

Arizona Supreme Court

Rule 28 Petition

R-23-0043

RULE 123(d)(7), RULES OF THE SUPREME COURT

Appellate Case Information

Case Filed: 1-Sep-2023

Case Closed: 22-Aug-2024

Dept/Composition

Side 1. RULE 123(d)(7), RULES OF THE SUPREME COURT, Other (Litigant Group) PETITIONER: DAVID K. BYERS

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

CASE STATUS

Aug 22, 2024...Case Closed

Aug 22, 2024...Decision Rendered

CASE DECISION

22-Aug-2024 ORDER

* On September 1, 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 123(d)(7) of the Rules of the Supreme Court of Arizona. On

Filed: 22-Aug-2024

Mandate:

Decision Disposition

Adopted

Ann Timmer

6 PROCEEDING ENTRIES

- 1. 1-Sep-2023 FILED: Petition to Amend Supreme Court Rule 123(d)(7) (Expedited Consideration and Emergency Adoption Requested); Appendix (Petitioner David K. Byers, Administrative Office of the Courts, Administrative Director)

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6 PROCEEDING ENTRIES

2. 7-Sep-2023 On September 1, 2023, David K. Byers, Administrative Director of the Administrative Office of the Courts, filed a rule petition proposing to amend Rule 127(d)(7) of the Rules of the Supreme Court of Arizona Supreme Court. The amendments would establish provisions restricting public access in cases opened under recently enacted A.R.S. Title 36, Chapter 40 involving defendants who have been involuntarily committed after a finding of incompetence and being dangerous under recently enacted A.R.S. § 13-4521. Both sets of statutory provisions go into effect on January 1, 2024.

To ensure that the Court considers the petition before these new statutory provisions go into effect, 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, effective January 1, 2024, 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 on an emergency basis the proposed amendments to Rule 127(d)(7) of the Rules of the Supreme Court of Arizona. 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 27, 2023, and any reply due no later than November 6, 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 RULE 123(d)(7), RULES OF THE SUPREME COURT

WOULD AMEND RULE 123(d)(7) OF THE RULES OF THE SUPREME COURT OF ARIZONA TO ESTABLISH PROVISIONS FOR RESTRICTING PUBLIC ACCESS IN CASES OPENED UNDER A.R.S. TITLE 36, CHAPTER 40 INVOLVING DEFENDANTS WHO HAVE BEEN INVOLUNTARILY COMMITTED AFTER A FINDING OF INCOMPETENCE AND BEING DANGEROUS UNDER NEWLY ENACTED A.R.S. § 13-4521.

ORDERED: Petition to Amend Supreme Court Rule 123(d)(7) = ADOPTED on an emergency basis, effective January 1, 2024.

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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RULE 123(d)(7), RULES OF THE SUPREME COURT

6 PROCEEDING ENTRIES

4. 6-Dec-2023 On September 1, 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 123(d)(7) of the Rules of the Supreme Court of Arizona.
- On September 7, 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 27, 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 Rule 123(d)(7) of the Rules of the Supreme Court of Arizona is amended on an emergency basis in accordance with the attachment to this order, effective January 1, 2024.
- IT IS FURTHER ORDERED, consistent with the Court's September 7, 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. 20-Aug-2024 **WOULD AMEND RULE 123(d)(7) OF THE RULES OF THE SUPREME COURT OF ARIZONA TO ESTABLISH PROVISIONS FOR RESTRICTING PUBLIC ACCESS IN CASES OPENED UNDER A.R.S. TITLE 36, CHAPTER 40 INVOLVING DEFENDANTS WHO HAVE BEEN INVOLUNTARILY COMMITTED AFTER A FINDING OF INCOMPETENCE AND BEING DANGEROUS UNDER NEWLY ENACTED A.R.S. § 13-4521**
- ORDERED: Petition to Amend Supreme Court Rule 123(d)(7) = ADOPTED on a permanent basis, effective immediately.
6. 22-Aug-2024 On September 1, 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 123(d)(7) of the Rules of the Supreme Court of Arizona. On September 7, 2023, the Court granted the request for expedited consideration and opened the petition for public comment through October 27, 2023.
- During the December 2023 Rules Agenda, the Court adopted the proposed amendments on an emergency basis. 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. No comments having been received, upon consideration,
- IT IS ORDERED that the amendments to Rule 123(d)(7) of the Rules of the Supreme Court of Arizona 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)
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