

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-22-0033
CIVIL RULES 5.2 AND 80; CRIMINAL)
RULES 1.6, 17.1 AND 41; CIVIL)
APPELLATE RULE 4.2; FAMILY COURT) **FILED: 8/29/2022**
RULES 20, 40, 45, 97; JUSTICE)
COURT CIVIL RULE 113; JUVENILE)
RULE 105; SUPREME COURT RULE 1,)
FORM 1)
)
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)
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_____)

**ORDER AMENDING VARIOUS RULES AND FORMS
REGARDING NOTARIAL OFFICER**

On July 5, 2022, David K. Byers, on behalf of the Administrative Office of the Courts, filed a petition proposing to amend, on an emergency basis, Rules 5.2(c)(2)(C) and 80(c) of the Rules of Civil Procedure; Rules 1.6(c)(2)(C) and 17.1(f)(1)(C)(iii) and Rule 41, Form 28 of the Rules of Criminal Procedure; Rule 4.2(c) of the Rules of Civil Appellate Procedure; Rules 20(c)(2)(C), 40(f)(1)(B), and 45(b)(4) and Rule 97, Form 8 of the Rules of Family Law Procedure; Rule 113 of the Justice Court Rules of Civil Procedure; Rule 105(e)(2)(C) of the Rules of Procedure for the Juvenile Court; and Rule 1, Form 1 of the Rules of the Supreme Court of Arizona. Upon consideration,

IT IS ORDERED that, pursuant to Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, the above-referenced rules and

forms are amended on an emergency basis in accordance with the attachment to this order, effective immediately.

IT IS FURTHER ORDERED that, consistent with this Court's order of July 6, 2022, the Court will consider whether to adopt these rule and form amendments on a permanent basis at its December 2022 Rules Agenda.

DATED this 29th day of August, 2022.

/s/

ROBERT BRUTINEL

Chief Justice

TO:

Rule 28 Distribution
David K Byers

ATTACHMENT¹

RULES OF CIVIL PROCEDURE

Rule 5.2 Form of Documents

(a)-(b) [No change]

(c) **Electronically Filed Documents.**

(1) [No change]

(2) *Formats of Attachments.*

(A)-(B) [No change]

(C) Notarized Documents. A scanned copy of a notarized document may be filed electronically if it contains the ~~notary's~~notarial officer's signature, a certificate as required by A.R.S. § 41-264, and stamp or seal, if applicable.

(D)-(E) [No change]

(3)-(4) [No change]

* * *

Rule 80. General Provisions

(a)-(b) [No change]

(c) **Unsworn Declarations Under Penalty of Perjury.** When these rules require or allow a matter to be supported, evidenced, established, or proved by a sworn written declaration, verification, certificate, statement, oath, or affidavit, the same may be unsworn—and have the same force and effect—if it is:

(1) signed by the person as true under penalty of perjury;

(2) dated; and

(3) in substantially the following form:

“I declare [or certify, verify or state] under penalty of perjury that the foregoing is true and correct. Executed on [date].

[Signature].”

This rule does not apply to a deposition, oath of office, or an oath required to be taken before a specified official other than a ~~notary public~~notarial officer.

(d)-(e) [No change]

¹ Additions to the text of a rule are shown by underscoring and deletions of text are shown by ~~strike through~~.

RULES OF CRIMINAL PROCEDURE

Rule 1.6. Form of Documents

(a)-(b) [No change]

(c) **Electronically Filed Documents.** If a court has an electronic filing portal, a document may be filed electronically.

(1) [No change]

(2) *Formats of Attachments.*

(A)-(B) [No change]

(C) Notarized Documents. A scanned copy of a notarized document may be filed electronically if it contains the ~~notary's~~ notarial officer's signature, a certificate as required by A.R.S. § 41-264, and stamp or seal, if applicable.

(D)-(E) [No change]

(3)-(5) [No change]

* * *

Rule 17.1. The Defendant's Plea

(a)-(e) [No change]

(f) **Limited Jurisdiction Court Alternatives for Entering a Plea and Sentencing.** The parts of Rule 17 and Rule 26.9 requiring a defendant to be present are met by the defendant complying with this rule's requirements.

(1) *Telephonic Pleas.* "Telephonic" includes voice only and audio-video communications between the court and the parties. This rule's provisions concerning telephonic pleas also apply to pleas submitted through an online dispute resolution ("ODR") system approved by the Administrative Office of the Courts.

(A)-(B) [No change]

(C) Fingerprint.

