

MINUTES  
Supreme Court's Advisory Committee  
on the Rules of Criminal Procedure

Administrative Office of the Courts  
450 South State Street  
Salt Lake City, Utah 84111

March 20, 2018  
12:00 p.m. – 2:00 p.m.

**Attendees**

Douglas Thompson – Chair  
Judge Patrick Corum  
Jeffrey S. Gray  
Blake Hills  
Judge Elizabeth Hruby-Mills  
Craig Johnson  
Keri Sargent  
Judge Kelly Schaeffer-Bullock  
Ryan Stack  
Cara Tangaro

**Excused**

Professor Jensie Anderson

**Staff**

Brent Johnson  
Jeni Wood – recording secretary

**Guests**

Patricia Owen

**I. WELCOME/APPROVAL OF MINUTES**

Douglas Thompson welcomed the committee members to the meeting. Mr. Thompson introduced Patricia Owen, from the Office of Legislative Research and General Counsel. Mr. Thompson also introduced Keri Sargent, who is the Sixth District Clerk of Court. Ms. Sargent replaces Maureen Magagna, who retired. Mr. Thompson congratulated Judge Patrick Corum on his judgeship. Judge Corum is now filling one of the district court judge positions on the committee.

The Committee discussed the November 21, 2017 minutes. There being no changes to the minutes, Judge Patrick Corum moved to approve the minutes. Jeffrey Gray seconded the motion. The motion carried unanimously.

**II. RULES UPDATE**

Brent Johnson said the Supreme Court approved rules 7, 7A, 7B, 7C, 9, and 9A with an effective date of May 1, 2018. Mr. Johnson noted rule 18 recently went out for public comment.

### **III. RULES 11, 12, 22, and 36**

Mr. Johnson noted these rules were approved by the Supreme Court with an effective date of May 1, 2018. Mr. Thompson explained his proposed changes to rule 22. The changes clarify that a court must appoint counsel on appeal, upon request. After discussion, the committee recommended amending the proposed rule.

Judge Corum moved to approve rule 22 as amended. Cara Tangaro seconded the motion. The motion carried unanimously. This rule will be published for public comment.

### **IV. RULE 16**

Judge Corum explained Senator Weiler's recommendation to revise rule 16. Judge Kelly Schaeffer-Bullock questioned if a prosecutor would need to provide documents to a pro se defendant and then provide the same documents later to the defendant's counsel. Blake Hills said his office provides all their information as soon as possible. Cara Tangaro noted most district attorney offices are changing to electronic discovery. The committee recommended changes to rule 16.

Craig Johnson will research issues discussed at the meeting. Judge Corum will make changes according to committee recommendations. The rule will be discussed at the next meeting.

### **V. RULE 8**

Mr. B. Johnson distributed a proposal to rule 8. Mr. B. Johnson said the Committee on the Rules of Appellate Procedure may repeal rule 38 on appointed counsel. Rule 11-401, creating a new board to certify appellate defense attorneys, will be effective May 1, 2018. However, it will take several months to compile a list of approved appellate attorneys. The proposed change to rule 8 will require appointment of counsel in appellate cases from the approved list.

Mr. Thompson will research Shelton cases and report back to the committee at the next meeting.

### **VI. RULE 14(b)**

This rule was not discussed.

### **VII. RULE 7C**

Mr. B. Johnson said the Supreme Court did not approve the version of rule 7C that was submitted. Mr. Hills strongly believes the current rule should be changed to reflect the concepts in proposed rule 7C.

Mr. Hills will revise rule 7C with the committee proposed suggestions and address it at the next meeting.

**VIII. RULE 9A**

Mr. B. Johnson noted this rule has been approved by the Supreme Court. However, he would like to remove sections (a)(1) and (a)(2) because they do not add anything.

Judge Corum moved to approve rule 9A as amended by the committee. Judge Elizabeth Hruby-Mills seconded the motion. The motion carried unanimously.

**IX. STATE v. OGDEN**

Mr. Thompson reviewed this recent Supreme Court opinion that addresses restitution. Mr. Thompson said there may be a group of attorneys who will be proposing rule amendments. Mr. Thompson will address this at the next meeting.

**X. RULE 27**

Mr. Thompson would like more time to review the information sent in 2017. Mr. Thompson will address this at the next meeting.

**XI. SUBCOMMITTEE UPDATES**

Ryan Stack discussed proposed changes to rule 12. Ms. Tangaro addressed S.B. 171, Intervention Amendments. Ms. Tangaro noted the Governor has not approved this bill so there is a possibility he may veto it. Mr. Stack said his subcommittee discussed rule 24 of the Rules of Civil Procedure. Mr. Stack will discuss proposed changes to rule 12 with the subcommittee.

**XII. OTHER BUSINESS**

There was no other business discussed.

**XIII. ADJOURN**

The meeting adjourned at 1:34 p.m.