

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
SECOND JUDICIAL DISTRICT AT NOME

STATE OF ALASKA,)
)
Plaintiff,)
vs.)
)
All Defendants)
)
Defendant.)

STANDING ASSIGNMENT ORDER
FOR CRIMINAL CASES

Judicial Assignment. All criminal cases are assigned to Judge Romano D. DiBenedetto for motion practice and trial.

Misdemeanor cases:

Calendaring: At arraignment all District Court cases shall be scheduled for a Pre-trial conference approximately 45-60 days from the date of arraignment. All cases will be set for a trial week approximately 75-90 days from the date of arraignment. Pre-trial conference, trial call and trial hearings will be scheduled at the arraignment hearing.

Continuances. Pre-trial Conferences: Cases will remain in "pretrial conference" status before the magistrate no longer than two (2) months after the pretrial conference date listed in the pretrial order, i.e. two requests for a continuance. Thereafter, the case will be transferred to the trial judge. If there is an outstanding discovery issue, the case may be transferred to any date for a hearing at 1:30 p.m. to address the issue. Otherwise, the case will be transferred for trial call.

Indicted felonies:

Calendaring: At arraignment, all Superior Court criminal cases shall be scheduled for an Omnibus hearing approximately 45-60 days from the date of arraignment. All cases will be set for a trial week approximately 75-90 days from the date of arraignment. Any objections by the Defense to the set Trial Week as possibly violating CrR 45, shall be filed within five (5) days of arraignment. Any request for a continuance or change in date of the pretrial and trial proceedings must show good cause.

Continuances: Omnibus: The above deadlines may only be modified subject to court approval upon a showing of good cause. Specifically, any request for an omnibus hearing will have to be supported by specific reasons provided by the party asking for the additional omnibus hearing. Moreover, if a party is missing discovery, that party must announce that issue at the earliest omnibus hearing; and that announcement should include a list of the specific discovery items missing. Any case having more than four (4) omnibus hearings, including the initial hearing and in consecutive one month cycles thereafter, will be deemed an older case on the court's calendar.

Trial: All requests for continuance of a trial will have to be supported by a specific reason provided by the party asking for the continuance. Moreover, such requests must comply with CrR 45 (2) and (3). Finally, a presumptively valid reason for movement of a trial date is the unavailability of a witness or attorney due either to illness or to pre-planned or emergency leave.

Jury Selection:

Misdemeanor trials in Nome: Groups of 30 shall be summoned for 8:30 a.m. and 10:30 a.m. on jury selection day. Each side shall have 30 minutes to question the entire panel of 30 venire persons in addition to individual questioning allowed at the conclusion of general voir dire of any venire person who requests it. Peremptory challenges shall be as permitted by CrR 24(b)(1)(B) and CrR 24(d).

Felony trials: Groups of 30 shall be summoned for 8:30 a.m. and at two hour increments afterward on jury selection day. Each side shall have 60 minutes to question the entire panel of 30 venire persons in addition to individual questioning allowed at the conclusion of general voir dire of any venire person who requests it. Peremptory challenges shall be as permitted by CrR 24(b)(1)(B) and CrR 24(d). For sexual offenses, unclassified felonies, and

class A felonies, questionnaires will be allowed only if (1) the parties agree to their use and content and (2) they are limited to a single side of a single 8½ x 11 in. page including questions and answer spaces.

Prosecutor's Discovery Obligations. Within ten (10) days after the entry of this Order, the prosecuting attorney shall disclose to defense counsel and make available for inspection and copying all information and material within the possession and control of the prosecuting attorney which is required to be disclosed by AK CrR 16. Such materials coming into the prosecuting attorney's possession or control after that date shall be disclosed promptly without necessity of a request or further order of this Court. Counsel shall comply with AK CrR 5(d)(2).

Unless otherwise directed, the prosecuting attorney shall, upon the written request served by the defense counsel, disclose and permit inspection, testing, copying and photographing of any relevant material and information regarding: specified searches and seizures; the acquisition of specified statement from the accused; and the relationship, if any, of specified witnesses to the prosecuting attorney.

