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**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

In the Matter of:	)	No. R-24-
	)	
Petition to Amend Ariz. R. Crim. P.	)	<b>Petition to Amend Arizona Rules of</b>
32.14(a) & 33.14(a).	)	<b>Criminal Procedure 32.14(a) &amp;</b>
	)	<b>33.14(a)</b>
	)	
	)	
_____	)	

Pursuant to Rule 28 of the Arizona Rules of the Supreme Court, Petitioner hereby submits the petition to amend Arizona Rules of Criminal Procedure 32.14(a) & 33.14(a), as specified in the Attachment. The purpose of this proposed change is to correct an error that occurred in changes by the Task Force on the Arizona Rules of Criminal Procedure in 2016-17 and was adopted by this Court effective January 1, 2018, related to the scope of a motion for rehearing.

This Court established the Criminal Rules Task Force in December 2015 and directed it to “review the Arizona Rules of Criminal Procedure to identify possible changes to conform to modern usage and to clarify and simplify language. These changes should promote the just resolution of cases without unnecessary delay or complexity.” A.O. 2015-123. In addition to being populated by twenty members of

the bar and judiciary chosen by the Chief Justice, two staff attorneys of this Court were also assigned to assist with the restyling process. The Criminal Rules Task Force completed its work and filed a petition in January 2017, *see* [R-17-0002](#), and after two comment periods and additional modifications, this Court abrogated the old rules and replaced them with the newly restyled rules effective January 1, 2018.

Rule 32.9(a) previously stated: “Any party aggrieved by a final decision of the trial court in these proceedings may, within fifteen days after the ruling of the court, move the court for a rehearing setting forth in detail the grounds wherein it is believed the court erred.” As part of the restyling, the Task Force looked to clarify and simplify that language, modifying Rule 32.9(a) to read: “No later than 15 days after entry of the trial court’s final decision on a petition, any party aggrieved by the decision may file a motion for rehearing. The motion must state in detail the grounds of the court’s alleged errors.” Rule 32.9(a) was relocated to Rules 32.14(a) and 33.14(a) by the Rule 32 Task Force in 2018-19, but the language remains unchanged since the 2018 change.

Unquestionably, the latter is easier to read and understand. In the process, however, the Criminal Rules Task Force accidentally excluded challenges to the dismissal of a notice of post-conviction relief. Appendix B to the Petition in R-17-0002, a “Rule-by-Rule Analysis” of all changes by the Criminal Rules Task Force shows that the proposed changes to Rule 32.9(a) were entirely stylistic and no

substantive change to that subsection was intended. Appendix B ep 67. The change from “in these proceedings” to “on a petition” was not intended to exclude challenges to an erroneous dismissal of a notice of post-conviction relief. Over time, this Court noticed several minor errors in the new rules, and it frequently adopted changes to rectify those errors. See <https://www.azcourts.gov/Rules-Forum/aft/661> (six amended orders issued between 2017 and 2019).

It seems self-evident that a defendant whose notice of post-conviction relief is erroneously dismissed is entitled to seek reconsideration of that decision under Rules 32.14(a) and 33.14(a), particularly since dismissal of the notice may be challenged in a petition for review under Rules 32.16(a) and 33.16(a). In one Pima County case, however, a judge presented with such a motion for rehearing filed under Rule 33.14(a) “note[d] that neither party cites authority that governs what rule applies to motion to reconsider a dismissal of a notice requesting post-conviction relief.” *State v. Gonzalez-Duran*, Pima County Superior Court No. CR-20195177-001, Order dated July 6, 2023. The court ultimately allowed the motion for rehearing, but this shows that the rule is not plainly understood and should be modified.

For these reasons, Petitioner requests that this Court adopt the proposed change to Rule 31.8(b)(1)(B) as specified in the Attachment.

DATED (electronically filed): January 10, 2024.

By: /s/ David J. Euchner  
David J. Euchner

## ATTACHMENT<sup>1</sup>

Ariz. R. Crim. P. 32.14. Motion for Rehearing.

(a) **Timing and Content.** No later than 15 days after entry of the trial court's final decision on a petition **or dismissal of a notice**, any party aggrieved by the decision may file a motion for rehearing. The motion must state in detail the grounds of the court's alleged errors.

(b)– (e) [No changes]

Ariz. R. Crim. P. 33.14. Motion for Rehearing.

(a) **Timing and Content.** No later than 15 days after entry of the trial court's final decision on a petition **or dismissal of a notice**, any party aggrieved by the decision may file a motion for rehearing. The motion must state in detail the grounds of the court's alleged errors.

(b)– (e) [No changes]

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<sup>1</sup> Changes or additions in rule text are indicated by **bold underscoring** and deletions from text are indicated by ~~strikeouts~~.