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

10 PETITION TO AMEND RULE 32.5  
11 AND FORM 25, ARIZONA RULES  
12 OF CRIMINAL PROCEDURE

Supreme Court No. R-12-0009

**Comment of the State Bar of  
Arizona on Petition to Amend  
Rule 32.5 and Form 25, Ariz. R.  
Crim. P.**

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14 Rule 32.5 of the Arizona Rules of Criminal Procedure requires a criminal  
15 defendant seeking post-conviction relief to “certify” that he has included within the  
16 petition all grounds justifying relief. It does not require that the petitioner’s  
17 certification be notarized by a notary public. However, Form 25—the form created  
18 for convicted defendants seeking post-conviction relief—requires that a petitioner’s  
19 submission be notarized. The form is therefore inconsistent with the existing rule and  
20 has caused some courts to return non-notarized petitions to petitioners for non-  
21 compliance.

22 The current petition seeks to modify Form 25 so that it is consistent with  
23 Rule 32.5. The modification to the form would delete the requirement that it be  
24 signed before a notary public.  
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1 In addition, Rule 32.5 should be modified to make clear that facts within a  
2 defendant's personal knowledge are required to be submitted in a separate affidavit to  
3 be signed "under oath."

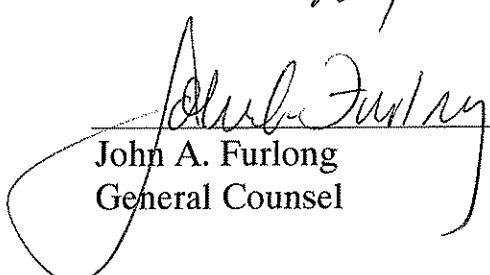
4 It is important that the forms provided by the courts are consistent with the  
5 specific requirements of the Arizona Rules of Criminal Procedure. At one time,  
6 Rule 32.5 required a petitioner to "verify under oath" that he had included within the  
7 petition all grounds justifying relief. That requirement was subsequently deleted from  
8 the rule, however; but the accompanying Form 25 remained unchanged. Form 25  
9 must be modified to delete all references to a requirement that it be signed before a  
10 notary public. Rule 32.5 itself should also be modified to make clear that facts within  
11 the petitioner's personal knowledge are required to be addressed separately in an  
12 affidavit and "shall be under oath."

13 The State Bar supports the petition to Amend Rule 32.5 and Form 25, Ariz. R.  
14 Crim. P., so that the form is consistent with the rule and the rule itself is clarified as to  
15 the submission of facts within the petitioner's personal knowledge in the form of a  
16 separate affidavit made under oath.

17 **Conclusion**

18 The State Bar of Arizona supports the petition and requests that the Court  
19 adopt the rule change on a permanent basis.

20 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of May, 2012.

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24 John A. Furlong  
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Electronic copy filed with the Clerk  
of the Supreme Court of Arizona this  
15<sup>th</sup> day of May, 2012,

by: Kathleen A. Lundgren