(i) and (ii) [No change]

(iii) In extraordinary circumstances, instead of requiring a certification and fingerprint, the court may permit another method of proving the defendant's identification on Form 28, including allowing the defendant to use a ~~notary public~~ notarial officer to witness the defendant's signature on the form.

(D)-(F) [No change]

(2) [No change]

RULES OF CIVIL APPELLATE PROCEDURE

Rule 4.2. Electronic Filing

(a)-(b) [No change]

(c) **Format.** A document filed electronically that contains text, other than a scanned document image that is submitted under this Rule, must be in a text-searchable .pdf, .odt, or .docx format. A document may not exceed the size limits allowed by the portal, but it may be broken up into multiple documents to accommodate such a limit. A filer may scan and file a document that requires a ~~notary~~notarial officer if the scan contains the ~~notary's~~notarial officer's signature, a certificate as required by A.R.S. § 41-264, and stamp or seal, if applicable. A party may file an official record of a court or government body if the scanned copy contains the court or body's official stamp or seal of authenticity. A party may satisfy a court rule that requires the attachment of a document or exhibit by electronically attaching within the same submission either a scanned image or an electronic copy in an approved format.

(d) through (h) [No change]

RULES OF FAMILY LAW PROCEDURE

Rule 20. Form of Documents

(a)-(b) [No change]

(c) **Electronically Filed Documents.**

(1) [No change]

(2) *Format of Attachments.*

(A)-(B) [No change]

(C) **Notarized Documents.** A scanned copy of a notarized document may be filed electronically if it contains the ~~notary's~~notarial officer's signature, a certificate as required by A.R.S. § 41-264, and stamp or seal, if applicable.

(D)-(E) [No change]

(3) [No change]

* * *

Rule 40. Summons

(a)-(e) [No change]

(f) **Accepting Service; Voluntary Appearance.** A party may accept service. A party also may voluntarily appear without being served.

(1) *Accepting Service*. A party subject to service under this rule, Rule 41, or Rule 91 may accept service. The acceptance of service must be in writing, signed by that party or that party's authorized agent or attorney and be filed in the action. A party who accepts service must file and serve a responsive pleading within the time provided in Rule 24.1.

(A) [No change]

(B) Petitioner must mail, including a self-addressed stamped envelope, or deliver the petition and other documents to the respondent. If the respondent agrees to sign an acceptance of service, the acceptance must be signed before a ~~clerk of the court or a notary~~ notarial officer.

(C)-(D) [No change]

(2)-(3) [No change]

(g)-(j) [No change]

* * *

Rule 45. Consent Decree, Judgment, or Order

(a) [No change]

(b) **Content of Consent Decree, Judgment, or Order**. The consent decree, order, or judgment must meet these requirements:

(1)-(3) [No change]

(4) Both parties must personally sign the consent decree, judgment, or order before a ~~notary public~~ notarial officer. Alternatively, a party may sign the consent decree in the clerk's presence after the clerk has verified the party's identity. If a party is represented by an attorney, the attorney must also sign the consent decree.

(c) [No change]

JUSTICE COURT RULES OF CIVIL PROCEDURE

Rule 113. Serving a Summons and Complaint

a.-f. [No change]

g. Acceptance of service. Service may be made without the expense of a process server if the defendant agrees in writing to accept service. A defendant may sign an acceptance of service of a summons and complaint if a ~~notary public~~ notarial officer witnesses the signature. The signed acceptance of service must then be returned to the plaintiff and filed with the court. The date of service is the date that the signed acceptance of service is filed with the court. [ARCP 4(f)]

h. [No change]

~~(i)~~—**i.** Dismissal because of lack of service; service on some but not all defendants. After at least twenty (20) days notice to plaintiff, the court may dismiss a complaint as to any defendant who has not been served with the summons and complaint within ninety (90) days after the filing date of the complaint. Before the dismissal date, if the plaintiff shows good reasons why a defendant has not been served, the court may extend the time for service. When some but not all of the defendants in a lawsuit have been timely served, the court may dismiss from the lawsuit the defendants who have not been served, and allow the plaintiff to proceed against the defendants who have been served. [ARCP 4(i), 5(b)]

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 105. Form of Filed Documents

(a)-(d) [No change]

(e) Electronically Filed Documents.

(1) [No change]

(2) *Format of Attachments.*

(A)-(B) [No change]

(C) Notarized Documents. A scanned copy of a notarized document may be filed electronically if it contains the ~~notary's~~ notarial officer's signature, a certificate as required by A.R.S. § 41-264, and stamp or seal, if applicable.

