



Supreme Court

STATE OF ARIZONA

FROM THE CHAMBERS OF
ROBERT M. BRUTINEL
CHIEF JUSTICE

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August 31, 2023

SENT VIA EMAIL AND US MAIL

Mr. Joel F. England
Chief Executive Officer/Executive Director
State Bar of Arizona
4201 N. 24TH Street Ste 100
Phoenix, AZ 85016-6266

Re: Rule Petition R-22-0045

Dear Mr. England,

As you know, our Court recently considered Arizona Attorneys for Criminal Justice's Rule Petition R-22-0045, which proposed abrogating Rule 39(b)(12) (A) and (B) of the Arizona Rules of Criminal Procedure. The Court does not favor the elimination of those provisions, but has continued the Petition to the August 2024 Rules Agenda. During this time, we hope the Criminal Practice and Procedure Committee will evaluate approaches to improving Rule 39(b)(12), Rules of Criminal Procedure. Specifically, we request that the Committee consider:

- That AACJ did not explicitly challenge Rule 39(b)(12) in *AACJ v. Ducey*, CV-17-01422-PHX-SPL, when it challenged the constitutionality of A.R.S. § 13-4433(B);
- Whether Rule 39(b)(12) (A) could be improved by requiring the prosecutor to copy the defendant, the defendant's attorney, or other person acting on the defendant's behalf when sending a request for an interview to the victim, or if telephoning, to include the defendant's attorney on the call, and by requiring the prosecutor, absent good cause, to provide the victim's response to the defendant, the defendant's attorney, or other person acting on the defendant's behalf by a specified date prior to trial;
- Whether Rule 39(b)(12) could be improved by requiring non-interview-related contacts between the defendant's attorney or other person acting on the defendant's behalf and the victim to be carried out in such a way as to preserve and protect the victim's "right to be treated with fairness, respect

and dignity, and to be free from intimidation, harassment, or abuse . . .”
Rule 39(b)(1); Ariz. Const. Art 2, Sec. 2.1(A) (1); and

- Whether Rule 39(b)(12) could be further improved by providing that, in a case where the defendant is representing himself, non-interview-related contacts with the victim must be carried out by advisory counsel.

We appreciate the Committee’s willingness to continue working toward improving Rule 39(b)(12) as well as its many other contributions, past and present, to the betterment of Arizona’s criminal rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Brutinel". The signature is fluid and cursive, written over a light gray rectangular background.

Robert Brutinel
Chief Justice

cc: State Bar Criminal Practice and Procedure Committee
Attn: Patricia Seguin