HB

152

8-LS0617\J
Luckhaupt
3/9/93

CS FOR HOUSE BILL NO. 152(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to magistrate jurisdiction."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 22.15.120 is amended to read:

Sec. 22.15.120. LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATE MAY HEAR. A magistrate shall preside only in cases and proceedings under AS 22.15.040, 22.15.100, and 22.15.110, and as follows:

(1) for the recovery of money or damages only when the amount claimed, exclusive of costs, interest, and attorney fees, does not exceed $5,000;

(2) for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed $5,000;

(3) for the recovery of a penalty or forfeiture, whether given by statute or arising out of contract, not exceeding $5,000;

(4) to give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or

forfeiture imposed by statute;

(5) to give judgment of conviction upon a plea of guilty **or no contest** by the defendant in a criminal proceeding within the jurisdiction of the district court;

(6) to hear, try, and enter judgments in all cases involving misdemeanors **that are not minor offenses**, if the defendant consents in writing that the magistrate may try the case;

(7) to hear, try, and enter judgments in all cases involving **minor offenses** [INFRACTIONS UNDER AS 28, VIOLATIONS UNDER AS 05.25 AND AS 11,] and violations of ordinances of political subdivisions;

(8) for the extradition of fugitives as authorized under AS 12.70;

(9) to provide post-conviction relief under the Alaska Rules of Criminal Procedure for any of the cases specified in (5), (6), or (7) of this section if the conviction occurred in the district court.

* **Sec. 2.** AS 22.15.120 is amended by adding a new subsection to read:

(b) In this section, "minor offense" means

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

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

(3) a statutory offense for which a conviction cannot result in incarceration, a fine greater than $300, or the loss of a valuable license.

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 1, 1993 FURTHER REFERRALS:

Date of Committee Action: 3-12-93

The JUDICIARY Committee considered: HB 152

HOUSE BILL NO. 152 JURISDICTION OF MAGISTRATES

"An Act relating to magistrate jurisdiction."

RECOMMENDATIONS: [X] the same title
be replaced with CSHB152 (JUD) [ ] a new title

[ ] have attached amendments(s)
[X] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact _____ [ ] fiscal note(s) _____

[ ] zero fiscal note _____ [X] zero fiscal note(s) Court System 3/1/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Brian D. Porter	✓	City Juridiction		✓	
Gail L. Phillips	✓				
Kim Rocklund	✓				
Jeannette James	✓				
Ken Lamb	✓				
Joseph Green	✓				

Brian D. Porter
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

*HB 86 Sanctions for Property-Related Offenses
HB 79 Damage of Property by Minors

Date: March 12, 1993
Place: Capitol Room 120

Subject of Meeting: HB 152 Magistrate Jurisdiction
HB 58 Admin. of Budget Reserve Fund

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Margot Knuth	Laws-Crim	Box 110300 99811			5-4049	(Y) N	HB 86
Jay Frank	State Farm Allstate	431 N. Franklin St Juneau			586-5777	(Y) N	HB 79
C.S CHRISTENSEN	COURT SYSTEM	303 K ST ANCH	99501		264-8228	(Y) N	HB 152
Randall Harris	DHSS	Box 110630 Juneau	99811		465-3187	Y (N)	HB 86
Jim Baldwin						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

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Rep. Brian Porter, Chairman

House Judiciary Committee

Date: March 10, 1993
Place: Capitol Room 120

Subject of Meeting: HJR 3 Limitation of Legislative Terms; HB 152 Jurisdiction of Magistrates; HB 62 Employee's Use of Legal Products; HB 147 Liability for Reference Info.

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
C.S. CHRISTENSEN	COURT SYSTEM	303 K ST NORTH	99501		264-8228	(Y) N	HB 152
Resa Jerrel	NFIB	9159 Skywood	99801		789-4278	(Y) N	HJR 3
Doug Rickey	Rep-Gussenhorf	State Cap.				(Y) N	HB 62 - if needed
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

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HOUSE COMMITTEE REPORT

(7)

Date Referred: February 15, 1993 FURTHER REFERRALS: Judiciary

Date of Committee Action: 2/25/93

The STATE AFFAIRS Committee considered: HB 152

HOUSE BILL NO. 152 JURISDICTION OF MAGISTRATES

"An Act relating to magistrate jurisdiction."

RECOMMENDATIONS: [X] the same title
be replaced with CSHB 152 [ ] a new title

[ ] have attached amendments(s)
[X] do pass
[ ] do not pass
[ ] no recommendations
[X] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact _____ [ ] fiscal note(s) _____

[1] zero fiscal note Alaska Court System [ ] zero fiscal note(s) _____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*DNP*	*NR*	*AM*
	✓				
	✓				
	✓				
	✓				
	✓				
	✓				
	✓				

CHAIRMAN'S SIGNATURE

STATE AFFAIRS REPORT

Alaska Court System
State of Alaska
OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

March 4, 1993

The Honorable Brian Porter
Chairman, House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Porter:

Thank you for scheduling House Bill 15a, relating to magistrate jurisdiction. As you will recall, this bill was introduced by the Judiciary Committee at the request of the supreme court.

Magistrates preside over certain district court matters in areas of the state where the services of a full-time district court judge are not required. Magistrates are the highest ranking judicial officer in approximately 40 district court locations. Magistrates also serve in metropolitan areas to handle routine matters and to ease the workload of the district court. Unlike other types of judicial officers, magistrates are not appointed by the governor; instead, they serve at the pleasure of the presiding judge of their judicial district.

