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

9 In the Matter of:

Supreme Court No. R-24-0009

10 **PETITION TO AMEND RULES**
11 **32.14(a) & 33.14(a) OF THE**
12 **ARIZONA RULES OF CRIMINAL**
13 **PROCEDURE**

STATE BAR OF ARIZONA
COMMENT

14 Pursuant to Rule 28(e) of the Arizona Rules of Supreme Court, the State Bar
15 of Arizona (the “State Bar”) hereby submits the following as its comment to the
16 above-captioned Petition.

17 After review by the State Bar’s Criminal Practice and Procedure Committee,
18 the State bar supports the Petition as written. As the Petition establishes, prior to
19 restyling, the Arizona Rules of Criminal Procedure permitted a party to file a motion
20 for rehearing after “a final decision.” Ariz. R. Crim. P. 32.9(a)(1) (2017).
21

22 In 2017, this Court granted the Petition to Amend the Rules of Criminal
23 Procedure filed under R-17-0002. *See* Final Order for R-17-0002 (filed Aug. 31,
24 2017.) The Petition noted its purpose in rewriting the Arizona Rules of Criminal
25

1 Procedure was to “restyle, simplify, and clarify the language of existing rules, as
2 well to make certain procedural and substantive changes to promote the just
3 resolution of criminal cases.” Petition to Amend the Arizona Rules of Criminal
4 Procedure at 1, R-17-0002 (filed Jan. 08, 2017).

6 The 2017 Petition included a rule-by-rule explanation of each “substantive
7 and major organizational change” to the Rules. *Id.* at 6-10. In doing so, the 2017
8 Petition only recommended a “handful of substantial changes to Rule 32,” none of
9 which limited a party’s ability to file a motion for rehearing following a court’s
10 dismissal of a notice.¹ *Id.* at 9-10.

12 Thus, the 2017 restyling effort appears to have unintentionally limited a
13 party’s ability to file a motion for rehearing following the dismissal of a notice by
14 using more restrictive language authorizing such motions only from a dismissal of a
15 petition. Ariz. R. Crim. P. 32.14(a) & 33.14(a). This omission appears to be
16 unintentional and is exemplified by the ability of a party to seek review in a higher
17 court. Ariz. R. Crim. P. 32.16(a)(1) & 33.16(a)(1) (authorizing a party to petition an
18 appellate court for review of “the dismissal of a notice.”).

21 If courts construe Rules 32.14(a) and 33.14(a) as written, parties will be forced
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24 ¹ A later petition also led to the adoption of a new Rule 33 to govern post-conviction
25 procedures after a guilty plea, but these changes were not substantive in nature. *See*
State v. Reed, 252 Ariz. 236, 237, ¶1, n. 1 (App. 2021).

1 to burden appellate courts with more litigation to resolve an issue that lower courts
2 have historically been entrusted to resolve. Alternatively, a party may be required
3 to file a successive notice for post-conviction relief. Either result is at odds with the
4 goal of the 2017 restyling objective of promoting clarity and the just resolution of
5 criminal cases. Petition to Amend the Arizona Rules of Criminal Procedure at 1, R-
6 17-0002 (filed Jan. 08, 2017).

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8
9 **CONCLUSION**

10 The State Bar of Arizona respectfully supports the proposed amendments
11 outlined in the Petition.

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13 RESPECTFULLY SUBMITTED this 1st day of May 2024.

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15 _____
16 Lisa M. Panahi
17 General Counsel

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19 Electronic copy filed with the
20 Clerk of the Supreme Court of Arizona
21 this 1st day of May 2024.

22 by: PSequin