

AGENDA

COLORADO SUPREME COURT ADVISORY COMMITTEE ON RULES OF CRIMINAL PROCEDURE

Friday, April 18, 2025, 12:45 p.m.
Ralph L. Carr Colorado Judicial Center
2 E. 14th Ave., Denver, CO 80203
Fourth Floor, Supreme Court Conference Room

- I. Call to Order
- II. Approval of Minutes from January 17, 2025, Meeting
- III. Announcements from the Chair
- IV. Business
 - A. Legislative Subcommittees
 - B. 2024 Legislative Bills Update – (John Lee)
 - a. HB23-1151 and 48-Hour Bond Hearings (Judge Gerdes, Kevin McGreevy, and Johanna Coats)
 - b. SB23-254 and Crim. P. 41 (Abe Hutt, Judge VanGilder, and Christian Champagne)
 - c. HB23-1187 and Crim. P. 35 (Judge Vigil, Karen Taylor, and Kevin McReynolds)
 - C. Crim. P. 37 and 37.1 Following Changes to C.A.R. 10 (Judge Harris and Johanna Coats)
 - D. Crim. P. 16 – Attorney Request to Update Language for Modern Forms of Communication (Judge Malone, Magdalena Rosa, and Kevin McReynolds)
 - E. Crim. P. 35(c) – (Judge Gerdes, Johanna Coats, and Karen Taylor)
 - F. Gendered Language Removal from the Criminal Rules – (Judge VanGilder)
- V. Future Meetings: July 18; October 17
- VI. Adjourn

NOTICE
ANYONE WISHING TO INQUIRE ABOUT AN AGENDA ITEM
MAY CONTACT THE CHAIRPERSON OF THE COMMITTEE,
JUDGE ELIZABETH L. HARRIS, AT 720-625-5330.

**COLORADO SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF CRIMINAL PROCEDURE
Minutes of Meeting**

Friday, January 17, 2025

A quorum being present, the Colorado Supreme Court’s Advisory Committee on the Rules of Criminal Procedure was called to order by Judge Elizabeth Harris at 12:45 pm in the Supreme Court Conference Room. Members present at or excused from the meeting were:

Name	Present	Excused
Judge Elizabeth Harris, Chair	X	
Christian Champagne	X	
Johanna Coats	X	
Judge Kandace Gerdes	X	
Abe Hutt	X	
Judge Chelsea Malone	X	
Kevin McGreevy		X
Kevin McReynolds	X	
Judge Dana Nichols	X	
John Lee	X	
Magdalena Rosa	X	
Karen Taylor	X	
Judge Lindsay VanGilder	X	
Judge Vincente Vigil	X	
Karen Yacuzzo (non-voting participant)	X	

- I. Attachments & Handouts**
 - A. January 17, 2025 agenda
 - B. October 18, 2024 minutes

- II. Approval of Minutes**
October 18, 2024, minutes were approved as submitted.

- III. Announcements from the Chair**
Chair Judge Harris introduced a new member, Kevin McReynolds, who is taking Sheryl Berry’s place on the committee. Ms. Berry is transitioning to retirement.

- IV. Business**
 - A. Legislative Subcommittees**
 - i. HB23-1151 (Judge Gerdes, Kevin McGreevy, and Johanna Coats)**
Judge Gerdes is working to gather feedback from the chief judges of the various judicial districts and will report back when there is more information. The chief

judges are in the middle of a transition, which is causing a delay in gathering feedback.

ii. SB23-254 (Abe Hutt, Judge VanGilder, and Christian Champagne)

The subcommittee is working on the proposal and will send out the current draft for feedback.

iii. HB23-1187 (Judge Vigil, Karen Taylor, and Kevin McReynolds)

Kevin McReynolds is taking Sheryl Berry's role on this subcommittee.

B. Crim. P. 35(c) (Judge Gerdes, Johanna Coats, and Karen Taylor)

The subcommittee discussed issues that are on the horizon for this rule. The committee agrees that it needs a great deal.

C. Crim. P. 37 and 37.1 Following Changes to C.A.R. 10 (Judge Harris and Johanna Coats)

Judge Harris met with some district court clerks who handle the appeals from county court to district court. The clerks discussed the need to make the county court rules consistent with C.A.R. 10 to promote clarity. Rule 37 can either be changed slightly or overhauled for a more user-friendly experience. Judge Harris noted that some pro-se litigants use this rule, so the latter might be helpful. Judge Harris will present two options for the committee's consideration.

D. Gendered Language in the Rules

As the committee considers individual rules, gendered language will be removed.

E. Crim. P. 16 – Attorney Request to Update Language for Modern Forms of Communication (Judge Harris)

The committee received a request for an amendment to Crim. P. 16 to expand the definition of "statements" and "documents" to include electronic forms of communication. A subcommittee — Judge Malone, Magdalena Rosa, and Kevin McReynolds — will consider the request and make recommendations. Members noted that amendments could significantly impact the discovery process and might implicate professional conduct rules as well, so the committee should proceed cautiously and elicit input from multiple stakeholders before recommending any changes to the supreme court.

The committee adjourned at 1:36 pm.

II. Future Meetings

April 18, July 18, October 17

April 18, 2025

MEMORANDUM

TO: Rules of Criminal Procedure Committee
FROM: Legislative Subcommittee
RE: 2024 Legislation that may call for amendments to the Colorado Rules of Criminal Procedure.