CSHB 15a (STA) proposes two changes to AS 22.15.120, the statute which sets forth magistrate jurisdiction. The first change modifies magistrate jurisdiction with respect to "minor offenses." A minor offense is a non-criminal offense such as a speeding ticket. An offense is deemed minor and non-criminal if it cannot be punished by a jail sentence, by an excessive fine, or by the loss of a valuable license. Because a minor offense is classified as non-criminal, a person who is charged with a minor offense is not entitled to a jury trial or to a public defender.

Currently, magistrates are authorized to hear minor offense cases if the minor offense is contained in Title 11 (Criminal Law), Title 05 (Amusements and Sports), or Title 28 (Motor Vehicles). However,

COURT SYSTEM LETTER

over the years many minor offenses have been added to other titles, such as Title 16 (Fish and Game). CSHB 151 (STA) would authorize magistrates to hear any minor offense case, regardless of its placement in the Alaska Statutes. This change will result in operating efficiencies for the court system.

The second change modifies magistrate jurisdiction with respect to post-conviction relief. It corrects an oversight in court system legislation which was enacted in 1990.

Grounds for post-conviction relief are set forth in Criminal Rule 35.1, a copy of which is attached. This rule codifies the common law right of an offender to petition the convicting court to reconsider his case. For example, if new evidence is discovered several years after a person is convicted, the person can request the convicting court to reconsider the conviction in light of the new evidence.

Until 1990, jurisdiction to hear petitions for post-conviction relief rested with the superior court, even if the conviction had been entered in the district court. In that year, legislation was enacted which provided that district judges would have jurisdiction in post-conviction relief cases, if the conviction took place in the district court. Through an oversight, this change only applied to district judges, and not to magistrates, who also hear cases in district court. CSHB 151 (STA) rectifies this oversight, by providing that magistrates may provide post-conviction relief, if the underlying conviction was within the magistrate jurisdiction.

Thank you for your courtesy. Please feel free to contact me if you have any questions or comments.

Very truly yours,

C. S. Christensen III
Staff Counsel

enclosure

imposed under this rule. Rollefson v. Municipality of Anchorage, Op. No. 983, 782 P2d 305 (Alaska App. 1989).

Where request for reduction of sentence came almost three years after defendant's conviction was affirmed on appeal, and there was nothing in the record to suggest that he intended to make the request within 120-days permitted by the rule or was somehow frustrated by his attorney or the court system in taking action, the trial court did not err in refusing to relax the 120-day time limit. S.B. v. State, Op. No. 997, 785 P2d 900 (Alaska App. 1989).

If a defendant intends to bring a motion within the 120-day period but negligently calculates the time, or if defense counsel refuses to bring the motion or discourages defendant from bringing the motion, it might be an abuse of discretion to refuse to relax the 120-day time limit of this rule. Cook v. State, Op. No. 1052, 792 P2d 682 (Alaska App. 1990).

Although convicted sex offender's motion to reduce sentence would have failed if made within the 120-day time limit of this rule because his completion of an institutional sex-offender program, upon which the motion was based, did not occur until after the time limit, the trial court did not err in refusing to relax the time limit. Cook v. State, Op. No. 1052, 792 P2d 682 (Alaska App. 1990).

Rule 35.1. Post-conviction Procedure.

(a) Scope. Any person who has been convicted of, or sentenced for, a crime and who claims:

(1) that the conviction or the sentence was in violation of the constitution of the United States or the constitution or laws of Alaska;

(2) that the court was without jurisdiction to impose sentence;

(3) that the sentence imposed exceeded the maximum authorized by law, or is otherwise not in accordance with the sentence authorized by law;

(4) that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(5) that his sentence has expired, his probation, parole or conditional release have been unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;

(6) that the conviction or sentence is otherwise subject to collateral attack upon any ground or alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding, or remedy; or

(7) that there has been a significant change in law, whether substantive or procedural, applied in the process leading to applicant's conviction or sentence, when sufficient reasons exist to allow retroactive application of the changed legal standards; may institute a proceeding under this rule to secure relief.

(b) Not a Substitute for Remedies in Trial Court — Replaces All Other Remedies for Challenging the Validity of a Sentence. This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. It is intended to provide a standard procedure for accomplishing the objectives of all of the constitutional, statutory or common law writs.

(c) Commencement of Proceedings — Filing — Service. A proceeding is commenced by filing an application with the clerk of the court in which the conviction occurred. Application forms will be furnished by the clerk of court. An application may be filed at any time. The clerk shall open a new file for the application, promptly bring it to the attention of the court and give a copy to the district attorney.

(d) Application — Contents. The application shall (1) identify the proceedings in which the applicant was convicted, (2) state the date shown in the clerk's certificate of distribution on the judgment complained of, (3) state the sentence complained of and the date of sentencing, (4) specifically set forth the grounds upon which the application is based, and (5) clearly state the relief desired. Facts within the personal knowledge of the applicant shall be set forth separately from other allegations of facts and shall be under oath. Affidavits, records, or other evidence supporting its allegations shall be attached to the application or the application shall recite why they are not attached. The application shall identify all previous proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or sentence. Argument, citations and discussion of authorities are unnecessary. Applications which are incomplete shall be returned to the applicant for completion.

(e) Indigent Applicant. If the applicant is indigent, filing fees, transcript and other court costs shall be borne by the state. Where the court determines that the application shall not be summarily disposed of on the pleadings and record pursuant to subdivision (f) of this rule, but that the issues raised by the application require an evidentiary hearing, counsel shall be appointed to assist indigent applicants.

