

Criminal Jury Instructions Committee

Minutes – October 1, 2021

Present via Zoom (17):

Jamiel Allen
Michael Breeze
Carlos Carrion
Bruce Chalk
David Euchner (proxy vote for Mikel Steinfeld)
Jillian Francis
Kush Govani
Rob Holmes
Alice Jones
Samantha Kluger
Karen Komrada
Jennifer Linn (proxy vote for Ellen Dahl)
Sarah Mayhew
Steve McCarthy
Michael Minicozzi
Shawn Steinberg (proxy vote for Todd Lawson)
Greta Vietor

Absent (3):

Hon. Patricia Starr
Elizabeth Bingert
Hon. Danelle Liwski

1. Call to Order by Carlos Carrion: 1:30 pm

2. Agenda Items:

- a. Approval of May 5, 2021 Meeting Minutes
 - i. Breeze Motion
 - ii. Linn second
 - iii. Steinfeld second
 - iv. Vote (Euchner abstains)
 - v. Motion passes
- b. Welcome New Members
 - i. Jillian Francis, Michael Minicozzi, Samantha Kluger
- c. Proposed Modification to Standard 42 – Shawn Steinberg
 - i. Correction to word “State” typo corrected
 - ii. Steinberg explanation of proposal – wants to add State v. Hernandez, 250 Ariz. 28 (2020) as a source use note
 - iii. Euchner – Hernandez was his case
 - iv. Carrion catches another typo – capitalize “P” in Glissendorf P.3d under source
 - v. Steinberg – moves to add cite to Hernandez and add last two sentences of paragraph 23
 - vi. Euchner second
 - vii. Motion Passes Unanimously
- d. Proposed Revisions to Instruction 14.01.04 Michael Minicozzi
 - i. Jones – voices concern that instruction not based on statutory definition of intercourse
 - ii. Euchner – insufficient case law and we can’t add to statutory language
 - iii. Linn – would like us to remember this conversation when we discuss unconscious bias
 - iv. Govani – believes we’re going beyond the scope

- v. Mayhew – believes the proposal adds ambiguity
- vi. Euchner move to reject proposal
- vii. Breeze second
 - 1. Instruction rejected
 - a. Nay votes – Minicozzi, Steinberg, Lawson, Komrada, Allen, Linn, Dahl
 - b. Abstain – Kluger
- e. Accomplice Liability Based on Result (3.03B)
 - i. Discussion on adding cases to source note re mental states
 - ii. Jones agrees State v. Nelson might be a good cite to include
 - iii. Euchner includes two cases in chat: State v. Garnica and State v. Nelson
 - iv. Jones moves to approve, Euchner second
 - v. MPU with addition of two cited cases: State v. Garnica, 209 Ariz. 96, 98 P.3d 207 (App. 2004); State v. Nelson, 214 Ariz. 196, 150 P.3d 769 (App. 2007).
- f. Proposed revisions to existing manslaughter and DUI instructions – Jillian Francis/Alice Jones
 - i. Jones – Manslaughter by aiding suicide proposal
 - 1. Jones moves, Euchner second
 - 2. Motion passes unanimously
 - ii. Manslaughter by advising or encouraging suicide of a minor
 - 1. Jones moves, Euchner second
 - 2. Motion passes unanimously
- g. Francis – attempted second degree murder
 - i. Mayhew – Oral argument before SCOAZ scheduled for November
 - ii. Mayhew moves to table – Francis is fine tabling (second)
 - iii. Motion passes unanimously to table
- h. Agg DUI

- i. Francis moves
- ii. Euchner second
 - 1. No vote occurs
 - 2. Discussion re adding something after comment in use note – when knowledge of ignition interlock device may be presumed
 - 3. Current cite to Nelson will be included
- iii. Vote on above the line
 - 1. Francis moves, Euchner second
 - 2. Motion passes unanimously
- iv. Vote on below the line
 - 1. Komrada moves to add use note with change to Nelson cite
 - 2. Euchner second
 - 3. Motion passes unanimously
- v. Apply the changes proposed by Francis to all DUI proposals
 - 1. Mayhew moves, Jones second
 - 2. Motion passes unanimously
- i. Implicit Bias proposal
 - i. Withdrawn
- j. Committee will act on Attempted Second Degree Murder instruction when courts decide Fierro
 - i. We will have quick virtual meeting – Jones and Mayhew will let us know
- k. Euchner moves to adjourn
 - i. Meeting ends 2:34PM.