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8 IN THE SUPREME COURT
9
10 OF THE STATE OF ARIZONA

11 In the Matter of

R-09-0028

12
13 PETITION TO AMEND RULES 11.5
14 AND 11.6, ARIZONA RULES OF
15 CRIMINAL PROCEDURE

**MARICOPA COUNTY ATTORNEY'S
OFFICE COMMENTS ON
PETITION TO AMEND RULES 11.5
AND 11.6 OF THE ARIZONA RULES
OF CRIMINAL PROCEDURE**

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17 The Maricopa County Attorney hereby comments in support of the petition to amend Rules
18 11.5 and 11.6, Arizona Rules of Criminal Procedure, which address the calculation of time allowed
19 for restoration to competency in a criminal case.
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21 Respectfully submitted this 19th day of May, 2010.

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23 RICHARD M. ROMLEY
24 MARICOPA COUNTY ATTORNEY

25 BY: 

26 PAUL AHLER
27 CHIEF DEPUTY COUNTY ATTORNEY
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2 I. COMMENTS

3 The Administrative Office of the Courts filed a petition to amend Rule 11.5 and 11.6 of the
4 Arizona Rules of Criminal Procedure which would instruct the Courts to only consider the time a
5 defendant actually spends in a restoration to competency program when calculating the time
6 requirements permitted by rule. The Maricopa County Attorney’s Office (MCAO) urges the Court
7 to adopt the proposed changes to Rule 11.5 and 11.6 of the Arizona Rules of Criminal Procedure.
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9 Arizona Revised Statute section 13-4515 governs the duration of a restoration order and the
10 calculation of time limits for an order or combination of orders. The law provides that such an
11 order, or combination of orders, shall not be in effect for more than 21 months. Laws 2009,
12 Chapter 153 (Senate Bill 1152) amended A.R.S. § 13-4515 to require that the Court only consider
13 the amount of time a defendant actually spends in a restoration program when calculating the 21
14 month maximum time limit. This change in the law was sought by MCAO based upon the concern
15 that defendants were actually spending less than 21 months in treatment prior to reaching the
16 maximum duration of the order. Accordingly, prior to the change in the law, criminal charges
17 against a defendant could be dismissed as the result of a defendant not being restored to
18 competency, despite the fact that the defendant did not actually spend 21 months in treatment.
19 This change ensures that a defendant receives the full 21 months of treatment, if necessary, and
20 eliminates the prior incentive for a defendant to not fully participate in the treatment program.
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1 II. CONCLUSION

2 The Supreme Court should adopt the proposed amendments to Rules 11.5 and 11.6, as they
3 clearly and correctly implement the change made to A.R.S. § 13-4515 in Laws 2009, Chapter 153
4 (SB1152).
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6 Respectfully submitted this 19th of May, 2010.

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