

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 901

Adopting Criminal Rule 35.2 concerning
suspended imposition of sentence

IT IS ORDERED:

A new Criminal Rule 35.2 is adopted to provide:

Criminal Rule 35.2: Discharge and Set-Aside of Conviction

(a) Where the court has suspended imposition of sentence, the defendant has completed the probationary term without imposition of sentence and no petition to revoke probation is pending, the court shall discharge the defendant from probation. At the time discharge is entered, which shall occur 30 days after defendant's probationary term has expired, or at such later time as the court for cause may direct, the court shall consider whether the conviction should be set-aside. If the court determines that the conviction should be set-aside, it shall issue a certificate to that effect to the defendant. If the court determines that the conviction should not be set-aside, it shall set forth with specificity its reasons for that decision.

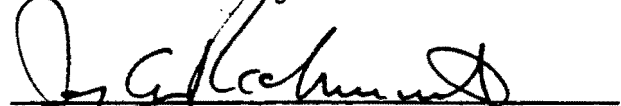
(b) The court shall notify the state at least 20 days prior to the expiration of defendant's probationary term that the court will consider whether to discharge the defendant from probation and to set aside the defendant's conviction. In the event any party opposes discharge or set-aside of the conviction, that party shall file a motion with appropriate support not less than 20 days prior to the time discharge is to be entered pursuant to paragraph (a). The defendant must be served with a copy of any such motion and have an opportunity to respond. A copy of the motion also must be mailed to defendant's last attorney of record. Any party, or the court on its own motion, may set the matter for hearing.

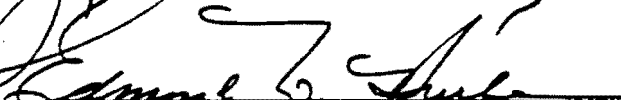
(c) In the event that no party has filed a motion opposing set-aside of the conviction, the court may refuse to set-aside the conviction only after affording the defendant notice and an opportunity to be heard. Notice must be served on the defendant and a copy mailed to defendant's last attorney of record.

DATED: April 21, 1988

EFFECTIVE DATE: January 15, 1989


Chief Justice Matthews


Justice Rabinowitz


Justice Burke


Justice Compton


Justice Moore