

David J. Euchner, SB#021768
33 N. Stone Ave., 21st Floor
Tucson, AZ 85701
(520) 724-6800
david.euchner@pima.gov

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:

Petition to Amend Ariz. R. Sup. Ct. 111.

No. R-25-0060

**Comment of David Euchner
regarding Petition to Amend Ariz. R.
Sup. Ct. 111**

Pursuant to Rule 28 of the Arizona Rules of the Supreme Court, David J. Euchner hereby submits the following comment on the Petition to amend Arizona Rule of the Supreme Court 111, filed by the Staff Attorneys' Office of this Court.

In 2014, I was concerned with Rule Change Petition R-14-0004; on behalf of Arizona Attorneys for Criminal Justice, I filed a comment noting that AACJ members were not of one mind on this issue but the decision should not be made without further study. On this rule change petition, AACJ members remain divided on the merits of the issue. For this reason, my comment reflects only my own views.

I have always been "mildly opposed" to the citation of memorandum decisions for persuasive value. Since the change to Rule 111(c)(1)(C) allowing

citation of memorandum decisions on this basis, I have seen a significant increase in citation to memorandum decisions in cases where published, on-point case law exists. This demeans the value of published case law. On the other hand, I do not think that the “sky has fallen” as a result of this rule change.

I support this petition in its entirety, and I agree with most of the Attorney General’s comment. The petition recognizes an anomaly in current Rule 111, whereby this Court can depublish an opinion so it cannot be cited for persuasive value but it is powerless to do the same for memorandum decisions. The Attorney General’s comment points out the difference in resources placed into ensuring the correctness of an opinion versus a memorandum decision. This Court should not be powerless to prevent citation to erroneous language in an unpublished decision.

I strongly disagree with the counter-proposal in the comment of the Division One judges, for the simple reason that I have read it several times and I do not understand what it means at all. At minimum, our rules should be easily understood. The proposal in the petition is easy to understand, and easy to put into practice.

DATED (electronically filed): May 1, 2026.

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

Copy e-mailed to:

Laura Curry, Arizona Supreme Court Staff Attorneys’ Office
SACrtDocs@courts.az.gov