

**SUPREME COURT OF ARIZONA
No. R-07-0004**

**SUA SPONTE PETITION PURSUANT TO
RULE 28, RULES OF THE SUPREME COURT**

Requested by:

Supreme Court of Arizona
Staff Attorneys' Office

Date:

July 17, 2007

Rule Numbers:

Rule 20, Ariz. R. Crim. P.

Subject:

As set forth in Attachment A, the proposed amendment to Rule 20, dealing with judgments of acquittal before verdict, would remove the phrase "capital case" from the sentence providing that the court may enter a judgment of acquittal after "an aggravation hearing in a capital case" if the evidence of an aggravating factor is not sufficient. This phrase was previously added to the rule to reflect the fact that aggravating factors in capital cases must be tried to a jury; however, aggravating factors in non-capital cases must now also be tried to a jury, so the limitation to capital cases is incorrect.

ATTACHMENT A

ARIZONA RULES OF CRIMINAL PROCEDURE

Rule 20. JUDGMENT OF ACQUITTAL

a. Before Verdict. On motion of a defendant or on its own initiative, the court shall enter a judgment of acquittal of one or more offenses charged in an indictment, information or complaint after the evidence on either side is closed, if there is no substantial evidence to warrant a conviction. In an aggravation hearing ~~in a capital case~~, after the evidence on either side is closed, on a motion of a defendant or on its own initiative, the court shall enter a judgment that an aggravating circumstance was not proven if there is no substantial evidence to warrant the allegation. The court's decision on a defendant's motion shall not be reserved, but shall be made with all possible speed.

b. [No change in text.]