(D)-(E) [No change]

(3)-(4) [No change]

(f)-(h) [No change]

RULES OF CRIMINAL PROCEDURE

Form 28. Telephonic Guilty Plea/No Contest Plea Proceedings

_____ COURT _____

County, Arizona

STATE OF ARIZONA, Plaintiff -vs- _____ Defendant (FIRST, MI, LAST)	[CASE/COMPLAINT NO.]	TELEPHONIC GUILTY/NO CONTEST PLEA PROCEEDING: JUDGMENT OF GUILT AND CONVICTION
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Defendant states:

1. I have an attorney or I do not have an attorney and I waive my right to an attorney.
2. I have a copy of the criminal complaint in this case. I have read and understand the charges filed against me. I hereby agree to plead guilty or no contest to all the charges in the complaint.
3. I understand the nature of the charges as indicated:
 - Driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor/toxic vapor/drugs.
 - Driving or in actual physical control of a motor vehicle with an alcohol concentration of .08 percent or more within 2 hours of driving or being in actual physical control of a motor vehicle.
 - Driving or in actual physical control of a motor vehicle with an alcohol concentration of .15 percent or more within 2 hours of driving or being in actual physical control of a motor vehicle.
 - Driving or in actual physical control of a motor vehicle with any illegal drug or its metabolite in the defendant's body.
 - Driving or in actual physical control of a commercial vehicle with an alcohol concentration of .04 percent or more.
 - Other: _____.
4. I am pleading guilty or no contest to all the charges in the complaint, or
 I have entered into a written plea agreement and I agree to its terms.
5. I admit that if my case went to trial, the facts would support the charges against me.
6. I understand the maximum penalties to be:
 - Class 1 misdemeanor: a \$2500 fine, 6 months jail, and/or 3 years probation, plus surcharges and fees.
 - Class 1 misdemeanor: a \$2500 fine, 6 months jail, and/or 5 years probation, plus surcharges and fees.
 - Class 2 misdemeanor: a \$750 fine, 4 months jail, and/or 2 years probation, plus surcharges and fees.
 - Class 3 misdemeanor: a \$500 fine, 30 days jail, and/or 1 year probation, plus surcharges and fees.
 - Other: _____.
7. I understand that there are special conditions, including required minimum penalties, for the charge or charges to which I am pleading guilty or no contest, as follows: _____.
8. I understand that by pleading guilty or no contest, I am giving up the following constitutional rights:
 - a. The right to plead not guilty and require the State to prove my guilt beyond a reasonable doubt.
 - b. The right to a trial by jury by a judge.
 - c. The right to assistance of an attorney at all stages of the proceeding, including appeal. In some cases, I understand that I might be eligible for a court-appointed attorney at a reduced cost or at no cost if I cannot afford one.
 - d. The right to confront the witnesses against me and to cross-examine them as to the truthfulness of their testimony.
 - e. The right to present evidence in my own behalf and to have the court compel my chosen witnesses to appear

and testify free of charge.

- f. The right to remain silent, not to incriminate myself, and to be presumed innocent unless/or until proven guilty beyond a reasonable doubt.
 - g. The right to a direct appeal.
9. My plea is voluntary and not the result of force or threats. No promises were made to me concerning the consequences of my plea or what my sentence will be, other than those contained in a plea agreement if I have one.
10. I understand that if I am arrested on a subsequent offense, I may be charged with a more serious offense and associated penalties because of this plea.
11. I understand that my guilty or no contest plea in this case may cause me to violate my probation or parole in another case.

I CERTIFY that I have read and that I understand all the above matters. I wish to give up my constitutional rights, including my right to a trial by jury and my right to an attorney, and to plead guilty or no contest to the charge(s) of:

I FURTHER CERTIFY that I have attached to this form a legible photocopy of my driver’s license or other government-issued photo identification that contains my name and birth date. I understand that the court will not accept my telephonic plea if I have not attached a copy of my license or identification.

Defendant’s Signature: _____ Dated: _____

Defendant’s Address: _____

Defendant’s Telephone # _____ Defendant’s Email: _____

DEFENDANT’S ATTORNEY (IF ANY)

I have explained to the defendant the nature of the charge(s) and the defendant’s constitutional rights.

Signature of defendant’s attorney (if any) and State Bar number: _____

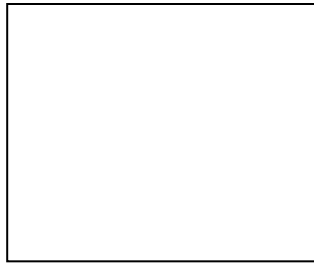
OFFICER’S CERTIFICATION

[**This certification is required only** if the defendant is entering a plea of guilty or no contest for a violation of section 13-1802 (theft) or 13-1805 (shoplifting), a domestic violence offense as defined in section 13-3601, or a violation of an offense in Title 13, Chapter 14 (specified sexual offenses) or Title 28, Chapter 4 (driving under the influence).]

