

Arizona Supreme Court Staff Attorneys' Office
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IN THE SUPREME COURT OF ARIZONA

In the Matter of)
) Arizona Supreme Court No. _____
SUA SPONTE PETITION TO)
AMEND RULE 8, RULES OF)
PROCEDURE FOR SPECIAL) SUA SPONTE PETITION TO AMEND
ACTIONS) RULE 8, RULES OF PROCEDURE
) FOR SPECIAL ACTIONS
_____)

Pursuant to Rule 28(B), Rules of the Supreme Court, the Arizona Supreme Court Staff Attorneys' Office submits this sua sponte petition to adopt amendments to Rule 8, Rules of Procedure for Special Actions, on an expedited basis, as proposed in the Attachment hereto.

Currently, Rule 8 provides that the “[g]rant or denial of special action relief by the Court of Appeals . . . shall be reviewed by the Supreme Court only upon petition for review, pursuant to Rule 23, Rules of Civil Appellate Procedure.” When a petition for review is filed, a filing fee must be paid. *See* A.R.S. § 12-119.01(A). Pursuant to A.R.S. § 12-120.32(B), however, “[n]o fee may be charged for filing a special action or a response to a special action arising out of a criminal case if the defendant has been declared indigent by the trial court.” The same should hold true for a petition for review from a Court of Appeals’ special action decision arising out of a criminal case.

Accordingly, Rule 8 should be amended to clarify that indigent defendants may not be charged court fees under these circumstances. Expedited processing is warranted because under the annual rule processing cycle, the rule amendments would not take effect until January 1, 2017. Indigent defendants should not have to wait that long to have this issue remedied.

Petitioner respectfully requests that the Court adopt the proposed amendments, as reflected in the Attachment to this Petition, on an expedited basis and with a comment period to follow.

DATED this ____ day of July, 2015.

Ellen M. Crowley
Chief Staff Attorney, Arizona Supreme Court

ATTACHMENT*

RULES OF PROCEDURE FOR SPECIAL ACTIONS

* * *

Rule 8. Appeals

(a) [No change in text.]

(b) In a civil matter, ~~g~~Grant or denial of special action relief by the Court of Appeals, including a refusal to take jurisdiction in the case, shall be reviewed by the Supreme Court only upon petition for review, pursuant to Rule 23, Rules of Civil Appellate Procedure.

(c) If a special action arises out of a criminal case, review of the decision of the Court of Appeals by the Supreme Court shall be by way of a petition for review pursuant to Rule 31.19, Arizona Rules of Criminal Procedure. If the defendant in such a case has been declared indigent by the trial court, no court fees may be assessed.

(d) A party seeking a stay or expedited processing of the petition for review may file a motion in the Supreme Court.

~~(e)~~(e) Any petition for review filed in accordance with rule 8(b) or (c) should be captioned as follows: "Petition for Review of a Special Action Decision of the Court of Appeals."

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