(f) Pleadings and Judgment on Pleadings.

(1) Within 30 days after the filing of the application, or within such further time as the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. At any time prior to entry of judgment the court may grant leave to withdraw the application. The court may make appropriate orders for amendment of the application or any pleading or motion, for pleading over, for filing further pleadings or motions, or for extending the time of the filing of any pleading. In considering

the application the court shall consider substance and disregard defects of form. If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application.

(2) When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings, it may indicate to the parties its intention to dismiss the application and its reasons for so doing. The applicant shall be given an opportunity to reply to the proposed dismissal. In light of the reply, or on default thereof, the court may order the application dismissed or grant leave to file an amended application or direct that the proceedings otherwise continue. Disposition on the pleadings and record shall not be made when a material issue of fact exists.

(3) The court may grant a motion by either party for summary disposition of the application when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

(g) **Hearing — Evidence — Order.** The application shall be heard in, and before any judge of, the court in which the conviction took place. An electronic recording of the proceeding shall be made. All rules and statutes applicable in civil proceedings, including pre-trial and discovery procedures are available to the parties. The court may receive proof by affidavits, depositions, oral testimony, or other evidence. The court may order the applicant brought before it for the hearing. If the court finds in favor of the applicant, it shall enter an appropriate order with respect to the conviction or sentence in the former proceedings, and any supplementary orders as to rearraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. The order made by the court is a final judgment.

(h) **Waiver of or Failure to Assert Claims.** All grounds for relief available to an applicant under this rule must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

(Added by SCO 822, effective August 1, 1987)

Annotations

Cases

I. In General

Appellate Rule 46 was invoked where strict adherence to the 40-day time limit for appeal under Criminal Rule 35 would have prevented consideration of appellant's contentions that his conditions of imprisonment deprived him of his right to rehabilitation and reformation and to be free of cruel and unusual punishment. Abraham v. State, Op. No. 1747, 585 P2d 526 (Alaska 1978).

Post-conviction relief proceeding is not another trial; it is separate from the original criminal proceeding and is governed primarily by rules of civil procedure. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

The Criminal Rules promulgated by the Alaska Supreme Court are part of the general "laws" of Alaska as the term is used in this rule. Price v. State, Op. No. 100, 647 P2d 611 (Alaska App. 1982).

An attorney, appointed to represent an indigent in bringing his first application for post-conviction relief based on alleged ineffective assistance of counsel, was not permitted to withdraw on the basis that there were no nonfrivolous issuance to be presented to the court where the indigent was unwilling to forego the application; the court, rather than counsel, had to determine the merits of petitioner's contention. Hertz v. State, Op. No. 806, 755 P2d 406 (Alaska App. 1988).

Res judicata applies in post-conviction relief proceedings; accordingly where a party thoroughly litigates an issue and has his appeal resolved on the merits, the trial court can dismiss a claim for post-conviction relief on that issue. Brown v. State, Op. No. 1099, 803 P2d 887 (Alaska App. 1990).

District court did not have jurisdiction to entertain applications for post-conviction relief made under this rule. State v. Danielson, Op. No. 1128, 809 P2d 937 (Alaska App. 1991).

II. Vacation of Conviction

A. In General

At a fact hearing upon a post-conviction petition which alleged that petitioner was coerced by appointed trial counsel to enter a guilty plea and also alleged that trial counsel had given the petitioner false assurance regarding probation, specific findings must be made in the record as to as many of the following matters that may be applicable in addition to others possibly raised, namely the court's jurisdiction, the adequacy of petitioner's representation, intelligent waiver of counsel if there was such, questions of suppression of evidence

or knowing use of perjured testimony, use of involuntary confessions, competency of petitioner to understand the proceedings and statutory range of sentence. Thompson v. State, Op. No. 334, 412 P2d 628 (Alaska 1966).

Order denying petition to vacate on ground that plea of guilty was coerced by threats and promises of probation officer was reversed and remanded directing the court below to place the probation officer under oath, to afford full opportunity for cross-examination at a full fact hearing on petitioner's charges, to weigh the testimony and to file written findings and decision. Nichols v. State, Op. No. 398, 425 P2d 247 (Alaska 1967).

If the record of a post-conviction hearing is silent with regard to an issue and the witnesses are unable to remember, the State has not failed to substantiate its case. Instead, the prisoner has failed in his collateral attack on the judgment of conviction. Merrill v. State, Op. No. 568, 457 P2d 231 (Alaska 1969).

To secure relief in a habeas corpus proceeding, the petitioner has the burden of alleging and proving by a preponderance of the evidence all facts necessary to overturn the prior judgment of conviction. Merrill v. State, Op. No. 568, 457 P2d 231 (Alaska 1969).

Where the counsel for a prisoner seeking post-conviction relief is unable to find witnesses having information to substantiate a jury-tampering claim, the trial court may dismiss the claim. Flores v. State, Op. No. 642, 475 P2d 37 (Alaska 1970).

A defendant is precluded from raising on application for post-conviction relief the contention that the jury was improperly constituted where no challenge to the composition of the jury panel was made at the trial. Fajeriak v. State, Op. No. 761, 520 P2d 795 (Alaska 1974).

A genuine issue of material fact, precluding summary disposition of an application for post-conviction relief, is presented where it is alleged that the district attorney, by resort to threats and intimidation, prevented potential defense witnesses from testifying. Fajeriak v. State, Op. No. 1021, 520 P2d 795 (Alaska 1974).

