

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-13-0004
PETITION TO AMEND RULE 15.8,)
ARIZONA RULES OF CRIMINAL)
PROCEDURE)
) **FILED 11/14/2013**
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_____)

**ORDER
AMENDING RULE 15.8, ARIZONA RULES OF CRIMINAL PROCEDURE,
ON AN EXPEDITED BASIS**

A petition having been filed proposing to amend Rule 15.8, Arizona Rules of Criminal Procedure, comments having been received, and a new draft amendment to Rule 15.8 having been proposed, upon consideration,

IT IS ORDERED that Rule 15.8, Arizona Rules of Criminal Procedure, be amended on an expedited basis pursuant to Rule 28(G), Rules of the Supreme Court, in accordance with the attachment hereto, effective January 1, 2014.

IT IS FURTHER ORDERED that this matter be re-opened for comment in accordance with Rule 28(G)(2), Rules of the Supreme Court. Comments shall be due May 20, 2014.

DATED this 14th day of November, 2013.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
John A Furlong
Barbara LaWall
Mark C Faull
Sheila Sullivan Polk
Elizabeth B Ortiz
Jeremy D Mussman
David J Euchner

ATTACHMENT*

RULES OF CRIMINAL PROCEDURE

Rule 15.8. Disclosure prior to expiration of a plea deadline offer; sanctions

a. ~~If the prosecution has imposed a plea deadline i~~n a case in which an indictment or information has been filed in Superior Court, ~~but does not~~ when extending a plea offer, the prosecutor must provide the defense with material disclosure listed in Rule 15.1(b) then within the prosecutor's possession, if the prosecutor has not previously made such disclosure. If the disclosure is made less than at least 30 days before the offer expires or is withdrawn, sanctions may be imposed under Rule 15.8(b), unless the prosecutor reasonably believes that an offer should be withdrawn because, in light of new information, it is contrary to the interests of justice. prior to the plea deadline, While a plea offer is pending, the prosecutor must continue to comply with Rule 15.6, but additional disclosures under that rule do not extend the 30-day period.

b. ~~the court, u~~Upon motion of the defendant, the court shall consider the impact of the prosecutor's failure to provide such disclosure comply with Rule 15.8(a) on the defendant's decision to accept or reject a plea offer. If the court determines that the prosecutor's failure to provide such disclosure materially impacted the defendant's decision and the prosecutor declines to reinstate the lapsed or withdrawn plea offer, then the presumptive minimum sanction shall be preclusion from admission at trial of any evidence not disclosed ~~at least 30 days prior to the deadline~~ as required by Rule 15.8(a). Disclosure of evidence, including the results of any scientific testing, after the offer expires or is withdrawn does not violate Rule 15.8(a) as long as the disclosure did not exist when the offer was extended.

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