



# Supreme Court

STATE OF ARIZONA

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June 9, 2005

**RE: RULES 4.2, 14.1, & 14.3, AZ RULES OF CRIMINAL PROC**  
Arizona Supreme Court No. R-03-0027

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on June 1, 2005, in regard to the above-referenced cause:

**ORDERED: Amended Rule 28 Petition to Amend Rules 4.2 and 14 Re Misdemeanors: Appointment of Counsel = DISMISSED.**

**FURTHER ORDERED: Second Amended Rule 28 Petition to Amend Rules 4.2 and 14 Re Misdemeanors: Appointment of Counsel = DISMISSED.**

**FURTHER ORDERED: Third Amended Rule 28 Petition to Amend Rules 4.2, 14.1, and 14.3 Re Misdemeanors: Appointment of Counsel = ADOPTED as modified, effective December 1, 2005.**

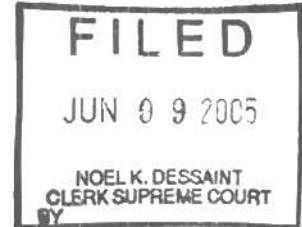
Noel K Dessaint, Clerk

TO:

Hon R Michael Traynor, Chairperson, Limited Jurisdiction Committee  
Hon George T Anagnost, Presiding Judge, Peoria Municipal Court  
Robert B Van Wyck, Chief Counsel, State Bar of Arizona  
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**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

Supreme Court No. R-03-0027



ORDER AMENDING  
RULES 4.2, 14.1, AND 14.3,  
ARIZONA RULES OF CRIMINAL PROCEDURE

IT IS ORDERED that Rules 4.2, 14.1, and 14.3, Arizona Rules of Criminal Procedure, be amended in accordance with the attachment hereto,\* effective as of December 1, 2005.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 9<sup>th</sup> day of June, 2005.

For the Court:

  
RUTH V. MCGREGOR  
Vice Chief Justice

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

# ARIZONA RULES OF CRIMINAL PROCEDURE

## RULE 4. INITIAL APPEARANCE AND ARRAIGNMENT

\* \* \*

### Rule 4.2. Initial Appearance

**a. In General.** At the suspect's initial appearance, the magistrate shall:

(1) Ascertain the suspect's true name and address and, if necessary, amend the formal charges to reflect it, and ~~instructing~~ the suspect to notify the court promptly of any change of address;

(2) Inform the defendant of the charges ~~against him or her~~;

(3) Inform the defendant of ~~his or her~~ the rights to counsel and the right to remain silent;

(4) Determine whether probable cause exists for the purpose of release from custody. If no probable cause is found, the defendant shall immediately be released from custody;

(5) Appoint counsel if the suspect is eligible for and requests appointed counsel under Rule 6;

(6) Consider ~~any views and~~ comments offered by the victim concerning the issue conditions of release. The magistrate ~~may~~ shall permit ~~provide~~ the victim ~~with an opportunity to submit his or her views and comments, orally or in writing,~~ on the issue of the suspect's release ~~in written form in lieu of oral testimony~~;

(7) Determine the conditions of release in accordance with Rule 7.2; and

(8) For summoned defendants charged with a felony offense, a violation of Title 13, Chapter 14, or Title 28, Chapter 4, or a domestic violence offense as defined in § 13-3601 the court shall order that the defendant be fingerprinted at the a designated time and place ~~by the appropriate law enforcement agency if the court has reasonable cause to believe it appears~~ that the defendant was not previously fingerprinted.

**b. Misdemeanors: Felonies Charged by Indictment.** [No change in text.]

**c. Felonies Charged by Complaint.** When a suspect is charged in a complaint, the magistrate shall, in addition to the procedures required by Section (a):

(1) Inform the suspect of ~~his or her~~ the right to a preliminary hearing and the ~~circumstances under which and~~ procedures by which that right may be waived; and

(2) Unless waived, set the time for a preliminary hearing in accordance with Rule 5.1.

\* \* \*

## **RULE 14. ARRAIGNMENT**

### **Rule 14.1. When held**

**a. In General.** Except as provided in sections (b), (c), and (d), these time limits shall apply: (1) for defendants in custody, an arraignment shall be held within 10 days ~~No later than 10 days~~ after the filing of an indictment, information, or complaint, ~~except as provided in sections (b) (c) and (d), an arraignment shall be held before the trial court;~~ (2) for defendants not in custody, an arraignment shall be held within 30 days after the filing of an indictment, information, or complaint.

**b. Special Situations.** [No change in text.]

**c. Exceptions for Limited Jurisdiction Courts.** An arraignment need not be held in cases where:

(1) The defendant's attorney has ~~previously notified the court in writing of the defendant's~~ appeared and entered a plea of not guilty.

(2) The court permits a defendant to enter a plea of not guilty by mail and receive a court date by mail. In those circumstances, ~~D~~delivery of the notice is presumed if deposited in the U.S. mail, addressed to the defendant at the defendant's last known address and the notice is not returned.

**d. Exception for Superior Court.** [No change in text.]

**e. Combined Proceedings.** [No change in text.]

\* \* \*

### Rule 14.3. Proceedings at arraignment

The court shall:

a. Ascertain the defendant's plea of not guilty, guilty, or no contest. Unless he the defendant pleads guilty or no contest, the court shall enter a plea of not guilty ~~on his behalf.~~

b. Hear and decide motions concerning the conditions of release under Rule 7. Unless the arraignment is held in conjunction with the defendant's initial appearance before a magistrate under Rule 4.2, a contested release motion shall be heard only if upon at least 5 days prior notice of the motion has been given, unless such time is waived by all parties.

c. Set the date for trial or pretrial conference.

d. Advise the parties in writing of the dates set for further proceedings and other important deadlines.

e. Advise the defendant of ~~defendant's~~ the right to be present at all future proceedings, that ~~any~~ proceedings may be held ~~regardless of~~ in the defendant's absence, or that defendant may be charged with an offense and a warrant issued for defendant's arrest without further notice.

f. Advise the defendant of the right to jury trial, if applicable.

g. For misdemeanors, inform the defendant of the right to counsel and the right to court-appointed counsel if eligible. As necessary, the court shall appoint counsel.

\* \* \*