Vacation of conviction for failure to comply with Criminal Rule 11 will only be granted when noncompliance affected substantial rights of defendant. Lewis v. State, Op. No. 1447, 565 P2d 846 (Alaska 1977).

A defendant seeking to set aside a conviction on grounds of newly discovered evidence must prove by a preponderance of the evidence those facts which entitle him to have the conviction set aside. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

Defendant has the burden of proving by a preponderance of the evidence that newly discovered evidence would be likely to change the result of the trial, that is, that the evidence would be sufficient to create a reasonable doubt as to his guilt. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

Defendant had burden of proving by a preponderance of evidence that newly discovered evidence of diminished capacity would be sufficient to create a reasonable doubt in a new trial. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

Defendant's new evidence did not require a new trial since it was cumulative of information which he could have presented trial and since there was not reasonable possibility that the new evidence would produce an acquittal in a new trial. Charles v. State, Op. No. 963, 780 P2d 377 (Alaska App. 1989).

B. Specific Grounds

Conviction set aside under this rule and case remanded for new trial, because trial court's exclusion from evidence of tape recorded inconsistent statements of state witness had resulted in keeping from jury relevant and important facts on the trustworthiness of crucial testimony even though witness had admitted making the statements. Bentley v. State, Op. No. 270, 397 P2d 976 (Alaska 1965).

Motion to vacate judgment of conviction under this provision based on the ground that plea of guilty made in 1952 was not voluntary in the meaning of federal criminal rule 11, was properly denied where records showed that the petitioner had discussed the plea with counsel of his own choice and that the judge had made a determination that the plea was not improvidently made. Oughton v. State, Op. No. 377, 420 P2d 452 (Alaska 1966).

Record of post-conviction hearing on remand disclosed sufficient basis for superior court's finding that appellant's change of plea to guilty was made voluntarily and with understanding of the nature of the charge. Thompson v. State, Op. No. 408, 426 P2d 995 (Alaska 1967).

The allegations of a petitioner for post-conviction relief that he had taken drugs some 12 hours prior to time he changed his plea to guilty and that at the time he appeared in court to enter his change of plea he was under the influence of drugs, and thus rendered incompetent, were sufficient to require an evidentiary hearing. Despite the apparent regularity of the competency hearing, the change of plea and the sentencing proceedings, the possibility still exists that the petitioner did not knowingly and understandingly plead to the offense as charged. Widermyre v. State, Op. No. 540, 452 P2d 885 (Alaska 1969).

Where a prisoner seeking post-conviction relief refuses to waive the attorney-client privilege so that his trial counsel can testify on the question of the adequacy of representation, and the prisoner thus forestalls further inquiry into such ground for relief, the claim of inadequate representation by trial counsel is deemed to have been abandoned. Flores v. State, Op. No. 642, 475 P2d 37 (Alaska 1970).

A defendant is not deprived of a public trial merely because a newspaper reporter is unable to enter the building in which the courtroom is located, where such exclusion is unintentional, is for less than one hour and takes place at a time after submission of the case to the jury, while the jury is listening to a replay of certain recorded testimony. Flores v. State, Op. No. 642, 475 P2d 37 (Alaska 1970).

Proof that the State intimidated potential material defense witnesses and prevented them from testifying requires the granting of a new trial. A defendant, seeking post-conviction relief, will not have to demonstrate prejudice. Fajeriak v. State, Op. No. 1021, 520 P2d 795 (Alaska 1974).

Where a defendant successfully proves on application for post-conviction relief that his confidential communications with his attorney were electronically monitored, he ordinarily

must be granted a new trial, even without demonstrating that he was prejudiced by such action. Fajeriak v. State, Op. No. 1021, 520 P2d 795 (Alaska 1974).

After conviction as accomplice to burglary not in a dwelling and malicious destruction of property, evidence of diminished capacity was admissible to negate showing by state that defendant had knowledge of the criminal enterprise and that defendant specifically intended, by his conduct, to aid, abet, assist or participate in the criminal enterprise. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

Where attorney did not inform his client of the possibility of a diminished capacity defense, but did himself consider it in preparing for trial, his failure to explain the possible defense did not render his legal assistance ineffective when the chances of acquittal or conviction on a lesser offense due to the use of the diminished capacity defense were improbable. Larson v. State, Op. No. 2128, 614 P2d 776 (Alaska 1980).

In order to obtain post-conviction relief for ineffective assistance of counsel, defendant must first show that his lawyer's skill fell below that of a lawyer with ordinary training and skill in the criminal law, and second, that the lawyer's defective performance contributed in some way to defendant's conviction. Larson v. State, Op. No. 2128, 614 P2d 776 (Alaska 1980).

In attempting to eliminate consideration of the nature of the offense from its consideration of relevant factors at sentencing, the superior court committed reversible error. Kelly v. State, Op. No. 2268, 622 P2d 432 (Alaska 1981).

III. Procedure

A. In General

A petitioner seeking post-conviction relief on the grounds that she was transported out of the state for purposes of out-of-state incarceration prior to the expiration of the ten-day period within which she is required to file a notice of appeal, should attempt to show what impact her physical removal from the state has had on her ability to file a timely notice of appeal. She should further show what attempt she has made during the period between the imposition of sentence and the alleged removal from the state to engage services of trial counsel. Pore v. State, Op. No. 537, 452 P2d 433 (Alaska 1969).

An appeal from the denial of a petition for writ of habeas corpus is characterized as one from the denial of a motion for post-conviction relief. Knaub v. State, Op. No. 489, 443 P2d 44 (Alaska 1968).

