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ARIZONA SUPREME COURT

In Re ARCP, Rule 64.1 –)
Arrest Warrants) **R14-0001**
) **AMENDED Rule 28 Petition**
) **Re: Rule on Civil**
) **Arrest Warrants**
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The following Amended Rule 28 Petition to amend Rule 64.1 on “civil arrest warrants” is submitted. This amended petition represents a substantial simplification of the proposed rule change by removing any references to “criminal” warrants under the criminal rules.

After the original petition was filed, the undersigned received a call from Mr. Landau at AOC. It appears that the AOC is working on a project to revise the process for issuing criminal warrants under Rules 3 and 26 and therefore removing the cross-reference to the criminal rules would make sense and allow AOC opportunity to proceed on an easier basis.

Thus, the essence of this Amended Petition is to remove the outmoded portion of the rule on civil warrants that ostensibly precludes execution of a warrant during the nighttime. The reasons set forth in the original petition are still clearly valid.

We live in a world when restaurants, stores, health clubs, and convenience markets are open 24 hours a day. Our citizens, absconders included, are out and about at all times. Arizona no longer turns out its lights and goes to sleep, not to be disturbed in the repose of their dwelling until the break of dawn. To the contrary, in our mobile society, the streets are busy with cars, pedestrians, and bright lights; our cities and our citizens are now active twenty-four hours a day. The proposed text changes are set forth below.

Respectfully submitted this 5th of June, 2014,

Hon. George T. Anagnost

Rule 64.1(a). Definition

A “civil arrest warrant” is an order issued in a non-criminal matter, directed to any peace officer in the state, to arrest the individual named therein and bring such person before the court.

Rule 64.1(b). When issued

The court may, on motion of a party or on its own motion, issue a civil arrest warrant if it finds that the person for whom the warrant is sought:

(1) Having been ordered by the court to appear personally at a specific time and location, and having received actual notice of such order, including a warning that failure to appear may result in the issuance of a civil arrest warrant, has failed to appear as ordered; or

(2) Having been served personally with a subpoena to appear in person, at a specific time and location, which contains a warning that failure to appear may result in the issuance of a civil arrest warrant, has failed to appear.

Rule 64.1(c). Content of warrant

The civil arrest warrant shall be ordered by the judge and issued by the clerk. It shall contain the name of the person to be arrested and a description by which such person can be identified with reasonable certainty. It shall command that the person named be brought before the judge or, if the judge is absent or unable to act, the nearest or most accessible judge in the same county. The warrant shall set forth a bond in a reasonable amount to guarantee the appearance of the arrested person, or an order that the arrested person be held without bond until the arrested person is seen by a judge.

Rule 64.1(d). Time and Manner of Execution

A civil arrest warrant is executed by the arrest of the person named therein. ~~Unless the court otherwise directs upon a showing of good cause, a civil arrest warrant shall not be executed between the hours of ten p.m. and six thirty a.m. The arrested person shall be brought immediately before the issuing judge if it is reasonably possible to do so. In any event, [T]he arrested person shall be brought before the issuing judge, or a judge in the county of arrest~~ THE NEAREST AVAILABLE JUDGE OR MAGISTRATE, within 24 hours of the execution of the warrant. ~~If the person is arrested in a county other than the county of issue, the arresting officer shall notify the sheriff in the county of issue who shall, as soon as possible, take custody of the arrested person and transport the arrested person to the issuing judge.~~

Rule 64.1(e). Duty of court after execution of warrant

The judge shall advise the arrested person of the nature of the proceedings, release the arrested person on the least onerous terms and conditions which reasonably guarantee the required appearance, and set the date of the next court appearance.

Rule 64.1(f). Forfeiture of bond

The procedure for the forfeiture of bonds in criminal cases shall apply.