

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 719

Implementing Criminal Rule
38.2 to allow Televised
Appearance by Criminal
Defendant

IT IS ORDERED:

1. Criminal Rule 38.2 is added to the Criminal Rules to provide:

Rule 38.2 Televised Appearance by Defendant.

(a) The Administrative Director of the Alaska Court System, after consultation with the presiding judge, Public Defender Agency, and Attorney General's Office, may enter into agreements with the Department of Public Safety and Department of Corrections which approve systems allowing judges to provide for the appearance by a defendant at certain criminal proceedings by way of television equipment in lieu of the physical presence of the defendant in the courtroom. Such an agreement must provide for a procedure by which the defendant may confer with the defendant's attorney in private.

(b) In those court locations in which a television system has been approved by the supreme court and has been installed, in-custody defendants shall appear by way of television for arraignment, pleas, and non-evidentiary bail reviews in traffic and misdemeanor cases; and initial appearance hearings, non-evidentiary bail reviews, and not guilty plea arraignments in felony cases, unless otherwise ordered for cause stated by the presiding judge. With the defendant's consent, sentencing may be done by way of television in traffic and misdemeanor cases.

In any particular case, the trial court may order that the defendant be transported to court for court proceedings if the trial judge finds that the defendant's rights would be prejudiced by use of the system.

(c) Facsimile telecopy orders issued in proceedings conducted under this rule are acceptable as originals for the purposes of release or detention by correctional officers.

(d) Nothing in this rule diminishes any other existing right of a criminal defendant.

(e) This rule is effective until August 1, 1988.

2. Criminal Rule 5(a)(1) is amended to provide:

(1) Except when the person arrested is issued a citation for a misdemeanor or a violation and immediately thereafter released, the arrested person shall be taken before the nearest available judge or magistrate without unnecessary delay. This appearance may be accomplished by the use of telephonic or television equipment pursuant to Criminal Rules 38.1 and 38.2. Unnecessary delay within the meaning of this paragraph (a) is defined as a period not to exceed twenty-four hours after arrest, including Sundays and holidays.

3. Criminal Rule 10(a) is amended to provide:

(a) Generally. Arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating to him the substance of the charge and calling on him to plead thereto. The defendant may appear by use of telephonic or television equipment pursuant to Criminal Rules 38.1 and 38.2.

4. Criminal Rule 11(a) is amended to provide:

(a) Alternatives. A defendant may plead not guilty, guilty or nolo contendere. If a defendant refuses to plead, stands mute, or if a defendant corporation fails to appear, the court shall enter a plea of not guilty. The defendant may appear by use of telephonic or television equipment pursuant to Criminal Rules 38.1 and 38.2.

5. District Court Criminal Rule 1(b) is amended to provide:

(b) Arraignment and Plea. When the defendant is brought before the district judge or magistrate the complaint shall be read to him, and he shall be furnished a copy of the complaint. The defendant may appear by use of telephonic or television equipment pursuant to Criminal Rules 38.1 and 38.2.

The district judge or magistrate shall inform the defendant

(1) of his right to counsel, and

(2) of his right to have counsel appointed at public expense for him if the defendant could

(i) be sentenced to jail, or

(ii) suffer the loss of a valuable license, or

(iii) suffer a heavy enough fine to indicate criminality,


and

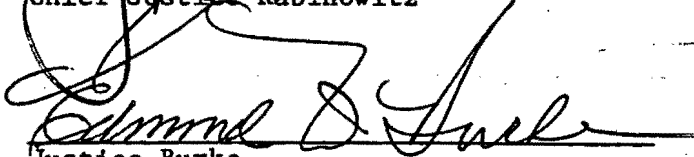
(3) of his right to be admitted to bail, and

- (4) that he is not required to make a statement, and
- (5) that any statement made by him may be used against him,
and
- (6) that if he is charged by the State of Alaska he may demand
to be tried before a district judge, and
- (7) that he may peremptorily disqualify the district judge or
magistrate to whom his case is assigned pursuant to AS 22.20.022.

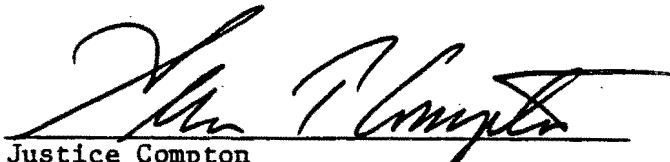
DATED: July 10, 1986

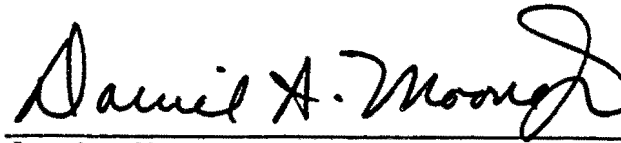
EFFECTIVE DATE: Aug. 1, 1986


Chief Justice Rabinowitz


Justice Burke


Justice Matthews


Justice Compton


Justice Moore