If the trial court determines conclusively that a petitioner is entitled to no post-conviction relief after an examination of the files and records of a case, it may properly deny the petition without hearing. Knaub v. State, Op. No. 489, 443 P2d 44 (Alaska 1968).

A trial judge in acting upon a motion for post-conviction relief is entitled to rely upon his recollection of the proceedings during the trial. Knaub v. State, Op. No. 489, 443 P2d 44 (Alaska 1968).

It is not necessary to hold an evidentiary hearing concerning an alleged deprivation of the right to appeal where petitioner alleges she requested her trial defense counsel to file an appeal from her conviction, but fails to indicate time, location, manner and circumstances under which she had requested her counsel to make such appeal. Pore v. State, Op. No. 537, 452 P2d 433 (Alaska 1969).

The determination that a petition for post-conviction relief alleging the deprivation of the right to appeal does not require the holding of an evidentiary hearing does not preclude the petitioner from making a second application for post-conviction relief and presenting evidence supporting the assertion, first presented on appeal from a denial of the first post-conviction motion, that she was transported out of the state for purposes of out-of-state incarceration prior to the expiration of the ten-day period within which she was required to file her notice of appeal. Pore v. State, Op. No. 537, 452 P2d 433 (Alaska 1969).

If the trial court can determine conclusively that the petitioner is not entitled to post-conviction relief after examining the files and records of the case, it may properly deny the petition without hearing. Widermyre v. State, Op. No. 540, 452 P2d 885 (Alaska 1969).

Post-conviction relief is an appropriate vehicle for the effectuation of the right of appeal where counsel has failed to file a timely notice of appeal. McCracken v. State, Op. No. 677, 482 P2d 269 (Alaska 1971).

Where a convicted defendant presents important questions of substantive criminal law never before decided in the state, the court will consider the merits of the issues, even though the petitioner had not asserted his claims in prior motions. Mead v. State, Op. No. 731, 489 P2d 738 (Alaska 1971).

If an applicant for post-conviction relief is represented by counsel in the first application, there will be no presumption in his favor in a second application, and he will incur the burden of showing sufficient reason for any failure to raise grounds for relief in the first application. Thompson v. State, Op. No. 792, 496 P2d 651 (Alaska 1972).

Indigent prisoners seeking relief under this rule must be provided with counsel at the time their application is filed. Donnelly v. State, Op. No. 965, 516 P2d 396 (Alaska 1973).

Generally, a petitioner for post-conviction relief has a right to represent himself without counsel in criminal proceedings. McCracken v. State, Op. No. 986, 518 P2d 85 (Alaska 1974).

The right to self-representation on a petition for post-conviction relief is not absolute. In order to prevent a perversion of the judicial process, the trial judge should first ascertain whether a prisoner is capable of presenting his allegations in a rational and coherent manner before allowing him to proceed pro se, and the trial judge should satisfy himself that the prisoner understands precisely what he is giving up by declining assistance of counsel. The advantages of legal representation should be explained to the prisoner in some detail, and in the event of an evidentiary hearing at which the prisoner is present he should be given the option of having legal counsel available for consultation. McCracken v. State, Op. No. 986, 518 P2d 85 (Alaska 1974).

Where a petitioner for post-conviction relief desires to represent himself, the trial judge should determine whether the prisoner is willing to conduct himself with at least a modicum of courtroom decorum, but the hearing judge must bear in mind that prisoners are not experienced trial lawyers, and are not practiced in the formalities of courtroom etiquette. McCracken v. State, Op. No. 986, 518 P2d 85 (Alaska 1974).

Where pleadings filed by a petitioner seeking post-conviction relief demonstrate a certain knowledge of the merits of his allegations, and indicate at least to some extent that he might have the ability to represent himself, his rights might best be vindicated by an order permitting him to represent himself with the assistance of counsel from the public defender's office appointed by the court. If it should be determined that the prisoner's presence would be necessary at a hearing, a more thorough inquiry into the propriety of permitting him to represent himself could be undertaken at that time. McCracken v. State, Op. No. 986, 518 P2d 85 (Alaska 1974).

Even though post-conviction applications are assigned to the original trial judge, he is not chargeable with knowledge of the entire original trial record, where the transcript and record is extremely lengthy and the trial took place several years earlier. Portions of the record relied on for post-conviction relief should be specifically indicated to the judge. Fajerlak v. State, Op. No. 1021, 520 P2d 795 (Alaska 1974).

All post-conviction challenges other than by direct appeal or motion after trial must be initiated in the trial court in which the conviction occurred. McKinnon v. State, Op. No. 1075, 526 P2d 18 (Alaska 1974).

A sentence is imposed at the time it is first announced upon the record by the court. State v. Trunnel, Op. No. 1260, 549 P2d 550 (Alaska 1976).

Rule 35(b) proceeding is separate from original criminal proceeding, is governed by civil procedure, results in a final judgment and may be appealed by either state or applicant. State v. Hannagan, Op. No. 1374, 559 P2d 1059 (Alaska 1977).

When a criminal appeal has been dismissed, though no mandate has been issued, the appellant may seek relief in superior court under Criminal Rule 35(a). Singletary v. State, Op. No. 1711, 583 P2d 847 (Alaska 1978).

Criminal Rule 35(a) is not the appropriate procedural vehicle to seek relief as to conditions within custodial institutions or the civil rights of inmates. Rust v. State, Op. No. 1668, 584 P2d 38 (Alaska 1978).

