

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1911

Amending Appellate Rule 204(a)(2), (4) and (5) and (c)(1) regarding the effect of restitution on the time to appeal, noting the date of notice when no order decides a motion to reconsider in a criminal case, and giving the appellate court authority to set the cost bond.

IT IS ORDERED:

1. Appellate Rule 204 is amended to read as follows:

Rule 204. Appeal: Time—Notice—Bonds.

(a) When Taken—Appeals and Cross-Appeals.

* * * * *

(2) *Subsequent Appeals.* If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days from the date shown in the clerk's certificate of distribution on the judgment, whichever period expires last. A post-judgment order awarding or denying costs, attorney's fees, prejudgment interest, or restitution, or a final judgment that has been amended to award or deny costs, attorney's fees, prejudgment interest, or restitution, may be appealed by filing either a notice of appeal or a motion to amend the points on appeal under subparagraph (a)(5)(A) of this rule within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days from the date shown in the

clerk's certificate of distribution on the order, whichever period expires last.

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(4) *Motions That Terminate Time for Filing Appeals in Criminal Cases.* In a criminal case, if a timely motion for a new trial or in arrest of judgment, or a timely motion for reconsideration has been filed in the superior court, or if a motion for reduction, correction, or suspension of sentence under Criminal Rule 35 has been made within the 30-day period following the date shown in the clerk's certificate of distribution on the judgment, an appeal from a judgment may be filed within 30 days after the date of notice of the order deciding the motion. Date of notice is defined in Criminal Rule 32.3(c). A timely motion for reconsideration filed in the trial court under Criminal Rule 42(k) is decided on the date of notice of the order deciding the motion, or on the date of denial of the motion pursuant to Criminal Rule 42(k)(4), whichever is earlier.

(5) *Effect of Taxing of Costs and Prejudgment Interest and Awarding of Attorney's Fees; Effect of Pending Restitution Determination.*

(A) The running of the time for filing an appeal is not terminated by proceedings related to the taxing of costs pursuant to Civil Rule 79, while awaiting calculation of prejudgment interest or proceedings related to the award of attorney's fees, or while awaiting determination of restitution under Criminal Rule 32.6 or Delinquency Rule 23.2. However, the statement of points on appeal filed pursuant to Appellate Rule 204(e) and the designation of transcript filed pursuant to Appellate Rule 210(b)(1) may be amended on motion by an appellant or cross-appellant to include the award or denial of costs and attorney's fees or prejudgment

interest or issues relating to the determination of restitution and pertinent portions of the electronic record. These subjects will thereafter be considered part of the appeal if covered in the brief of appellant or cross-appellant. If no appeal is pending, a post-judgment order awarding or denying costs, attorney's fees, prejudgment interest, or restitution may be considered a final judgment subject to an appeal limited to issues of costs, attorney's fees, prejudgment interest, or restitution. Any subsequent appeals of this order allowed under paragraph (a)(2) of this rule also will be limited to issues of costs, attorney's fees, prejudgment interest, or restitution unless the period for filing a notice of appeal on the underlying judgment has not yet expired.

(B) Notwithstanding Rule 203, the pendency of an appeal shall not divest the trial court of jurisdiction to consider the matters of costs and attorney's fees pursuant to Civil Rules 79 and 82 or AS 23.30.008(d), or issues relating to the determination of restitution.

* * * *

(c) **Bond on Appeal.**

(1) Unless a party is exempted by law, a bond for costs on appeal shall be filed with the notice of appeal in a civil case. The bond shall be in the sum of seven hundred fifty dollars (\$750.00), unless the appellate court fixes a different amount or unless a supersedeas bond is filed, in which event no separate bond on appeal is required. The bond on appeal shall have sufficient surety and shall be conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed, or such costs as the supreme court may award if the judgment is modified. If a bond on appeal in the sum of seven hundred fifty dollars (\$750.00) is given, no approval thereof is necessary. After a bond on appeal is filed, an

appellee may by motion raise objection to the form or amount of the bond or to the sufficiency of the surety, which shall be determined by the appellate court. In lieu of filing such cost bond, the appellant may deposit in the office of the clerk of the appellate courts a sum of money reasonably sufficient to cover such costs, the amount thereof to be fixed by the appellate court.

(2) Notwithstanding paragraph (1), a bond for costs on appeal shall not be required in an appeal from a decision of the trial court in any criminal case or any civil case where an indigent party is entitled to court-appointed counsel, and a bond shall not be required from an employee appealing from a denial of compensation by the Alaska Workers' Compensation Appeals Commission or from a denial of a claim for benefits under AS 23.20 (Employment Security Act).

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DATED: June 21, 2017

EFFECTIVE DATE: October 16, 2017

/s/
Chief Justice Stowers

/s/
Justice Winfree

/s/
Justice Maassen

/s/
Justice Bolger

/s/
Justice Carney