I CERTIFY that

- 1. the above-named defendant personally appeared before me,
- 2. the defendant acknowledged that he or she read all the foregoing information,
- 3. the defendant identified himself or herself to me by a driver’s license or a picture ID from the State of _____, number _____; and

4. I have affixed a print of the defendant's right index finger to this document in the box below.



Fingerprint

Dated: _____

Officer Name and Badge Number

Law Enforcement Agency

Address

(_____) Telephone

NOTARY NOTARIAL OFFICER

[IF THERE IS NO OFFICER CERTIFICATION AND ONE IS REQUIRED UNDER 17.1(f)(1)(C)(i), but the court has permitted the defendant to use a ~~notary public~~ notarial officer under 17.1(f)(1)(C)(iii), then a ~~notary public~~ notarial officer must witness the defendant's signature.]

The defendant established their identity to my satisfaction and I personally witnessed the defendant's signature on page 2 of this form.

State of _____

County of _____

I hereby certify that _____ personally appeared before me. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this _____ day of _____, 20_____.

~~Notary Public~~ Notarial Officer: _____

Title: _____

Commission Expires (if applicable): _____

(The following section is for court use only.)
ACCEPTANCE OF PLEA AND JUDGMENT OF CONVICTION

The defendant has appeared telephonically before the court on the date indicated below [] with or [] without an attorney. If defendant required an interpreter, the interpreter's name is: _____
_____.

The court has advised the defendant and confirmed the defendant's understanding of the following:

1. The nature of the charges to which defendant is pleading guilty or no contest, and the maximum penalties;
2. The constitutional rights that defendant is waiving by pleading guilty or no contest, and that the defendant's waiver is knowing and voluntary; and
3. The right to file a petition for post-conviction relief and, if denied, a petition for review.

I have asked the defendant about any status on probation or parole, I have given the defendant an immigration advisal, and I have spoken with the defendant regarding the other matters set for above the defendant's signature. The court finds a factual basis for the plea and that the defendant has entered the plea knowingly and voluntarily and without threats or promises, other than those contained in a plea agreement, if any. The court accordingly accepts the defendant's plea.

Case # _____ For the offenses committed on _____ 20____

It is the judgment of the court that the defendant is guilty of the following offenses and is sentenced as follows:

Count 1: _____ a class 1, 2, 3 misdemeanor,
 petty offense, a violation of A.R.S. § or ordinance number _____.

SENTENCE: The defendant is sentenced as follows: _____.

Count 2: _____ a class 1, 2, 3 misdemeanor,
 petty offense, a violation of A.R.S. § or ordinance number _____.

SENTENCE: The defendant is sentenced as follows: _____.

Count 3: _____ a class 1, 2, 3 misdemeanor,
 petty offense, a violation of A.R.S. § or ordinance number _____.

SENTENCE: The defendant is sentenced as follows: _____.

Count 4: _____ a class 1, 2, 3 misdemeanor,
 petty offense, a violation of A.R.S. § or ordinance number _____.

SENTENCE: The defendant is sentenced as follows: _____.

Count 5: _____ a class 1, 2, 3 misdemeanor,
 petty offense, a violation of A.R.S. § or ordinance number _____.

SENTENCE: The defendant is sentenced as follows: _____.

Date: _____

Judge's signature: _____

I certify that a copy of this document was mailed to the defendant at the address shown above on this

date: _____ by (clerk's name or initials): _____.

RULES OF FAMILY LAW PROCEDURE

Form 8. Consent Decree of Dissolution of Marriage (Divorce) With Children

Name: _____

Mailing Address: _____

City, State, Zip Code: _____

Daytime Phone Number: _____

Evening Phone Number: _____

Representing: Self Petitioner Respondent

State Bar Number: _____

ARIZONA SUPERIOR COURT, COUNTY OF _____

_____ Case No.

Petitioner

ATLAS No.

