

Reply

APPENDIX C

Rule Revisions to Supplement

Rule 1. Scope, Purpose and Construction, ~~Computation of Time, Definitions, Size of Paper,~~ and Other General Provisions

Rule 1.6. Form of Documents

(b) Document Format.

- (1) **Generally.** Unless the court orders otherwise, all filed documents, other than a document submitted as an exhibit or attachment to a filing, must be prepared as follows:

- (B) **Type Size and Font.** Notwithstanding any local rule, ~~e~~Every typed document must use at least a 13-point type size. The court prefers proportionally spaced serif fonts. Footnotes must be in at least a 13-point type size and must not appear in the space required for the bottom margin.

Rule 4. Initial Appearance ~~and Arraignment~~

Rule 6. ~~Attorneys, Right to Counsel; Duties of Counsel; Court-Appointed Attorneys, Appointment of Counsel,~~ Investigators, and Experts

Rule 7.1. Definitions

- (c) **Cash Bond.** A “cash bond” is a secured appearance bond consisting of actual cash deposited by the defendant or someone acting on the defendant’s behalf ~~other than a professional bondsman.~~

Rule 7.2. Right to Release

(a) Before Conviction; Bailable Offenses.

- (2) **Right to Release.** Except as these rules otherwise provide, any defendant charged with an offense bailable as a matter of right must be released pending and during trial on the defendant’s own recognizance with only the mandatory conditions of release required under Rule 7.3(a). This rule does not apply if the court determines that such a release will not reasonably assure the defendant’s appearance or protect the safety of the victim, any other person, ~~others~~ or the community from risk of harm by the defendant. If the court makes such a determination, it must impose the least onerous conditions of release set forth in Rule 7.3(d).

(c) After Conviction.

- (1) **Superior Court.**

(C) *Protecting Safety.* In determining release conditions if the defendant is released under (c)(1)(A) or (B), the court must impose conditions that will protect the victim, any other person, or the community from risk of harm by the defendant.

(2) Limited Jurisdiction Courts.

(C) *Motion to Amend Conditions of Release.*

- (i) Upon the filing of a timely notice of appeal, the court—on motion or on its own—may amend the conditions of release if it finds a substantial risk exists that the defendant presents a danger to the victim, another person or the community, or the defendant is unlikely to return to court if required to do so after the appeal concludes.
- (iii) The court may amend the conditions of release in accordance with the standards set forth in Rule 7.3 and Rule 7.4(b). In determining the method of release or the amount of bail, the court must consider the nature and circumstances of the offense, family or local ties, employment, financial resources, the defendant’s character and mental condition, the length of residence in the community, the record of arrests or convictions, the risk of harm to the victim, other persons, or the community, and appearances at prior court proceedings.

Rule 11.3. Appointment of Experts

(a) Appointment of Experts.

(5) *Examiner Qualifications.* A mental health expert must be:

- (A) familiar with Arizona’s standards and statutes for competence and criminal and involuntary commitment statutes;

Rule 11.5. Hearing and Orders

(b) Orders.

- (3) *If Incompetent and Not Restorable.* If the court determines that the defendant is incompetent and that there is no substantial probability that the defendant will become competent within 21 months, the court may on request of the examined defendant or the State do one or more of the following:
 - (A) remand the defendant to ~~the Department of Health Services~~ an evaluating agency approved and licensed under Title 36 to begin civil commitment proceedings under A.R.S. §§ 36-501 et seq.;

- (4) ***Additional Actions.*** If the court enters an order under (b)(3)(A) or (b)(3)(B), it may retain jurisdiction and enter further orders as specified in A.R.S. §§ 13-4517 and 13-4518.

Rule 12.9. Challenge to Grand Jury Proceedings

- (b) **Timing.** A defendant must file a motion under (a) no later than ~~25~~45 days after the certified transcript and minutes of the grand jury proceedings are filed or no later than ~~25~~45 days after the defendant's arraignment, whichever is later.

Rule 13.1. Definitions and Nature Construction

Rule 15.3. Depositions

(c) Motion for Taking Deposition; Notice; Service.

- (3) ***Notice and Subpoena.*** If the court grants the motion, the moving party must notice the deposition in the manner provided in Arizona Rule of Civil Procedure 30(b). The notice must specify the terms and conditions in the court's order granting the deposition. The moving party also must serve a subpoena on the deponent in the manner provided in A.R.S. § 13-4072(A)-(E) or as otherwise ordered by the court.

