

Arizona Supreme Court

Rule 28 Petition

R-23-0042

RULE 6.1(b), RULES OF CRIMINAL PROCEDURE

Appellate Case Information

Case Filed: 18-Aug-2023
Case Closed: 22-Aug-2024

Dept/Composition

Side 1. RULE 6.1, RULES OF CRIMINAL PROCEDURE, Other

(Litigant Group) PETITIONER: DAVID K. BYERS

• David K Byers, Administrative Office of the Courts, Petitioner

(Litigant Group) COMMENTORS: MARY HELEN MALEY MAYNARD AND DAVID P. STOLLER

• Mary Helen Maley Maynard, Commentor

• David P Stoller, Commentor
AZ Bar No. 5280
[Current Member]
Admitted 4/22/78

CASE STATUS

Aug 22, 2024...Case Closed

Aug 22, 2024...Decision Rendered

CASE DECISION

22-Aug-2024 ORDER

* On August 18, 2023, David K. Byers, on behalf of the Administrative Office of the Courts, filed a rule petition requesting expedited consideration and emergency adoption of amendments to Rule 6.1 of the Rules of Criminal Procedure. On August 28, 2023, t

Filed: 22-Aug-2024

Mandate:

Decision Disposition

Adopted

Ann Timmer

9 PROCEEDING ENTRIES

1. 18-Aug-2023 FILED: Petition to Amend Rule 6.1 of the Arizona Rules of Criminal Procedure (Expedited Consideration and Emergency Adoption Requested) (Petitioner David K. Byers, Administrative Office of the Courts, Administrative Director)

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2. 28-Aug-2023 On August 18, 2023, David K. Byers, Administrative Director of the Administrative Office of the Courts, filed a rule petition to amend Rules 6.1(b) to clarify the rules governing the appointment of counsel at an initial appearance and the scope of that representation. Because ambiguities in the current rule have reportedly created confusion about the appointment of counsel in certain cases, Petitioner further requests that the petition be given expedited consideration under Rule 28(h)(1), Rules of the Supreme Court of Arizona, and be adopted on an emergency basis under Rule 28(h)(2) of the same rules. Upon consideration,
- IT IS ORDERED granting the request to consider this petition on an expedited basis.
- IT IS FURTHER ORDERED that during its December 2023 Rules Agenda, the Court will consider whether to adopt the proposed amendments to Rule 6.1(b) of the Rules of Criminal Procedure on an emergency basis. If it does, the Court will consider whether to adopt the rule amendments on a permanent basis during its August 2024 Rules Agenda. If it decides not to adopt the proposed rule amendments on an emergency basis, the Court will decide whether to adopt them on a non-emergency basis during its August 2024 Rules Agenda.
- IT IS FURTHER ORDERED that this petition is opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than October 2, 2023, and any reply due no later than October 16, 2023. Unless the Court denies the rule petition during the December 2023 Rules Agenda, the petition will be reopened for public comment until May 1, 2024, with any reply due June 3, 2024.
- The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules, for example, Rules of Criminal Procedure, which is found by scrolling down the page.
- For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"
- Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."
- Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Robert Brutinel)
3. 5-Dec-2023 **WOULD CLARIFY RULE 6.1(b) OF THE RULES OF CRIMINAL PROCEDURE REGARDING THE APPOINTMENT OF COUNSEL AT AN INITIAL APPEARANCE AND THE SCOPE OF THAT REPRESENTATION.**
- ORDERED: Petition to Amend Rule 6.1 of the Arizona Rules of Criminal Procedure = ADOPTED on an emergency basis as modified, effective immediately.
- FURTHER ORDERED: The Court will decide whether to adopt the rule amendments on a permanent basis during its August 2024 Rules Agenda.
- FURTHER ORDERED: This petition is reopened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than May 1, 2024, and any reply due no later than June 3, 2024.

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4. 6-Dec-2023 On August 18, 2023, David K. Byers, on behalf of the Administrative Office of the Courts, filed a rule petition proposing the adoption, on an emergency basis, of amendments to Rule 6.1 of the Rules of Criminal Procedure.
- On August 28, 2023, the Court granted Petitioner's request for expedited consideration, ordered that the Court would consider whether to adopt the proposed amendments on an emergency basis at the December 2023 Rules Agenda, and opened a public comment period through October 2, 2023.
- Having considered the petition and having received no comments,
- IT IS ORDERED, pursuant to Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, that Rules 4.2 and 6.1 of the Rules of Criminal Procedure are amended on an emergency basis in accordance with the attachment to this order, effective immediately. IT IS FURTHER ORDERED, consistent with the Court's August 28, 2023 order, that the Court will consider whether to adopt these rule amendments on a permanent basis during its August 2024 Rules Agenda.
- IT IS FURTHER ORDERED that this petition is reopened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than May 1, 2024, and any reply due no later than June 3, 2024.
- The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules, for example, Rules of Criminal Procedure, which is found by scrolling down the page. For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"
- Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."
- Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Robert Brutinel)
5. 29-Apr-2024 FILED: Comment to Petition to Amend (Mary Helen Maley Maynard and David P. Stoller)
6. 14-May-2024 FILED: Reply to Comment (Petitioner David K. Byers, Administrative Office of the Courts, Administrative Director)
7. 28-May-2024 FILED: Amended Reply to Comment (Petitioner David K. Byers, Administrative Office of the Courts, Administrative Director)
8. 20-Aug-2024 WOULD CLARIFY RULE 6.1(b) OF THE RULES OF CRIMINAL PROCEDURE REGARDING THE APPOINTMENT OF COUNSEL AT AN INITIAL APPEARANCE AND THE SCOPE OF THAT REPRESENTATION
- ORDERED: Petition to Amend Rule 6.1 of the Arizona Rules of Criminal Procedure = ADOPTED on a permanent basis, effective immediately.
9. 22-Aug-2024 On August 18, 2023, David K. Byers, on behalf of the Administrative Office of the Courts, filed a rule petition requesting expedited consideration and emergency adoption of amendments to Rule 6.1 of the Rules of Criminal Procedure. On August 28, 2023, the Court granted the request for expedited consideration and opened the petition for public comment through October 31, 2023.
- During the December 2023 Rules Agenda, the Court adopted the proposed amendments on an emergency basis with a further emergency amendment to Rule 4.2 of the Rules of Criminal Procedure. The Court also reopened the comment period through May 1, 2024, and ordered that it would consider whether to adopt the emergency amendments on a permanent basis during the August 2024 Rules Agenda. Having considered the petition, one comment submitted in support, and the reply,
- IT IS ORDERED that the amendments to Rules 4.2 and 6.1 of the Rules of Criminal Procedure that were adopted on an emergency basis on December 6, 2023, are hereby adopted permanently in accordance with the attachment to this order, effective immediately. The attachment is the same as the attachment to the Court's December 6, 2023 order. (Hon. Ann A. Scott Timmer)