_____ CONSENT DECREE OF DISSOLUTION

Respondent OF MARRIAGE (DIVORCE) WITH

CHILDREN

THE COURT FINDS:

1.-2. [No change]

THE COURT FURTHER FINDS THAT:

3.-13. [No change]

THE COURT ORDERS:

1.-12. [No change]

Date

Judicial Officer

By signing this document and subscribing and swearing to same (or affirming to same) before a ~~Notary Public~~ Notarial Officer, both parties affirm that the information is true and correct, including the following:

1. NON-COVENANT MARRIAGE. We do not have a covenant marriage.
2. RIGHT TO TRIAL IS WAIVED. I understand that by signing this Consent Decree, I am waiving my right to a trial before a judge.
3. NO DURESS OR COERCION. COMPLETE AGREEMENT. I am not under any force, threats, duress, coercion, or undue influence from anyone, including the other party, to sign this Consent Decree. This Decree with attachments, if any, that I have signed is our full agreement. I have not agreed to something different from what is stated in writing in the Decree.
4. LEGAL ADVICE. I understand that even if I am representing myself without an attorney, I have the right to be represented by an attorney. I have the right to call an attorney and get legal advice before I sign this Consent Decree.
5. IRRETRIEVABLY BROKEN MARRIAGE. I agree that our marriage is irretrievably broken. There is no reasonable prospect of reconciliation *[or we desire to live separate and apart if this is a Legal Separation case]*.
6. DIVISION OF PROPERTY. The agreement about division of property and debts is fair and equitable.

Date

Petitioner

State of Arizona)
)ss.
County of)

Sworn to or affirmed before me on:

My Commission Expires (if applicable):

~~Notary Public or Clerk of the Superior Court~~ Notarial Officer

Title

If you are filing a Consent Decree, the Respondent must sign:

Date

Respondent

State of Arizona)
)ss.
County of)

Sworn to or affirmed before me on:

My Commission Expires (if applicable):

~~Notary Public or Clerk of the Superior Court~~ Notarial Officer

Title

If either party is represented by an attorney, the attorney must sign:

Date

Petitioner's Attorney

Date

Respondent's Attorney

If the Attorney General is involved in this case, the Attorney General must approve the child support amount by signing below:

Date

Attorney General

EXHIBIT A: PROPERTY AND DEBTS

Use this Exhibit "A" to list the specific property and debts awarded to each party.

1a.-1e. [No change]

2a.-2b. [No change]

SIGNATURES

SIGNATURE BY PETITIONER: Everything stated by me in this document is true and correct to the best of my knowledge, information and belief.

Date

Petitioner

State of Arizona)
)ss.

Sworn to or affirmed before me on:

County of)

My Commission Expires (if applicable):

~~Notary Public or Clerk of the Superior Court~~ Notarial Officer

Title

SIGNATURE BY RESPONDENT: Everything stated by me in this document is true and correct to the best of my knowledge, information and belief.

Date

State of Arizona)
)ss.
County of)

My Commission Expires (if applicable):

Respondent

Sworn to or affirmed before me on:

~~Notary Public or Clerk of the Superior Court~~ Notarial Officer

Title

If either party is represented by an attorney, the attorney must sign:

Date

Approved by Petitioner's Attorney

Date

Approved by Respondent's Attorney

RULES OF THE SUPREME COURT OF ARIZONA

Post Conviction Form No. 1

SUPREME COURT OF ARIZONA

Full name and prison number (if any) of Petitioner,

PETITIONER,

vs.

Name of Respondent
(Name of person--Sheriff, Jailor or Warden--who has you in custody.)

RESPONDENT.

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Case No.: _____

(To be supplied

by Clerk)

PETITION FOR

WRIT OF

HABEAS CORPUS

INSTRUCTIONS--READ CAREFULLY

In order for this petition to receive consideration by the Court, it shall be in writing, (legibly handwritten or typewritten) signed by the Petitioner and verified (notarized), and it shall set forth in concise form the answers of each applicable question. If necessary, Petitioner may finish his answer to a particular question on the reverse side of the page or on an additional blank page. Petitioner shall make it clear to which question any such continued answer refers.

Since every petition for habeas corpus must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Petitioners should therefore exercise care to assure that all answers are true and correct.

When the petition is complete, the original and one copy shall be mailed to the Clerk of the Supreme Court of Arizona, State Courts Building, 1501 West Washington, Phoenix, Arizona, 85007, and one copy to the Attorney General of Arizona, 2005 N. Central Avenue, Phoenix, Arizona, 85004-5025.

1.- 18. [No Change]

Wherefore, petitioner prays that he be discharged from custody and restraint.

STATE OF ARIZONA

)

)

ss

COUNTY OF _____

)

I, _____, being first sworn under oath, state that the information contained in the foregoing petition is true and correct.

Signature of Petitioner

Subscribed and sworn to before me this ___ day of _____, _____.

~~Notary Public~~ Notarial Officer

Title

My Commission Expires (if applicable)