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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:) No. R-24-0007
)
Petition to Amend Ariz. R. Crim. P.) Reply to Comments on Petition to
31.2(a)(2)(A).) Amend Arizona Rule of Criminal
) Procedure 31.2(a)(2)(A)
)
)
_____)

Pursuant to Rule 28 of the Arizona Rules of the Supreme Court, Petitioner hereby replies to the comments submitted by the Arizona Attorney General, the Maricopa County Indigent Representation (IR) Offices, and the State Bar of Arizona. All the comments agree that *State v. Sanchez*, 256 Ariz. 273 (App. 2023), *vacated*, CR-23-0270-PR, 2024 WL 938080 (decision order, March 5, 2024), was wrongly decided.

The Attorney General’s comment is wrong in two respects. First, in believing that this Court’s decision order vacating the opinion and granting relief obviates the need for a rule change, it misses that decision orders are not citable. It is hard to say that the problem is cured forever; it may arise again in the future. Second, in expressing its concern that the rule change overlooks that some pretrial rulings

cannot be raised on direct appeal, it misses that the Petition proposes inclusion only of “all appealable rulings”—not “all rulings.” If the ruling is not appealable under A.R.S. § 13-4033(A), then adopting Petitioner’s change to Rule 31.2(a)(2)(A) would not change that.

The State Bar offers a minor stylistic change: inserting the word “entered” after “all appealable rulings.” Petitioner finds the additional work redundant and unnecessary. Furthermore, it was not that long ago that the word “entry” led to substantial confusion in the context of the deadline for notices of appeal. *State v. Whitman*, 234 Ariz. 565 (2014). This Court deleted the word “entry” to avoid this confusion in the future.

The IR Offices suggest that this proposal fits better in Rule 31.2(c)(1) instead of Rule 31.2(a)(2)(A). Petitioner tends to agree with the IR Offices on this point and asks this Court to consider Rule 31.2(c)(1) as the better placement for the added language.

DATED (electronically filed): June 3, 2024.

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