

Criminal Jury Instructions Committee

Minutes – December 14, 2018

Present in Person (11):

Hon. Sam Myers
Mikel Steinfeld
Steve McCarthy
Kenneth Vick
Antonio Zuniga
Carlos Carrion
Leonardo Ruiz
Alice Jones
Michael Breeze
Todd Lawson (proxy for Shawn Steinberg)
Hon. James Beene

Present Telephonically (8):

David Euchner
Sarah Mayhew
Hon. Gerald Williams
Bruce Chalk
William Wallace
Hon. Julie Mata
Elizabeth Bingert
Hon. Danelle Liwski

Absent (7):

Robert McWhirter
Hon. Alicia Skupin
Hon. Jason Holmberg
Robb Holmes
Hon. Maria Brewer
Jennifer Linn
Paul Hawkins

1. Call to Order by The Honorable Sam Myers: 2:00PM

2. Agenda Items:

- a. Minutes of 11/16/18 meeting approved unanimously.
 - i. Steinfeld moves
 - ii. Euchner second
- b. Discussion of 2019 State Bar Convention
 - i. McCarthy names date and time, title, and panelists
- c. Capital Jury Instruction 2.3
 - i. Discussion initiated by McCarthy
 - ii. Attorney Kirsten Valenzuela of the Maricopa County Attorney's Office addresses the committee as a member of the public
 - iii. McCarthy moves
 1. Zuniga second
 2. Motion **fails** with 9 in favor and 11 opposed
- d. Renumber Standard Criminal Instructions and revisions to current Standard Criminal Instructions 15, 16, 46 & 52
 - i. Zuniga moves to adopt the renumbering
 1. Carrion second
 2. Motion to adopt renumbering **passes** unanimously
 - ii. Steinfeld moves to adopt renaming of standard #9
 1. Breeze second
 2. Four opposed
 3. Motion **passes** to rename #9 "Defendant need not produce evidence"
 - iii. Steinfeld moves to adopt renaming of #13
 1. Zuniga second
 2. Motion **passes** unanimously to rename #13 "Redacted exhibits"
 - iv. Standard Criminal 15
 1. Vick moves to adopt changes to standard criminal 15 – Defendant Need Not testify
 - a. Steinfeld second
 - b. Motion to adopt changes **passes** unanimously
 - v. Standard Criminal 16
 1. Jones moves to adopt changes to standard criminal 16
 - a. Zuniga second
 - b. Motion to adopt changes **passes** unanimously
 - vi. Standard Criminal 46 Closing Instruction (renumbered to #52)

1. Steinfeld moves to remove the second and third sentences of the first paragraph
 - a. Breeze second
 - b. Motion **passes** unanimously
 2. Steinfeld moves to approve addition of “six” in two places in the second to last paragraph
 - a. Breeze second
 - b. Motion **passes** unanimously
 3. Euchner moves to delete everything after word “follows” in last paragraph
 - a. No vote
 4. Lawson moves to bracket everything after word “follows” in last paragraph
 - a. Jones second
 - b. Motion **passes** unanimously
 - vii. Standard Criminal 52 Jury Foreperson (renumbered to 45)
 1. Euchner moves to make the proposed changes
 - a. Zuniga second
 - b. Motion **passes** unanimously
 - viii. Note: Euchner and Hon. Mata leave the conference call
 - e. Statutory Criminal 12.02, 23.12A, 23.12B, 23.12C(1), 23.12C(2), and 31.0216
 - i. Proposals withdrawn by Lawson
 - f. Statutory Criminal 38.22
 - i. Proposal withdrawn by Sarah Mayhew
 - g. Title 28 Statutory Instructions
 - i. Steinfeld moves to approve all five instructions
 1. Jones second
 2. Motion **passes** with one abstention (Zuniga)
 - h. 3:15PM Call to Public
 - i. Final Comments – Hon. Sam Myers will circulate the changes to us before January 1st.
 - j. Meeting adjourns
- 3. Meeting Adjourns 3:20PM**