecution dismisses the case or, if the offense is correctable, the defendant shows proof of compliance with the law.

* * * *

DATED: June 12, 2014

EFFECTIVE DATE: June 24, 2014

/s/
Chief Justice Fabe

/s/
Justice Winfree

/s/
Justice Stowers

/s/
Justice Maassen

/s/
Justice Bolger