Defense's Discovery Obligations. Within ten (10) days after the entry of this Order, defense counsel shall disclose to the prosecuting attorney and make available for inspection and copying, any reports or statements of experts made in connection with the case, including results of physical or mental examinations and of scientific tests, experiments or comparisons which are intended by the defendant to be used at trial. Such materials coming into defense counsel's possession or control after that date shall be disclosed promptly without the necessity of a request or further order of this Court.

Time for Confrontation Clause Objections to Analyst Reports. Any objection to the testimony of an expert witness based upon AK ER. 104(a), 401, 403, 702 or 703 will be deemed waived unless filed, in writing, not later than ten days after receipt of the written description of the substance of the proposed testimony required by AK CrR 16. The prosecuting attorney shall provide notice to the defendant of any intent to use an analyst's report as evidence at trial, after which the defense counsel shall have ten (10) days to object in writing to the admission of the evidence absent the analyst's appearance live at trial. Without written objection the report shall be admissible.

Grand Jury CD & Transcript Request. If counsel wishes CD discs of the grand jury testimony, pursuant to AK CrR. 6(m), such may be requested from the court. If any party thereafter wishes a typed transcript of any grand jury testimony, they shall be responsible for its preparation.

Defense Disclosure of Alibi, Affirmative & Excuse Based Defenses. No later than the time of the Omnibus Hearing, defense counsel shall disclose to the District Attorney's office any intention to present an alibi, diminished capacity, entrapment, and/or coercion defense. [Notice of any insanity defense and/or mentally ill defense is governed by the time requirements of AS 12.47.020(a)].

Pre-Trial Motions. Any and all motions shall be served and filed no later than ten (10) days prior to the date scheduled for the Omnibus Hearing. Any and all oppositions shall be served and filed no later than five (5) days before the date scheduled for the Omnibus Hearing. Any and all replies shall be served and filed no later than one (1) day before the date scheduled for the Omnibus Hearing.

Requests for Oral Argument / Evidentiary Hearings. Oral arguments may be permitted at the Omnibus Hearing. If counsel requires an evidentiary hearing, or a hearing as to a motion or matter, they shall comply with AK CrR 77(e) and contact the Calendaring Clerk for a suitable time.

Request for Interpreter. The court must be notified no later than the date of the Omnibus Hearing of any need for translation services at the trial. Counsel are to notify the court at least ten (10) days prior to any hearing of any translation services needed.

Telephonic Participation. Any hearings required herein can be scheduled for telephonic participation with the consent of all parties and at least ten (10) days notice to the Calendaring Clerk, the party requesting the same to do so in writing.

Any written consent to proceed in defendant's absence must be filed at least five (5) days prior to the hearing.

Jury Instructions. Jury instructions, including, but not limited to, the elements of the offense, defense, and lesser-included offenses, shall be filed by no later than five (5) days prior to trial.

Guilty Finding, Pre-Sentence Report. In the event the defendant is found guilty a sentencing hearing will be set by the court. Unless otherwise ordered a pre-sentence report shall be prepared by the Department of Corrections. In the event a defendant seeks to challenge any information in the pre-sentence report, notice of intent to enter a testimonial denial shall be filed in writing with the court within ten days after the report is received.

Order of Compliance, Sanctions. It is the responsibility of counsel to notify the Court and opposing counsel of (1) any inability to meet the above deadlines, and (2) any discovery materials that are known to exist and that have not been provided as set forth herein. Upon a showing of good cause an application may be made for adjustment of the deadlines or the disclosure required by this Order. Unless otherwise ordered, the prosecuting attorney and defense counsel are HEREBY ORDERED to comply with the terms of the foregoing or to appear at the Omnibus Hearing prepared to show cause why appropriate sanctions under AK CrR. 50(c) or AK CrR. 95(b) should not be imposed.

ENTERED at Nome, Alaska, this 29th day of **October, 2024**.



ROMANO D. DIBENEDETTO
Superior Court Judge, Nome, Alaska