Eighteen criminal law bills were passed in the 2024 legislative session. One of those Bills may call for an amendment to the Colorado Rules of Criminal Procedure. Two of the Bills implicate the rules of procedure, but they likely do not require any amendments. The remaining fifteen do not appear to require any amendments.

Below is an overview of these Bills and what impact, if any, they have on the Rules of Criminal Procedure.

SUMMARY OF THE BILL THAT MAY REQUIRE CONSIDERATION OF AMENDMENT TO THE RULES OF CRIMINAL PROCEDURE:

HB 24-1345 implicates Crim. P. 35(c).

The Bill allows a victim of human trafficking to file, at any time, a motion to vacate a conviction, except for a victim rights act crime, where the victim committed the offense as a result of being a victim of human trafficking, so long as the victim did not raise a human trafficking affirmative defense at trial.

Given that the Bill creates a new path for post-conviction relief, and without a time limit, an amendment to Rule 35 might be appropriate.

Crim. P. 35(c)(3)(I) provides “That any motion filed outside of the time limits set forth in § 16-5-402 . . . shall allege facts, which if true, would establish one of the exceptions listed in § 16-5-402.” It’s unclear which exception, if any, the “at any time” relief allowed under HB 24-1345 would fit under § 16-5-402. So, for clarity and/or to avoid conflict, a change to Crim. P. 35(c) might bear consideration.

SUMMARY OF BILLS THAT IMPLICATE RULES OF PROCEDURE BUT APPEAR TO NOT REQUIRE ANY AMENDMENTS:

HB 24-1133 possibly implicates Crim. P. 43.

The Bill amends several provisions governing the sealing of a criminal record. While the Rules of Criminal Procedure largely do not address motions to seal, the Bill also changes the law to allow any party to appear at a motion to seal proceeding by interactive audiovisual device or interactive audio device. Accordingly, the Bill allows for any party, including a defendant, to appear remotely without the court's approval.

Crim. P. 43 addresses the "Presence of the Defendant." While section (a)'s terms require a defendant's presence from preliminary hearing through sentencing, other features of the rule address post-sentencing and post-conviction hearings. *See* Crim. P. 43(c)(3) and (e)(3)(IX). Crim. P. 43(e)(2) allows a defendant to appear through an interactive audiovisual device or interactive audio device "within the meaning of this Rule 43" with "court approval." As Crim. P. 43's terms do not directly apply to record sealing proceedings, no change to the rule is necessary. But to the extent there's confusion as to whether Crim. P. 43 and its terms apply to record sealing proceedings, a change could be considered.

HB 24-1034 modifies the rules around competency – but it does not appear to mandate any changes to the rules.

The Bill modifies procedures for when a defendant is incompetent to proceed but the court finds there is a substantial probability that the defendant will attain competency with restorative services. For example, the Bill modifies the law to make a defendant's participation in restorative services a condition of bond.

As relevant here, although the Bill requires dismissal when the highest charged offense is a Class 4 Felony and the defendant has been in the custody of restoration services or otherwise detained for an aggregate period of two years, that change does not appear to require any amendments to Crim. P. 48, the rule regarding dismissal. That rule applies to identified situations where a court *may* dismiss a case. A change does not appear necessary.

SUMMARY OF OTHER BILLS PASSED AND WHY THEY DO NOT APPEAR TO IMPLICATE ANY AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE:

Bills that change criminal procedure, but do not appear to require amendments:

HB 24-1225 – Creates an exception to bail in cases where a defendant is charged with murder in the first degree and “when proof is evident or presumption great.” Crim. P. 46 sets forth that in determining bail, the Court shall be governed by the statutes and the state and federal constitutions. No change is needed.

The Bill also polishes the language regarding peremptory challenges. The Bill did not, however, materially change any of the existing provisions. No change to Crim. P. 24 appears necessary.

HB 24-1445 – The Bill amends § 17-2-201, C.R.S., to allow, when not inconsistent with other conditions imposed by the court, a probationer to meet with a probation officer at reasonable times through telephone/audio visual communication that must be scheduled, in good faith by the probation officer, with a probationer at mutually agreeable times. That change does not appear to require any consideration of changes to the Rules of Criminal Procedure.

The Bill also amends § 18-1.3-204, C.R.S. Under that statute, a court may, as a condition of probation, require a probationer to pay various fees including a probationary supervision fee. The Bill amends that statute to prohibit ordering a person to pay probationary supervision fees in more than one case. Crim. P. 32(e) sets forth that a court may order conditions of probation that, in the court’s discretion, are “reasonably necessary to ensure that the defendant will live a law-abiding life and to assist the defendant to do so.” While the rule’s broad grant of authority to courts does not contain language like “unless unauthorized by law,” in imposing a discretion standard, the rule inherently limits a court’s discretion to the bounds of the law. Accordingly, a change does not appear necessary.

Bills just creating new offenses or modifying existing offenses:

HB 24-1056 – Creates a class 2 misdemeanor for inducing another to enter an agreement for compensation for recovering or assisting in recovery of an amount due to a property owner from the treasury. The Bill also entitles aggrieved parties to costs when contesting the amount in a statement of redemption based on a material misstatement—but that is in a civil action.

HB 24-1074 – