

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-19-0034
LOCAL RULES OF CRIMINAL PROCEDURE)
MOHAVE COUNTY SUPERIOR COURT) **FILED 05/28/2019**
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_____)

**ORDER
AMENDING THE LOCAL RULES OF CRIMINAL PROCEDURE, MOHAVE COUNTY
SUPERIOR COURT**

A petition having been filed proposing to amend the Local Rules of Criminal Procedure, Mohave County Superior Court, and no comments having been received, upon consideration,

IT IS ORDERED that the Local Rules of Criminal Procedure, Mohave County Superior Court, be amended in accordance with the attachment hereto, effective June 1, 2019.

DATED this 28th day of May, 2019.

_____/s/
SCOTT BALES
Chief Justice

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TO:
Rule 28 Distribution
Hon Charles W Gurtler, Jr.

ATTACHMENT*

**MOHAVE COUNTY LOCAL RULES OF PRACTICE
CRIMINAL RULES**

Rule CR-1. Pre-trial Procedures, Presence of Defendant

A. Pre-trial hearings leading to the setting of a trial date shall consist of an Arraignment, ~~Case Management Conference, Omnibus Hearing~~ a Pre-Trial Conference and a Final Management Conference. The content of the hearings shall be as follows:

1. *Arraignment.* In addition to the requirements of Rule 14.34, Arizona Rules of Criminal Procedure, the Court shall inquire whether any victim has invoked his or her rights, whether the defendant is subject to any then-known sentencing enhancements, whether counsel has discussed or will discuss sentencing options with the defendant, and whether the defendant has any other pending cases in Mohave County Superior Court. The Court may inform the defendant of the range of sentence. A motion for release filed in the lower Court at least ten days prior to arraignment shall be considered at the arraignment hearing. The Court shall set a ~~Case Management Conference~~ Pre-Trial Conference three weeks after arraignment unless ordered otherwise.

2. ~~Case Management Conference~~ Pre-Trial Conference. The Court shall determine whether any disclosure issue exists, whether any plea offer has been or will be made to resolve the matter and whether any known motions or pre-trial issues are to be addressed. ~~The Court shall set an Omnibus Hearing three weeks after the Case Management Conference unless ordered otherwise.~~

3. ~~Omnibus Hearing.~~ ~~Counsel shall provide the Court with a completed Omnibus Hearing Form prior to the Omnibus Hearing. The Court shall discuss all issues raised by the parties as set out in the Omnibus Hearing Form.~~ The Court may then set motion deadlines, schedule evidentiary hearings or oral arguments as necessary or set the matter for trial. If the matter is set for trial, the Court shall schedule a Final Management Conference no less than five court days prior to the trial.

4-3. *Final Management Conference.* The Court shall determine that the parties are ready for trial. At this hearing, inter alia, the Court and counsel shall resolve as many evidentiary issues as possible to determine appropriate voir dire areas, discuss jury instructions, determine the number of jurors known to be required by the case, ~~and the parties'~~ and determine the length of the trial. Further, counsel shall inform the court whether any special accommodations or equipment will be required at the trial.

B. The defendant and counsel shall appear at all scheduled hearings. The failure of the defendant to appear as ordered shall result in the issuance of a bench warrant and possible bond forfeiture. Counsel or defendant may appear telephonically at procedural hearings upon request, at the discretion of the Court.

*Additions to text are indicated by underscoring and deletions are indicated by ~~strikeouts~~.

C. The Court may conduct a change of plea at any hearing. The Court may also specifically set a change of plea at the request of the parties.

D. The Court may set Status Hearings as necessary to effect efficient case processing of any matter. Upon prior request of counsel, the defendant may waive his or her presence in the discretion of the court.

~~**E.** Counsel for any party shall be responsible to secure the attendance of all witnesses at any hearing.~~

Rule CR-2. Release

A. All motions seeking a reconsideration of the release conditions ~~of release~~ shall be heard ~~by the assigned trial division and will be heard~~ at the Court's earliest convenience ~~possible time~~, especially when the defendant is in custody.

~~**B.** Hearings will be scheduled consistent with giving notice to any victim and in conformance with the Rules of Criminal Procedure.~~

~~**C.** If the defendant has been previously released on bond or on some other release conditions before Grand Jury Indictment, these same release conditions shall continue after a Grand Jury Indictment on the same charges or any charges arising out of the same events, unless ordered differently by the assigned trial division after a duly noticed and contested hearing.~~

~~**D.** This rule shall apply equally to motions filed by the defendant as well as motions filed by the State pursuant to Rule 7.2, Arizona Rules of Criminal Procedure, alleging a violation of the defendant's conditions of release or pursuant to A.R.S. § 13-3961(B) alleging the defendant is a substantial danger to another person or the community.~~

B. If a Superior Court judge conducts a bail eligibility hearing pursuant to Rule 7.2(b)(4) of the Arizona Rules of Criminal Procedure and finds probable cause that an offense was committed by the defendant, the judge may proceed to an arraignment.

Rule CR-3. Substitution of Counsel

A. Substitution of private counsel in criminal cases shall be governed by Rule 6.3 of the Arizona Rules of Criminal Procedure. In the case of a stipulation of privately retained counsel, the stipulation shall:

1. Bear the signed statement by the substituting attorney ~~which consents to the substitution~~ and state that the substituting attorney is advised of the next scheduled court date, to include the nature of the scheduled proceedings, and will be prepared for all scheduled court dates; and

2. Be accompanied by a proposed written order, which may be presented ex parte. Copies of said order ~~shall will~~ be provided to ~~for~~ the State and prior counsel.

B. In the case of a change of assigned indigent defense counsel, a Notice of Change of Assigned Counsel shall be sufficient. Such Notice of Change of Assigned Counsel shall:

1. Bear the signed statement of either the new counsel, the department head, or the contracting authority that the case has been reassigned to a new department, or under a conflict/overflow contract; and

2. Bear a certificate of service, indicating that the client has been informed of the reassignment of the case, and has been provided contact information for the new attorney.

Rule CR-4.

Rule CR-4. Deleted, effective June 1, 2019

Rule CR-5.

Rule CR-5. Deleted, effective June 1, 2019

Rule CR-6.

Rule CR-6. Deleted, effective June 1, 2019

Rule CR-7. Grand Jury Indictment--Remanded Cases

Where an indictment is returned by the grand jury on a matter previously filed with the Clerk of the Court which was remanded to the Grand Jury by court order for a new finding of probable cause, the case shall be assigned the original number. The State County Attorney or other prosecuting attorney shall advise the court and clerk at the time of the return of the indictment on any case previously remanded. ~~Such presentment of the remanded charges must take place within fifteen (15) days or the remanded charges will be dismissed without prejudice.~~ Throughout this process the case shall be deemed as pending, and Rule 10, Rules of Criminal Procedure, Change of Judge, shall not apply.

Rule CR-8.

Rule CR-8. Deleted, effective June 1, 2019

Rule CR-9.

Deleted June 30, 2009, effective January 1, 2010

Rule CR-10.

Deleted June 30, 2009, effective January 1, 2010

Rule CR-11.

Deleted June 30, 2009, effective January 1, 2010