An appeal from denial of a supplemental application for correction of sentence presents only the question of whether the denial of reconsideration of the original application was proper and does not bring up for review the decision denying the original application for correction of sentence. Abraham v. State, Op. No. 1747, 585 P2d 526 (Alaska 1978).

The provisions of Criminal Rule 35(g)(2) [now 35(h)(2)] are applicable only to post-conviction proceedings under Criminal Rule 35(b) and are not applicable to requests for relief under Criminal Rule 35(a). Winslow v. State, Op. No. 1767, 587 P2d 738 (Alaska 1978).

Where defendant in probation revocation proceeding did not file motion for post-conviction relief on form provided by court, or file the motion in the court where the original conviction occurred, he did substantially comply with requirements of Criminal Rule 35 by filing separate "Motion to Dismiss Probation Revocation Proceeding, or in the Alternative, to Strike Felony Conviction" and by sending copy of the motion to judge who presided in the original case, where judge by special arrangement ruled on the motion while in the jurisdiction where probation revocation hearing was held. Holton v. State, Op. No. 1967, 602 P2d 1228 (Alaska 1979).

Post-conviction relief proceeding is not another trial; it is separate from the original criminal proceeding and is governed primarily by rules of civil procedure. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

An error need not be of constitutional magnitude in order to be attacked under this rule. Price v. State, Op. No. 100, 647 P2d 611 (Alaska App. 1982).

Errors in jury instructions which render a criminal trial fundamentally unfair warrant relief under this rule. Price v. State, Op. No. 100, 647 P2d 611 (Alaska App. 1982).

Defendant's failure to object at trial to jury instruction forfeited his right to challenge the instruction in a post-conviction proceeding where the instruction did not significantly change the law so as to excuse a timely failure to object, and defendant did not show either good cause for failing to object or substantial prejudice. Marrone v. State, Op. No. 156, 653 P2d 672 (Alaska App. 1982).

Trial court is not obligated to dismiss an application for post-conviction relief sua sponte even if it is convinced it has no merit. Hampton v. Huston, Op. No. 155, 653 P2d 1058 (Alaska App. 1982).

Trial court erred in ruling on pro se appellant's motion for post-conviction relief without a knowing, intelligent and voluntary waiver of counsel by appellant and without determining whether or not appellant was competent to represent himself. Hampton v. Huston, Op. No. 155, 653 P2d 1058 (Alaska App. 1982).

Summarily dismissing defendant's motion for post-conviction relief which alleged ineffective assistance of counsel, without advance notice to defendant indicating the court's intention to dismiss the motion or its reasons for the proposed dismissal, was reversible error, even though the motion itself did not establish a prima facie case of ineffective assistance of counsel. Wood v. Endell, Op. No. 488, 702 P2d 248 (Alaska App. 1985).

In post-conviction relief actions, particularly in cases involving pro se applicants who are incarcerated and do not have ready access to court documents, the court's discretion to relax technical pleading requirements should be liberally exercised. State v. Jones, Op. No. 832, 759 P2d 558 (Alaska App. 1988).

Sentenced prisoners may avail themselves of the rule recognizing extraordinary potential for rehabilitation as a nonstatutory mitigating factor permitting referral to a three-judge panel to avoid manifest injustice if they can make a prima facie case for referral based upon the original sentencing record. S.B. v. State, Op. No. 997, 785 P2d 900 (Alaska App. 1989).

Defendant did not waive claim that his confession should have been suppressed by not raising the issue in his original application for post-conviction relief where his court-appointed counsel had been appointed only to investigate ineffective assistance of counsel claims. Billingsley v. State, Op. No. 1117, 807 P2d 1102 (Alaska App. 1991).

B. Hearing on Motion

On his first application to vacate or set aside sentence and to withdraw plea of guilty on ground of coercion, an indigent prisoner had a constitutional right to have counsel appointed by the court to represent him at such hearing. Nichols v. State, Op. No. 398, 425 P2d 247 (Alaska 1967).

The allegations of a petitioner for post-conviction relief that he had taken drugs some 12 hours prior to time he changed his plea to guilty and that at the time he appeared in court to enter his change of plea he was under the influence of drugs, and thus rendered incompetent, were sufficient to require an evidentiary hearing. Despite the apparent regularity of the competency hearing, the change of plea and the sentencing proceedings, the possibility still exists that the petitioner did not knowingly and understandingly plead to the offense as charged. Widermyre v. State, Op. No. 540, 452 P2d 885 (Alaska 1969).

A prisoner seeking post-conviction relief is not denied a fair determination of his motion merely because he is not present in person at hearings on the motion. Flores v. State, Op. No. 642, 475 P2d 37 (Alaska 1970).

In a post-conviction proceeding, the attorney who has served as trial counsel for the defendant properly refuses to testify on the question of the adequacy of his representation, in the absence of a waiver of the attorney-client privilege. Flores v. State, Op. No. 642, 475 P2d 37 (Alaska 1970).

Normally, whether to produce the prisoner is a decision left to the discretion of the court, but where the defendant's own testimony would be an essential prerequisite to proper adjudication of an issue raised on application for post-conviction relief, the defendant should be permitted to testify. Fajerlak v. State, Op. No. 1021, 520 P2d 795 (Alaska 1974).

Where the court elects to consider a petition for post-conviction relief summarily, it must give advance warning of its decision to the parties in a written order spelling out in some detail its reasons for concluding that the petition warrants summary disposition. Hampton v. Huston, Op. No. 155, 653 P2d 1058 (Alaska App. 1982).

