

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-14-0021  
RULES 26.9 and 31.3, RULES )  
OF CRIMINAL PROCEDURE )  
 )  
 ) **FILED 09/02/2014**  
 )  
\_\_\_\_\_ )

**ORDER**

**AMENDING RULES 26.9 AND 31.3, ARIZONA RULES OF CRIMINAL PROCEDURE**

A petition having been filed proposing to amend Rules 26.9 and 31.3, Arizona Rules of Criminal Procedure, relating to the time for appeal in a criminal case, and no comments having been received, upon consideration,

IT IS ORDERED that Rules 26.9 and 31.3, Arizona Rules of Criminal Procedure, be amended as modified in accordance with the attachment hereto, effective January 1, 2015.

DATED this 2<sup>nd</sup> day of September, 2014.

\_\_\_\_\_  
SCOTT BALES  
Chief Justice

Arizona Supreme Court No. R-14-0021  
Page **2** of **3**

TO:  
Rule 28 Distribution  
SACRDOCS

**ATTACHMENT\***

**ARIZONA RULES OF CRIMINAL PROCEDURE**

\* \* \*

**Rule 26.9. Presence of the defendant**

[No change in text.]

**Comment**

Unlike the 1956 Arizona Rules of Criminal Procedure, Rule 235, this rule requires presence of the defendant at sentencing, absent extraordinary circumstances, no matter what the nature of sentence to be imposed. *See State v. Fettis*, 136 Ariz. 58, 664 P.2d 208 (1983). This change is made because of the essential warnings and information regarding appeal required to be given after sentence is pronounced. See Rule 26.11. ~~The defendant is not permitted to extend the time for taking an appeal by non-appearance at sentencing. Hence the time for filing a notice of appeal is to run from the entry of judgment and sentence whether or not the defendant is present. A defendant who is absent at sentencing through no fault of his own may be entitled to a delayed appeal under Rule 32. See *State v. Tacon*, 41 U.S.L.W. 4275 (U.S. Feb. 21, 1973), certiorari dismissed [107 Ariz. 353, 488 P.2d 973 (1971), certiorari dismissed 93 S. Ct. 998.]~~

\* \* \*

**Rule 31.3. Time for taking appeal**

The notice of appeal shall be filed with the clerk of the trial court within 20 days after the entry of judgment and sentence, which occurs when the judge pronounces sentence, except that:

a.-b. [No change in text.]

\* \* \*

---

\* Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.