

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 885

Amending Administrative Rules 19.2 and 27(c)(2) concerning deputy magistrates and Administrative Rule 18(b) concerning weekend and holiday duty for judges and magistrates.

IT IS ORDERED:

1. Administrative Rule 19.2 is amended to provide:

(a) Introduction. This rule governs the certification and appointment of court system employees as deputy magistrates. A person, other than a court system employee officially classified as judge, justice, magistrate, or committing magistrate, may not perform judicial duties unless that person is appointed deputy magistrate under this rule, is appointed master under the Alaska Rules of Court, or is otherwise given judicial duties by statute or court rule.

(b) Qualifications. A deputy magistrate must:

- (1) be an Alaska Court System employee;
- (2) be at least 21 years of age;
- (3) be a United States citizen;
- (4) be a resident of the State of Alaska for six months immediately preceding the appointment;
- (5) have received training from a training judge or training judge's designee, prior to appointment as a deputy magistrate, for each judicial duty which the appointee will be certified to perform.

(c) Appointment. The presiding judge may appoint a qualified court system employee as a deputy magistrate. The appointment order

must be in writing and specify the duties which the deputy magistrate is authorized to perform. The appointment order must also contain the training judge's certification that the person appointed has received training in each of the judicial duties which the appointee is authorized to perform, and that the appointee is competent to perform each of these duties. Copies of the order must be sent to the appointee, chief justice, personnel director, magistrate services, training judge, area court administrator, and the highest ranking local judicial officer.

(d) Duties. A deputy magistrate may be appointed to perform only the following magistrate duties:

- (1) emergency Child in Need of Aid and Delinquency proceedings;
- (2) acceptance of criminal complaints;
- (3) issuance of summonses and arrest warrants;
- (4) bail hearings;
- (5) felony first appearances;
- (6) arraignments;
- (7) acceptance of guilty or no contest pleas in misdemeanor cases;
- (8) sentencings following pleas accepted by the deputy magistrate;
- (9) initial coroner duties, including taking control and custody of property;
- (10) notary duties;
- (11) issuance of marriage licenses and performance of marriages;
- (12) emergency injunctive relief in domestic violence cases, pursuant to AS 25.35.020(a);
- (13) issuance of search warrants; and
- (14) fugitive from justice arraignments and acceptance of fugitive complaints.

(e) Limitations on Deputy Magistrate Duty.

(1) A deputy magistrate may perform the duties listed in subparagraphs (d)(10) and (11) at any time. A deputy magistrate may not perform other deputy magistrate duties unless all other judicial officers are unavailable as defined by subparagraph (e)(3) or additional weekend or holiday duty is authorized pursuant to subparagraph (e)(2).

(2) The presiding judge may approve weekend or holiday duty by deputy magistrates subject to review by the chief justice.

(3) A judicial officer is unavailable for purposes of subparagraph (e)(1) only if the judicial officer is conducting other judicial duties, is sick, or is on leave. In addition, a judicial officer is unavailable for weekend or holiday duty if the judicial officer is on leave either the day before or after the weekend or holiday. A judicial officer is not unavailable for weekend or holiday duty only because the judicial officer is absent from the court building.

(4) A deputy magistrate who is not a clerk of court may perform magistrate duties only if there is no deputy magistrate at the court location who is a clerk of court or if the deputy magistrate who is a clerk of court is performing other judicial duties or is not at the court building.

(f) Classification and Compensation.

(1) A clerk of court appointed deputy magistrate will be classified two salary ranges above the classification which would normally be assigned to the position. A clerk of court appointed deputy magistrate is not entitled to upward reclassification if the deputy magistrate duties have previously been considered by the personnel office in the classification of the position.

(2) A deputy magistrate who functions as a magistrate for more than 50 percent of the deputy magistrate's total working hours may request that the position be reviewed for possible reclassification to a magistrate position. All such requests must be submitted through the presiding judge to the personnel office.

(3) Compensation for a deputy magistrate who is exempt from the Fair Labor Standards Act will be \$50.00 for each holiday, Saturday or

Sunday of on-call duty. The employee may elect, with the approval of the employee's supervisor, to take two hours of compensatory time instead of the \$50.00 compensation.

(4) Deputy magistrates who are not exempt from the Fair Labor Standards Act will be compensated for overtime magistrate work during the regular work week as provided by the Fair Labor Standards Act. Such deputy magistrates will be compensated for holiday, Saturday or Sunday on-call duty in the following manner:

(A) If a non-exempt deputy magistrate is required to perform magistrate duties while on-call during holidays, Saturdays, or Sundays, the deputy magistrate will be compensated either in accordance with the provisions of the Fair Labor Standards Act for those hours worked, or as provided in subparagraph (f)(3) of this rule, whichever is greater.

(B) If a non-exempt deputy magistrate is not required to perform magistrate duties while on-call, the deputy magistrate will be compensated as provided in subparagraph (f)(3) of this rule.

2. Administrative Rule 27(c)(2) is rescinded and subparagraph (c)(3) is renumbered (c)(2).
3. Administrative Rule 18(b) is amended to provide:

(b) Magistrates--Time of Sitting--Office Hours. Magistrates shall sit in the conduct of trials and hearings as the business of their court and the status of their calendars require. Offices of magistrates in salary levels IV, V and VI, as specified by supreme court order, shall be open to the public for the transaction of business during business hours from 8:00 a.m. until 4:30 p.m. on all days except judicial holidays and Saturdays. Offices of magistrates in salary levels I, II and III shall be open to the public for the transaction of business as prescribed by the presiding judge.

In addition, magistrates shall be available at all times:

- (1) To issue warrants of arrest, search warrants, and summonses in criminal cases;
- (2) To set bail;
- (3) As may be necessary to conduct proceedings required under Criminal Rule 5, District Court Criminal Rule 1, CINA Rule 5 and Delinquency Rule 5 [CHILDREN'S RULE 2]; and
- (4) To perform coroner's duties.

However, weekend and holiday duty must be equitably shared between magistrates and other judges except at court locations at which committing magistrates have been hired to perform weekend and holiday duty.

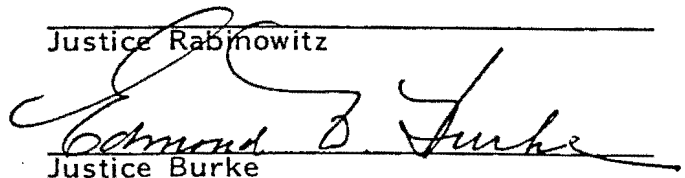
During such times as a district or superior court judge may be holding court in the same community, the magistrate may be required to act as clerk of the district court.

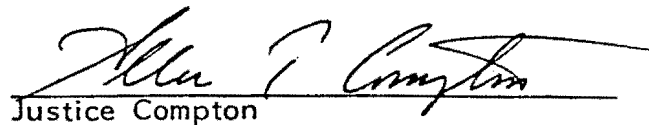
DATED: February 11, 1988

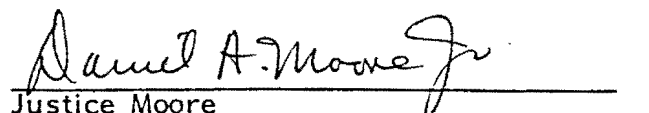
EFFECTIVE DATE: July 15, 1988


Chief Justice Matthews*

Justice Rabinowitz


Justice Burke


Justice Compton


Justice Moore

*Chief Justice Matthews would not adopt Administrative Rule 19.2(e)(1)-(3) as set out in this order.