

**Hon. George T. Anagnost**  
**Peoria Municipal Court**  
**8401 West Monroe St.**  
**Peoria AZ 85345**  
**(Tel 623 773 7420)**

**ARIZONA SUPREME COURT**

<b>In Re</b>	)	
	)	<b>No.</b>
<b>Traffic and Boating Rules,</b>	)	
<b>Rule 8, Procedure on</b>	)	<b>Rule 28 Petition re</b>
<b>Plea of Guilty</b>	)	<b>“Copy in Lieu of Original”</b>
	)	<b>Guilty Plea Procedure</b>
_____	)	

**1. Basic Requested Change - Allowing the Use of a Copy of the Citation in “Pre-Arraignment” Situations.**

The specific case processing issue addressed in this rule change petition deals with “Arizona Traffic Tickets and Complaints” (ATTCs). How may a court proceed when the defendant appears *prior* to the scheduled ATTC arraignment date and *voluntarily* wishes to proceed on the basis of a true copy of the citation? Because the court may not have received or logged in the original citation, JP and city courts use differing approaches. Because in the overwhelming number of cases the original citation is eventually received in a timely manner, some courts accept the copy as a valid “duplicate original”. Other courts accept the violator’s tendered fine payment as “bond” money, while still other courts turn defendants away telling them that the court will mail out a summons later on if an original citation is received.

**2. The Proposed Rule Change as An Additional Option.**

This petition offers an option that provides an additional method to initiate a case on the basis of a copy of the uniform citation and then, to avoid duplication, statistical, or reporting errors, “marrying up” the original citation to the copy when the original is

received. Adoption of this rule change would simplify case management and disposition and improve the quality of service level provided to our citizens.

**First**, it appears that case processing time and expense would be more efficiently used by amending the rules of procedure for traffic and boating cases to accommodate the common situation where defendants voluntarily appear at court prior to the cited arraignment date and wish to admit the violation and adjudicate their citations, often by simply paying the fine. Such occurrences are common for courts with winter visitors, tourists, or persons with scheduling difficulties. The violations range from parking matters to routine minor traffic infractions.

**Second**, the current state of affairs is unacceptable. There are no uniform standards for how courts should deal with defendants who appear pre-arraignment. The supposed “correct procedure” varies from turning away confused and frustrated defendants to paper-intensive acceptances of funds as “bond” money with any actual disposition to occur later, if at all. In some cases, due to the passage of time, the defendant may have changed addresses or moved on, with the attendant risk of an arrest warrant or suspended license default. In terms of poor efficiency and poor use of court staff time and resources, the oft-suggested solution of accepting funds pre-arraignment as “bond” money necessarily results in more staff time, cost, and paperwork to process and receipt what are often minimal dollar fine amounts.

**Third**, it is also clear that, at a time when most data is stored or adjudicated electronically, true copies of the original citations are valid for purposes of case initiation and disposition.

**Fourth**, as the rule change notes, the presentation of a true copy of the citation represents a waiver of applicable time limits and waiver of any objections to defects in the

charging document. Stated differently, defendants have long been allowed to waive technical defects or other substantive defenses to the charging document such that allowing a defendant to “plead” to a true copy of the citation is consistent with current legal norms and standards. If the court finds that the defendant knowingly gives up applicable trial rights, the change of plea and admission to the citation copy is accepted.

### **The Proposed Rule Change**

The following draft rule change is proposed by way of adding a new subparagraph “(c)” to the Rules for Traffic and Boating Cases.

#### **Rule 8. Procedure on Plea of Guilty**

(a) At the arraignment of a defendant for a Traffic or Boating Offense and before accepting a plea of guilty in open court, the Court shall inform the defendant of his or her legal rights, including the right to retain an attorney; to plead not guilty, in which event the presumption of innocence until proven guilty beyond a reasonable doubt applies; to have a speedy public trial and to face and cross-examine the witnesses against him or her, and to present evidence in his or her defense; to have subpoenas issued by the Court to compel the attendance of any witness in his or her behalf without expense to him or her, and to testify in his or her own behalf or not, as desired; to demand a trial by jury where such right is provided by Constitution or law; and to appeal any conviction to the Superior Court.

(b) When a Judge or Court permits a plea of guilty to a Traffic or Boating Offense to be made other than in open court, the plea shall be in writing signed by the defendant, and shall recite that defendant waives his or her right to trial, enters a plea of guilty to the offense described in the Complaint and consents to judgment imposing the prescribed fine. Such plea shall be deemed accepted, and the judgment and sentence imposing the prescribed fine shall be deemed pronounced on the plea, when the fine is paid.

(c) A defendant may appear in person or in writing before the scheduled arraignment date and seek adjudication of a traffic or boating violation upon presentment of a copy of the charging document. Such an appearance shall constitute a waiver of applicable time limits and any objection to technical defects in the charging document or other available motions challenging the sufficiency of the allegations. If the court determines that the defendant's change of plea to guilty/no contest (or for civil violations, responsible) is otherwise knowing, voluntary, and intelligent, and has a factual basis, the court may accept the copy of the complaint as the charging document for purposes of case initiation and adjudication of same. Upon timely receipt of the original charging document, the court shall file same as part of the initial case disposition and otherwise maintain proper records of the case resolution. Where no original is received, the court may take such steps as necessary to vacate the change of plea, dismiss the complaint, refund any payments, or otherwise restore the case to its initial posture as appropriate.

**Respectfully submitted October 29, 2007**

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**Hon. George T. Anagnost**

**[ Original filed electronically this date ]**