C. On Review

Where appellant claimed that he was coerced into a plea of guilty by court appointed counsel who had also given him alleged false assurances of probation, and upon a post-conviction petition under this rule the trial court had found that these charges were unsubstantiated basing its finding upon matter not contained in the record, the case was remanded to the trial court for further proceedings to create a record upon appropriate and specific findings. Thompson v. State, Op. No. 334, 412 P2d 628 (Alaska 1966).

The rule contemplates that the sentencing court should be initially called upon to review the sentence. State v. Pete, Op. No. 372, 420 P2d 338 (Alaska 1966).

The sole question before a reviewing court when confronted with an order denying, without hearing, a motion for post-conviction relief is whether the petitioner in his application for relief made such a showing as to require a hearing. Widermyre v. State, Op. No. 540, 452 P2d 885 (Alaska 1969).

On an appeal from a motion attacking a sentence, the factual findings of the lower court are judged by the same criterion as findings made in a judge-tried civil case. Merrill v. State, Op. No. 568, 457 P2d 231 (Alaska 1969).

Where the defendant does not move for an evidentiary hearing or base his motion for a new trial on misconduct by the bailiff, the issue of whether the trial court erred in failing to grant him an evidentiary hearing concerning an allegedly improper statement made by the bailiff to the jury during the course of their deliberations is not properly before the Supreme Court. The defendant is not precluded from raising the issue in a future proceeding on a motion for a new trial or through other means seeking post-conviction relief. Howard v. State, Op. No. 754, 491 P2d 154 (Alaska 1971).

Trial court's finding that new evidence, if presented at a new trial, would probably not create a reasonable doubt as to defendant's guilt will be upheld unless such finding constitutes an abuse of discretion. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

Standard for review of trial court's denial of motion for post-conviction relief is one of abuse of discretion. Hensel v. State, Op. No. 1983, 604 P2d 222 (Alaska 1979).

An appellant should not be able to raise issues on appeal from the denial of an application for post-conviction relief that he would have been barred from raising on direct appeal from his original conviction. Marrone v. State, Op. No. 156, 653 P2d 672 (Alaska App. 1982).

Ad hoc procedural course followed by the trial court departed markedly from the orderly procedure for the expeditious disposition of non-meritorious applications for post-conviction relief contemplated by this rule, depriving the state of a fair opportunity to contest defendant's application for post-conviction relief and requiring reversal of the trial court order setting aside defendant's convictions. State v. Jones, Op. No. 832, 759 P2d 558 (Alaska App. 1988).

IV. Time Limits

Appellate Rule 46 was invoked where strict adherence to the 40-day time limit for appeal under Criminal Rule 35 would have prevented consideration of appellant's contentions that his conditions of imprisonment deprived him of his right to rehabilitation and reformation and to be free of cruel and unusual punishment. Abraham v. State, Op. No. 1747, 585 P2d 526 (Alaska 1978).

A person moving to withdraw a guilty plea under Criminal Rule 32(d) and moving for post-conviction relief under Criminal Rule 35(b) need not show that the former motion was made with "due diligence". Swensen v. Municipality of Anchorage, Op. No. 2179, 616 P2d 874 (Alaska 1980).

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 certifi-

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM February 25, 1993

SUBJECT: Magistrate Jurisdiction (Work Order No. 8-LS0617\E)

TO: Representative Al Vezey

FROM: Jerry Luckhaupt
Legislative Counsel

Enclosed is the final committee substitute you requested. I have one comment about the committee substitute. The committee substitute removed the language "**that are not minor offenses**" from page 2, line 5 of the bill following "misdemeanors." The removal of this language creates a conflict between AS 22.15.120(6) and (7). In AS 22.15.120(6) magistrates are given the authority to hear, try, and enter judgments in misdemeanors with the consent of the defendant. In AS 22.15.120(7), as amended by the bill, magistrates are given the authority to hear, try, and enter judgments in all cases involving minor offenses. The definition of "minor offense" in section 2 of the bill includes "(3) a statutory offense for which a conviction cannot result in incarceration, a fine greater than $300, or the loss of a valuable license." There are any number of offenses labeled as misdemeanors that fit this category. See e.g., AS 03.40.060, 03.40.240, 03.40.260, AS 05.12.010, 05.30.110, and AS 18.50.900(c). While AS 22.15.120(7) would give a magistrate jurisdiction to hear these misdemeanor offense, AS 22.15.120(6) provides that the magistrate does not have jurisdiction unless the defendant consents in writing. The language that was removed in the committee substitute would remedy this conflict.

If you have any questions, please contact me at your convenience.

GPL:gc
93-164.glc

Enclosure

LEGAL SERVICES MEMO

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM February 24, 1993

SUBJECT: Sectional Summary of HB 152 (Work Order No. 8-LS0617\A)

TO: Representative Al Vezey

FEB 2 9

FROM: Jerry Luckhaupt JLR
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill amends AS 22.15.120 by expanding the jurisdiction of magistrates. The bill would provide magistrates with the authority to hear, try, and enter judgments in all cases involving minor offenses, instead of the specific offenses currently listed in statute (see p. 2, lines 7 - 9, of the bill) and would further provide magistrates with the authority to entertain post-conviction relief proceedings for any of the criminal proceedings that magistrates are permitted to hear (see p.2, lines 11 - 13 of the bill).

