

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-14-0005
RULE 24.2, RULES OF)
CRIMINAL PROCEDURE)
)
) **FILED 09/02/2014**
)
)
_____)

**ORDER
AMENDING RULE 24.2, ARIZONA RULES OF CRIMINAL PROCEDURE**

A petition having been filed proposing to amend Rule 24.2, Arizona Rules of Criminal Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 24.2, Arizona Rules of Criminal Procedure, be amended in accordance with the attachment hereto, effective January 1, 2015.

DATED this 2ND day of September, 2014.

SCOTT BALES
Chief Justice

Arizona Supreme Court, No. R-14-0005
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TO:

Rule 28 Distribution

Mark C Faull

John A Furlong

Sheila Sullivan Polk

Elizabeth B Ortiz

Mikel Steinfeld

ATTACHMENT*

Rule 24.2. Motion to vacate judgment

a. Grounds for Motion. Upon motion made no later than 60 days after the entry of judgment and sentence but before the defendant's appeal, if any, is perfected, the court may vacate the judgment on any of the following grounds:

- (1) That it was without jurisdiction of the action;
- (2) That newly discovered material facts exist, under the standards of Rule 32.1; or
- (3) That the conviction was obtained in violation of the United States or Arizona Constitutions.

b. Previous Rulings. The court may deny any such motion on the grounds that the matter has already been decided.

c. Motion Filed After Notice of Appeal. When a motion is made under this section after a notice of appeal has been filed, the clerk of the Superior Court shall immediately send a copy to the attorney general and to the clerk of the Appellate Court in which the appeal has been filed.

d. Appeal From Decision on Motion. In noncapital cases, the party appealing a final decision on the motion shall file the notice of appeal with the clerk of the trial court within 20 days after entry of the decision in superior court, or within 14 calendar days after entry of the decision in a court of limited jurisdiction. In capital cases, the court, after denying a motion to vacate judgment, shall order the clerk to file a notice of appeal from the denial.

e. State's Motion to Vacate judgment. At any time after the entry of judgment and sentence, upon request of the state, the court may vacate the judgment on either of the following grounds:

- (1) There is clear and convincing evidence establishing that a defendant was convicted of an offense that the defendant did not commit; or
- (2) That the conviction was based on an erroneous application of the law.

*Additions to text are shown by underscoring.