

1 remands for other remands as well. This would result in adding the following
2 provision to Rule 12.9:

3 **c. Relief. If a motion for a new finding of probable cause is granted**
4 **under this rule, the State may proceed with the prosecution of the**
5 **case pursuant to Rule 2, Rules of Criminal Procedure, or by**
6 **resubmission to the same or a another grand jury. Unless a complaint**
7 **is filed or a grand jury consideration is commenced within fifteen**
8 **days after entry of the order granting the motion under this rule, the**
9 **case shall be dismissed without prejudice.**

10 Adding a timeframe to the rule would allow for better management of
11 these cases, as well as eliminate uncertainty for defendants when a motion for
12 new finding of probable cause is granted.

13 For the foregoing reasons, the Criminal Department Presiding Judge of
14 the Superior Court in Maricopa County respectfully requests this Court amend
15 Rule 12.9 to provide a timeframe in which the State must act after the trial court
16 has granted a motion for a new finding of probable cause.

17 Respectfully submitted this 10th day of January, 2013.

18
19
20

Hon. Joseph C. Welty
Criminal Department Presiding Judge
Superior Court of Arizona, Maricopa County

21
22 Original and six (6) copies delivered this
23 10th day of January, 2013 to:

24 Clerk of the Arizona Supreme Court
25 1501 W. Washington, Suite 402
26 Phoenix, AZ 85007
27
28

1 Copy delivered this
2 10th day of January, 2013 to:

3 David K. Byers, Director
4 Administrative Office of the Courts
5 1501 W. Washington St.
6 Phoenix, Arizona 85007
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Exhibit A

2
3 Rules of Criminal Procedure

4 **Rule 12.9. Challenge to grand jury proceedings**

5
6 **a. Grounds.** The grand jury proceedings may be challenged only by motion for a
7 new finding of probable cause alleging that the defendant was denied a substantial
8 procedural right, or that an insufficient number of qualified grand jurors concurred
9 in the finding of the indictment.

10 **b. Timeliness.** A motion under Rule 12.9(a) may be filed only after an indictment
11 is returned and no later than 25 days after the certified transcript and minutes of
12 the grand jury proceedings have been filed or 25 days after the arraignment is
13 held, whichever is later.

14 **c. Relief.** If a motion for a new finding of probable cause is granted under this
15 rule, the State may proceed with the prosecution of the case pursuant to Rule 2,
16 Rules of Criminal Procedure, or by resubmission to the same or a another grand
17 jury. Unless a complaint is filed or a grand jury consideration is commenced
18 within fifteen days after entry of the order granting the motion under this rule, the
19 case shall be dismissed without prejudice.