

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-25-0010
RULE 19.1, RULES OF CRIMINAL	)	
PROCEDURE	)	
	)	FILED 11/26/2025
	)	
	)	
	)	

**ORDER CONTINUING PETITION'S CONSIDERATION AND
REOPENING FOR PUBLIC COMMENT
MODIFIED AMENDMENTS TO RULE 19.1 OF
THE RULES OF CRIMINAL PROCEDURE**

On January 9, 2025, Petitioner Kevin M. Morrow filed a petition proposing to amend Rule 19.1 of the Rules of Criminal Procedure. On August 28, 2025, the Court continued consideration of the petition until the Court's November 2025 Rules Agenda.

Having considered the petition, comments and reply,

IT IS ORDERED continuing this petition until the August 2026 Rules Agenda.

IT IS FURTHER ORDERED that this matter is reopened for public comment as to whether the proposed amendments to Rule 19.1 of the Rules of Criminal Procedure, as modified in accordance with the amendments shown on the attachment to this order, should be adopted, with all comments due by no later than May 1, 2026. The Court will consider this issue at its August 2026 Rules Agenda.

Rule petitions, including this one, may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the

"Welcome" page. Petitions are posted under the appropriate body of rules. For example, the Rules of Criminal Procedure can be found by scrolling down the page.

For instructions on how to post comments electronically, follow the steps listed above and click on "FAQ" at the top of the "Welcome" page and then find "How do I file a comment on a Rule 28 petition?"

Alternatively, commenters may submit a comment by filing an original and one paper copy of the comment and one electronic copy of the written comment and any supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, Arizona 85007, in an envelope marked "Rule Comment."

Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail.

DATED this 26th day of November 2025.

/s/
ANN A. SCOTT TIMMER
Chief Justice

TO:

Rule 28 Distribution

Kevin M Morrow

Rosemarie Pena-Lynch

Steve B Koestner

Sherri McGuire Lawson

Gary M Kula

Shannon L Burns

Lina G Garcia

Lisa M Panahi

Hon Ronald S Reinstein

ATTACHMENT¹
(Proposed Amendments)

RULES OF CRIMINAL PROCEDURE

Rule 19.1. Conduct of Trial

(a)–(e) [No change]

(f) Penalty Phase in a Capital Case on Retrial or After Guilty Plea. If the defendant was convicted of first-degree murder by a different jury and/or the finding of one or more aggravating circumstances was by a different jury, the penalty phase proceeds as follows:

(1) the defendant may make or defer an opening statement;

(2) the State may make or defer an opening statement;

(3) the State may, if it deferred an opening statement, offer evidence in support of the facts and circumstances of the offense and aggravating circumstances found by the prior jury, unless the State offered evidence in support of the facts and circumstances of the offense and aggravating circumstances found by the prior jury to the current jury during a separate aggravation phase;

(4) the victim's survivors may make a statement relating to the victim's characteristics and the crime's impact on the victim's family, but they may not offer any opinion or recommendation about an appropriate sentence;

(5) the defendant, if an opening statement was previously deferred, may make an opening statement;

(6) the defendant may offer evidence in support of mitigation;

(7) the State may make an opening statement if it was previously deferred, and offer any evidence relevant to mitigation;

(8) the defendant may offer evidence in rebuttal, unless the court, for good cause, allows the defendant to reopen the defendant's evidence in support of mitigation;

(9) the defendant may present statements of allocution to the jury;

(10) the parties may present closing argument, with the defendant having the initial and final arguments; and

(11) the court must instruct the jury.

With the permission of the court, the parties may agree to any other method of proceeding.

¹ Additions to the text of the rule are shown by underscoring and deletions are shown by ~~strike-through~~.

(g)(f) Use of a Facility Dog. The court will allow the assistance of a facility dog as directed by A.R.S. § 13-4442.

(v) [No change]