

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1566

Amending Criminal Rule 39(c) and (d)
Concerning Costs of Appointed
Counsel

IT IS ORDERED:

Criminal Rule 39(c) and (d) are amended to read as follows:

Criminal Rule 39. Appointment of Counsel.

(c) **Costs of Appointed Counsel.**

(1) *Entry of Judgment.*

(A) At the time of sentencing, Upon conviction of an offense, revocation of probation, denial of a motion to withdraw plea, and denial of a motion an application brought under Criminal Rule 35.1, the court shall prepare a notice of intent to inquire whether there is good cause why the court should not enter judgment for the cost of appointed counsel in accordance with the amount set out in subsection paragraph (d) of this rule, provide a copy of the notice to the defendant, and order the defendant to apply for permanent fund dividends every year in which the defendant qualifies for a dividend until the judgment is paid in full. If no one asserts good cause to reduce the amount called for in subsection (d), the court shall enter judgment against the defendant in that amount. If it is alleged that there is good cause to reduce the normal amount, the court may either decide the issue at that time and enter judgment accordingly or schedule another hearing to consider the issue.

(B) If the court finds that the actual cost of appointed counsel is less than the amount of payment called for in subsection (d), the court shall not enter judgment in an amount greater than the actual cost of counsel.

~~(B) A defendant may oppose entry of judgment by filing a written opposition within 10 days after the date of notice, as defined in Criminal Rule 32.3(c), of the court's intent to enter judgment. The opposition must specifically set out the grounds for opposing entry of the judgment. The prosecuting authority may oppose the amount of the judgment by filing a written opposition by the same deadline.~~

~~(C) If no opposition is filed within the time specified in section 39(c) (1) (B), the clerk shall enter judgment against the defendant for the amount shown in the notice. If a timely opposition is filed, the matter must be decided by the court. The court may in its discretion set the matter for a hearing.~~

~~(C)D~~ The judgment must be in writing. A copy of the judgment must be mailed served on to the defendant's address of record. The judgment bears interest at the rate specified in AS 09.30.070(a) from the date judgment is entered. The court shall order the defendant to apply for permanent fund dividends every year in which the defendant qualifies for the dividend until the judgment is paid in full.

(d) **Schedule of Costs.** Except for good cause shown as provided in paragraph (c)(1), the following schedules govern the assessment of costs of appointed counsel under subsection paragraph 39(c). If a defendant is convicted of more than one offense in a single dispositive court proceeding, costs shall be based on the most serious

offense of which the defendant is convicted. If a defendant is otherwise convicted of more than one offense, costs shall be separately assessed for each conviction. For good cause shown, the court may waive the schedule of costs and assess fees up to the actual cost of appointed counsel, including actual expenses.

DATED: April 12, 2005

EFFECTIVE DATE: May 15, 2005

/s/
Chief Justice Bryner

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Carpeneti