

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

In the matter of

FEDERAL RULE OF CRIMINAL
PROCEDURE RULE 5(f) and the DUE
PROCESS PROTECTIONS ACT

**MISCELLANEOUS GENERAL
ORDER 21-03**

On October 21, 2020, the President signed into law the Due Process Protections Act, Pub. L. No. 116-182, 134 Stat. 894 (Oct. 21, 2020), which amends Rule 5(f) of the Federal Rules of Criminal Procedure by adding a requirement that trial judges “[i]n all criminal proceedings, on the first scheduled court date when both prosecutor and defense counsel are present,” issue an oral and written order: (1) confirming the prosecutor’s disclosure obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny; and (2) notifying the prosecution of the possible consequences of violating the order.

Accordingly, pursuant to Rule 5(f) and the Due Process Protections Act, the Court issues Miscellaneous General Order 21-03 requiring that the judge presiding over the first scheduled court date when both prosecutor and defense counsel are present shall give oral notice of the provisions in this Miscellaneous General Order. Having given counsel the oral admonition required by the Due Process Protections Act, this Miscellaneous General Order serves as the written order of prosecutorial obligation and duties, and shall apply in all criminal cases.

According to Rule 5(f), the Government is ordered to comply with its discovery obligations as required by federal law, including those duties imposed by *Brady v. Maryland*, 373 U.S. 83 (1963), and all applicable decisions interpreting *Brady*. This order does not relieve any party of any other discovery obligation. The consequences for violating this order or the Government’s obligations under *Brady* may include sanctions, referral to a disciplinary authority, adverse jury instruction, exclusion of evidence, and dismissal of charges, among other consequences.

DATED this 2nd day of February, 2021.

/s/ Timothy M. Burgess

Hon. Timothy M. Burgess
Chief United States District Judge
Distribution:

/s/ Sharon L. Gleason

Hon. Sharon L. Gleason
United States District Judge

/s/ Joshua M. Kindred

Hon. Joshua M. Kindred
United States District Judge

District Judges
U.S. Attorney
Clerk of Court
Court Librarian
Alaska Bar Assn

Magistrate Judges
Federal Public Defender
Court Rules Attorney
U.S. Probation & Pretrial Services
Active Attys via ECF