

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-09-0033
SUA SPONTE AMENDED PETITION)
TO AMEND RULE 6.8, ARIZONA)
RULES OF CRIMINAL PROCEDURE)
)
) **FILED 09/02/2010**
)
)
_____)

**ORDER
AMENDING RULE 6.8, ARIZONA RULES OF CRIMINAL PROCEDURE**

A sua sponte amended petition having been filed proposing to amend Rule 6.8, Arizona Rules of Criminal Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 6.8, Arizona Rules of Criminal Procedure, be amended in accordance with the attachment hereto, effective January 1, 2011.

DATED this _____ day of September, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution

mwa

ATTACHMENT¹

Arizona Rules of Criminal Procedure

Rule 6.8. Standards for appointment and performance of counsel in capital cases.

a. General. To be eligible for appointment in a capital case, an attorney

(1) Shall have been a member in good standing of the State Bar of Arizona for at least five years immediately preceding the appointment;

(2) Shall have practiced in the area of state criminal litigation for three years immediately preceding the appointment; and

(3) Shall have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases.

If an attorney is a member in good standing of the State Bar of Arizona, an attorney's practice in a federal jurisdiction or another state may be considered for purposes of satisfying the requirements of subsections (1) through (3).

b. [No change in text.]

c. Appellate and Post-conviction Counsel. To be eligible for appointment as appellate or post-conviction counsel, an attorney must meet the qualifications set forth in section (a) of this rule and the following:

(1) Appellate counsel. Within three years immediately preceding the appointment, ~~the attorney shall have been lead counsel in an appeal or post-conviction proceeding in a case in which a death sentence was imposed (including petitions for review of post-conviction proceedings), as well as and have prior experience as lead counsel in the appeal of at least three felony convictions and at least one post-conviction proceeding that resulted in an evidentiary hearing.~~ Alternatively, an attorney must have been lead counsel in the appeal of at least six felony convictions, including at least two of which were appeals from first or second degree murder convictions, and lead counsel in at least two post-conviction proceedings that resulted in evidentiary hearings.

(2) Post-conviction counsel. Within three years immediately preceding the appointment, the attorney shall have been lead counsel in a trial in which a death sentence was sought, or in an appeal or post-conviction proceeding in a case in which a death sentence was imposed, and have prior experience as lead counsel in the appeal of at least three felony convictions and a trial or post-conviction proceeding with an evidentiary hearing. Alternatively, the attorney must have been lead counsel in the appeal of at least six felony convictions, including two appeals from first or second degree murder convictions, and lead counsel in at least two felony trials or post-conviction proceedings with evidentiary hearings.

~~(2)-(3)~~ The attorney shall hHave attended and successfully completed, within one year prior to the initial appointment, at least six hours of relevant training or educational programs in the area of capital defense, and within one year prior to any subsequent appointment, at least twelve hours of relevant training or educational programs in the area of criminal defense.

~~(3)~~ (4) The attorney sShall be familiar with and guided by the performance standards in the 2003 American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

Death Penalty Cases.

d. [No change in text.]