

Jennifer A. Greene
Staff to the Capital Case Task Force
Administrative Office of the Courts
1501 W. Washington, Suite 410
Phoenix, AZ 85007-3222
(602) 452-3555
jgreene@courts.az.gov

IN THE ARIZONA SUPREME COURT

PETITION TO AMEND RULE 15.1(i),) Supreme Court No.
ARIZONA RULES OF CRIMINAL) R. 07-_____
PROCEDURE)
_____)

Pursuant to Rule 28 of the Rules of the Supreme Court, the Capital Case Task Force respectfully petitions this Court to amend Rule 15.1(i) of the Arizona Rules of Criminal Procedure as set forth in the attached Appendix A.

In February 2007, the Chief Justice issued Administrative Order No. 2007-18, establishing the Capital Case Task Force, and directed its members to examine the issues relevant to ensuring the availability of adequate resources for processing capital cases in the appellate courts of Arizona and in the superior court in Maricopa County, in which an unprecedented number of capital cases are currently awaiting trial. This rule change petition seeks adoption of one of several Task Force recommendations

designed to promote efficient resolution of capital cases in light of the pending caseload and the competing demands on judicial resources in Maricopa County. The Final Report of the Task Force is available online at: <http://supreme.state.az.us/cctf/>.

The proposed amendment extends the time limit for a prosecutor's office to file its notice of intent to seek the death penalty beyond sixty days after arraignment through a stipulation approved by the court. In an appropriate case, the additional time afforded by this stipulation may help the defense team identify mitigating evidence that could persuade a prosecutor not to seek a death sentence, thereby conserving judicial and capital defender resources.

The prosecutor could still file the capital case notice after sixty days. However, when mitigating circumstances become apparent relatively quickly, fewer cases would be designated as capital cases. The Task Force believes this new procedure could avoid unwarranted capital case designations in as many as ten percent of cases in Maricopa County.

The filing of the stipulation would be equivalent to filing the notice of intent to seek the death penalty for purposes of assignment of resources to the case. As they do now, the investigators and attorneys would undertake an immediate effort to secure mitigating evidence.

For the foregoing reasons, the Task Force respectfully requests that the Supreme Court amend Rule 15.1(i), Arizona Rules of Criminal Procedure, as set forth in the attached Appendix A.

Respectfully submitted this ____ day of _____, 2007.

Capital Case Task Force

Jennifer A. Greene, Staff to the Task Force
Bar No. 015760
Administrative Office of the Courts
1501 W. Washington, Suite 410
Phoenix, AZ 85007-3222
(602) 452-3555
jgreene@courts.az.gov

APPENDIX A

(new language is underlined, deletions are ~~stricken~~)

RULES OF CRIMINAL PROCEDURE

Rule 15.1 Disclosure by state

(a) through (h) [no changes]

(i) Additional Disclosure in a Capital Case

(1) The prosecutor, no later than 60 days after the arraignment in superior court, shall provide to the defendant notice of whether the prosecutor intends to seek the death penalty. This period may be extended ~~for thirty days~~ up to 60 days upon written stipulation of counsel filed with the court. Once the stipulation is approved by the court, the case shall be considered a capital case for all administrative purposes including, but not limited to, scheduling, appointment of counsel under Rule 6.8, and assignment of a mitigation specialist. Additional extensions may be granted upon ~~motion of the state~~ stipulation of the parties and approval of the court. The prosecutor must confer with the victim prior to agreeing to an extension of the 60 day deadline or any additional extensions, if the victim has requested notice pursuant to A.R.S. section 13-4405.

(2) through (5) [no changes]

(j) [no changes]

COMMENT

Rule 15.1(i)(1). The stipulations or extensions authorized by this rule are not to be used for unnecessary delay but are intended to allow defense counsel enough time to gather and present mitigating evidence to the prosecution in those cases when significant mitigating evidence is expected to be readily available before the filing of the notice of intent to seek the death penalty.