

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 896

Amending District Court Criminal
Rule 8 Relating to Minor Offenses

IT IS ORDERED:

District Court Criminal Rule 8 is amended to read as follows:

Rule 8. Minor Offenses

(a) Scope, Purpose and Construction. This rule governs the procedure in cases involving minor offenses. It is intended to provide for the just determination of these cases and to that effect shall be construed to secure simplicity and uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

(b) Minor Offenses. As used in this rule, "minor offenses" means

(1) an offense classified by statute as an infraction or a violation; or

(2) any offense for which a bail forfeiture amount has been authorized by statute and established by supreme court order; or

(3) any municipal motor vehicle or traffic offense for which a fine amount has been established in a fine schedule adopted by municipal ordinance under AS 28.05.151; or

(4) any offense under a municipal ordinance for which a conviction cannot result in incarceration or the loss of a valuable license and for which a fine schedule has been established under AS 29.25.070(a); or

(5) [3] any offense under statute or municipal ordinance for which a conviction cannot result in incarceration, a fine greater than \$300, or the loss of a valuable license.

(c) Complaint and Summons.

(1) The charging document for a minor offense may be in the form of a citation. If a citation is used, it shall state that the defendant is entitled to a trial, to engage counsel, to confront and question witnesses, to testify and to subpoena witnesses in the defendant's behalf. The citation shall further indicate whether a court appearance is mandatory or can be waived, shall state any applicable [THE] bail forfeiture amount established by the supreme court or scheduled fine established by municipal ordinance [IF THE APPEARANCE CAN BE WAIVED], the procedure the defendant must follow in responding to the citation, and the consequences of a failure to respond. A citation for a fish and game offense shall further state that all seized equipment will be forfeited if the appearance is waived.

(2) An offense for which a bail forfeiture amount has been established by the supreme court or for which a scheduled fine has been established by municipal ordinance shall be charged on a citation and shall not be filed, numbered or processed as a criminal case.

(d) Disposition Without Court Appearance.

(1) A person charged with a minor offense for which a bail forfeiture amount has been established [IN A BAIL FORFEITURE SCHEDULE ADOPTED] by supreme court order or for which a scheduled fine amount has been established by ordinance may within the time period stated on the citation mail or deliver to the [COURT] location listed on the citation the amount of bail or fine indicated on [IN] the citation [SCHEDULE] for the [THAT] offense[,], together with a copy of the citation signed by the person indicating either:

(A) the person's [A SIGNED] waiver of the right to appear for arraignment, plea of no contest and a request that [DIRECTION TO FORFEIT] the bail or fine amount enclosed be used to satisfy the offense; [IN LIEU OF A FINE;] or

(B) the person's [A SIGNED] waiver of the right to appear for arraignment, plea of not guilty and a request for trial.

(2) A person who mails or delivers an unsigned waiver of right to appear for arraignment along with the bail forfeiture or scheduled fine amount shall be deemed to have entered a plea of no contest unless the person designates otherwise. A person who mails or delivers a plea of not guilty but fails to forward the bail or scheduled fine amount is not subject to issuance of a bench warrant unless the person also fails to appear for trial.

(3) When bail or a scheduled fine has been used to satisfy the offense [FORFEITED] under the provisions of paragraph (d)(1) of this rule, [THE CLERK SHALL ENTER] a judgment of conviction will be

entered [AND COURT PROCEEDINGS SHALL THEREUPON TERMINATE].
When trial is requested, the case shall be set on the calendar and notice sent to the parties.

(4) When a person is charged with a minor offense, and the statute, regulation or ordinance provides that the citation shall be dismissed upon providing proof to a law enforcement agency of compliance with the requirements of the [STATE] statute, regulation or ordinance, the court or municipality shall dismiss the citation upon notification from the agency.

(e) Mandatory Court Appearance. Any person charged with a minor offense:

(1) for which no bail forfeiture amount has been established in a bail forfeiture schedule or no scheduled fine has been established by municipal ordinance; or

(2) who has not waived appearance and entered a plea under paragraph (d) of this rule; or

(3) who has failed to provide proof of compliance to a law enforcement agency under a statute, regulation or ordinance that permits dismissal of the citation upon a showing of compliance;

shall appear for arraignment at the time and place designated on the citation. A person under 18 years of age at the time of the offense must be accompanied by a parent, guardian or legal custodian. Arraignment shall be conducted in accordance with District Court Criminal Rule 1. The defendant shall be admitted to bail in accordance with AS 12.30.020 without regard to the bail amounts established in an [THE] applicable bail

forfeiture schedule and with preference to release on the person's own recognizance. A defendant shall not be incarcerated solely for inability to post a bail amount which may be established.

(f) Disposition of Records of Conviction. Notice of conviction will be transmitted to the following agencies:

(1) In the case of a motor vehicle offense, the conviction will be transmitted to the Department of Public Safety, division of motor vehicles, to become a part of the defendant's driving record and for the department to assess points pursuant to statute and regulation.

(2) In the case of a fish and game violation, the conviction will be transmitted to the Department of Public Safety, fish and wildlife division, for the department to determine whether it has a basis for petitioning for license revocation.

(3) In the case of a smoking violation, the conviction will be transmitted to the Department of Environmental Conservation, division of environmental health.

(g) Failure to Respond to Citation, Complaint or Summons.

(1) A defendant who fails to respond to a citation within the time period stated is subject to arrest on a bench warrant, without issuance of a summons or other notice. If the defendant has failed to respond in a timely fashion to a citation charging a fine schedule offense initially filed with a municipality, the bench warrant will be requested by the municipality and must be based on an affidavit from a municipal employee stating that the defendant has failed to respond. The bench warrant shall be signed by a judicial officer, and shall state that the defendant has

failed to respond to the citation. A defendant who is served with a bench warrant under this subsection and cannot post bail shall be brought before a judicial officer

(i) immediately, if the defendant will be taken to the court which issued the warrant;

(ii) without unnecessary delay within a period not to exceed twenty-four hours after arrest on the warrant if the defendant will be taken before a court other than the court which issued the bench warrant.

(2) The court in its discretion may issue a summons or other notice to a defendant before issuing a bench warrant for the defendant's arrest. If the court has issued a summons or other notice to the defendant prior to issuance of the bench warrant, and the person has failed to respond to the summons or notice and is arrested on a subsequent bench warrant, the person shall be taken before a judicial officer without unnecessary delay within a period not to exceed twenty-four hours after arrest on the warrant.

(h) Longevity of Warrants. After a period of two years, the presiding judge for a judicial district may, upon the request of a clerk of court and after notice to the agency which issued the citation, order that warrants for minor offenses which have been outstanding for two years or more shall be quashed and the cases closed statistically.

(i) A municipal corporation or the State of Alaska may be represented by an employee for the prosecution of minor offenses under this rule, AS 22.20.040 notwithstanding. However, the employee is limited to giving

testimony and may not examine witnesses, make opening and closing arguments, or otherwise act as an attorney.

DATED: March 17, 1988

EFFECTIVE DATE: July 15, 1988

Chief Justice Matthews

Justice Rabinowitz

Justice Burke

Justice Compton

Justice Moore