Section 2 of the bill amends AS 22.15.120 by adding a new subsection which consists of a definition of "minor offense". The definition of "minor offense" includes "(3) a statutory offense for which a conviction cannot result in incarceration, a fine greater than $300, or the loss of a valuable license." This definition would include an offense that is classified by statute as a misdemeanor if it is not punishable by incarceration, a fine of greater than $300, or a loss of a valuable license. Since a magistrate currently may only hear a misdemeanor case with the consent of a defendant, regardless of the possible penalty, the addition of this definition and the corresponding expansion of the jurisdiction of a magistrate to all minor offenses, necessitates the addition of the language on p. 2, line 5 of the bill, so that the defendant's consent is not required for a magistrate to hear a case involving a misdemeanor that is a minor offense.

GPL:gc
93-144.glc

SECTIONAL

Alaska Court System
State of Alaska
OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

January 28, 1993

Representative Brian Porter, Chairman
House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Porter:

Attached you will find three additional pieces of legislation prepared by the court system. We respectfully request that the Judiciary Committee introduce these bills on behalf of the supreme court.

Briefly, these bills propose the following changes to existing law:

1. "An Act relating to magistrate jurisdiction."

HB 152

This bill draft proposes two changes to the statute which sets out magistrate jurisdiction. The first change corrects an oversight in court system legislation which was passed in 1990. Prior to that time, only the superior court could grant post-conviction relief to a defendant, even if the conviction had occurred in the district court. An example of post-conviction relief would be a technical correction to modify an illegal sentence. The 1990 legislation gave district judges the authority to grant post-conviction relief in cases which had been tried in the district court. Through an oversight, the legislation only applied to district judges, and not to magistrates. This bill draft would authorize magistrates to grant post-conviction relief, if they had the authority to enter the original conviction.

The second change modifies magistrate jurisdiction with respect to non-criminal offenses (offenses for which a person

COURT SYSTEM BACK-UP

can get a fine but no jail sentence, such as a speeding ticket). Currently, magistrates are authorized to hear non-criminal offenses only if they are contained in Title 11 (Criminal Law), Title 05 (Amusements and Sports), or Title 28 (Motor Vehicles). The bill draft proposes to allow magistrates to hear all non-criminal offenses, such as those contained in Title 16 (Fish and Game).

2. "An Act relating to payment of legal services and related costs by indigent persons using the services of the Public Defender Agency, the office of public advocacy, and court-appointed counsel; and providing for an effective date."

HB 151

In 1990, courts were authorized to enter civil judgments for the costs of defense against an indigent defendant who received free legal services from the state. The theory was that a defendant may be indigent and qualified for a public defender at the time of trial, but may come into money when the permanent fund dividend is mailed out six months later, or when he gets a job the following summer. Opponents of this bill inserted language which limits the ability of the state to recover its expenses from a defendant for three years after he is released from prison. The state is also prevented from recovering defense costs from a person who is not convicted. This bill draft proposes allowing the state to immediately recover defense costs from any person who receives free legal services.

3. "An Act relating to sentencing."

In 1992, the legislature passed an omnibus crime bill which made numerous changes to criminal law and procedure. This bill draft proposes to repeal one of those changes.

HB 153

The new law allows a three-judge sentencing panel to reduce a presumptive sentence if it finds that it would be "manifestly unjust" to impose the presumptive sentence. However, if the panel finds that it would be manifestly unjust to impose the presumptive sentence and that the defendant has an extraordinary potential for rehabilitation, the panel cannot reduce the term of years imposed. The supreme court believes that this distinction is inherently unworkable and does not allow courts to adequately consider the rehabilitative potential of certain defendants.

Thank you for your courtesy. Please contact me if I can provide you with any additional information.

Very truly yours,

C. S. Christensen III
Staff Counsel

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY: THE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

"An Act relating to magistrate jurisdiction."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 22.15.120 is amended to read:

Sec. 22.15.120. LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATES MAY HEAR. (a) A magistrate shall preside only in cases and proceedings under AS 22.15.040, 22.15.100, and 22.1 as follows:

(1) for the recovery of money or damages only when the amount claimed, exclusive of costs, interest, and attorney fees, does not exceed $5,000;

(2) for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed $5,000;

(3) for the recovery of a penalty or forfeiture, whether given by statute or arising out of contract, not

exceeding $5,000;

(4) to give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

(5) to give judgment of conviction upon a plea of guilty by the defendant in a criminal proceeding within the jurisdiction of the district court;

(6) to hear, try and enter judgments in all cases involving misdemeanors, if the defendant consents in writing that the magistrate may try the case;

(7) to hear, try, and enter judgments in all cases involving minor offenses [INFRACTIONS UNDER AS 28, VIOLATIONS UNDER AS 05.25 AND AS 11,] and violations of ordinances of political subdivisions;

(8) for the extradition of fugitives as authorized under AS 12.70;

(9) to provide post-conviction relief under the Alaska Rules of Criminal Procedure for any of the cases specified in paragraphs (5), (6), or (7) of this section, if the conviction occurred in the district court.

(b) In this section, the term "minor offense" means

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

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

court order; or

(3) any statutory offense for which a conviction cannot result in incarceration, a fine greater than $300, or the loss of a valuable license.

FISCAL NOTE No. 1

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: CSHB 152(STA)
(H) Publish Date: 3/1/93

'evision Date:
Title: An Act relating to magistrate jurisdiction
Sponsor: House Judiciary
Requestor:

Department Affected: Alaska Court System
BRU: Trial Courts
Components:
COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
Division: Alaska Court System Date: 02/18/93

Approved by: Arthur H. Snowden, II, Administrative Director BY
Agency: Alaska Court System Date: 02/18/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev 1/93

COURT SYSTEM FISCAL NOTES

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. HB 152

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EQUIPMENT						
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GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel
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Rev 1/93