Rule 17. Pleas of Guilty and No Contest; Submitting a Case on the Record

Rule 17.1. The Defendant's Plea

(f) Limited Jurisdiction Court Alternatives for Entering a Plea.

(2) *Plea by Mail.*

- (C) ***Procedure.*** The defendant must submit the plea in writing substantially in the form set forth in Rule ~~41~~28, Form 28(a). The defendant must sign the plea form, which must include the following: ~~before a notary public acknowledging the defendant's signature. The form must include the following;~~

Rule 17.7. Submitting a Case ~~to the Court on a Stipulated~~ the Record

Rule 23.1. Form of Verdict; Sealed Verdict

- (a) **Form of Verdict.** The jury's verdict must be in writing, signed by the foreperson, and returned to the judge in open court. ~~The foreperson may~~ must sign the verdict, either by affixing his or her signature on the verdict or by writing his or her juror ~~number and initials on the verdict.~~

Rule 26.10. Pronouncing Judgment and Sentence

(b) Sentence. When the court pronounces sentence, it must:

- (5) ~~for any felony offense or a violation of A.R.S. §§ 13-1802, 13-1805, 28-1381, or 28-1382,~~ permanently affix the defendant's right index fingerprint to the sentencing document or order in accordance with A.R.S. § 13-607(A); and

Rule 29.1. Grounds; Notice

(b) Sex Trafficking Victims. Under A.R.S. § 13-907.01, a~~A~~ sex trafficking victim may request the sentencing court that pronounced sentence to vacate the victim's~~a~~ conviction under A.R.S. §§ 13-3214 and 13-907, or a conviction under a city or town ordinance that has the same or substantially similar elements, if the offense was committed before July 24, 2014.

Rule 31.3. Suspension of These Rules; Suspension of an Appeal; Computation of Time; Modifying a Deadline

(e) Modifying a Deadline. A party seeking to modify a deadline in the appellate court must obtain an appellate court order authorizing the modified deadline. ~~An appellate court~~ For good cause and after considering the rights of the victim, an appellate court may shorten or extend the time for doing any act required by Rule 31, a court order, or an applicable statute.

Rule 31.9. Transmission of the Record to the Appellate Court

(c) Electronic Transmission by the Superior Court Clerk.

- (2) ***Extension and Reduction of Time.*** For good cause and after considering the rights of the victim, the appellate court may grant one 20-day extension for transmitting the record on appeal. The appellate court also may order the superior court clerk to transmit the electronic record, or a portion of the record, at an earlier time or it may order physical transmission of the entire record or portions of the record under (d). The appellate clerk must distribute a copy of any order entered under this rule to the parties, the superior court clerk, and to the requesting authorized transcriber.

Rule 32.4. Filing of Notice and Petition, and Other Initial Proceedings

(c) Time for Filing a Petition for Post-Conviction Relief.

(1) Capital Cases.

- (C) ***Time Extensions.*** For good cause, the court may grant a capital defendant one 60-day extension in which to file a petition. ~~The~~ For good cause and after considering the rights of the victim, the court may grant additional 30-day extensions for good cause.

(2) *Noncapital Cases.*

- (B) *Time Extensions.*** For good cause and after considering the rights of the victim, the court may grant a defendant in a noncapital case a 30-day extension to file the petition. The court may grant additional 30-day extensions only on a showing of extraordinary circumstances.

Rule 32.6. Response and Reply; Amendments; Review

- (a) State's Response.** The State must file its response no later than 45 days after the defendant files the petition. The court may grant the State a 30-day extension to file its response for good cause, and may grant the State additional extensions ~~only~~ on a showing of extraordinary circumstances and after considering the rights of the victim. The State's response must include a memorandum that contains citations to relevant portions of the record and to relevant legal authorities, and must attach any affidavits, records, or other evidence that contradicts the petition's allegations.

Rule 39. Victims' Rights

(d) Assistance and Representation.

- (3) *Conflicts.*** If any conflict arises between the prosecutor and a victim in asserting the victim's rights, the prosecutor must advise the victim of the right to seek independent legal counsel and provide contact information ~~for~~ to the appropriate state or local bar association ~~for referral to a lawyer or the Attorney General's Victims' Rights Program~~.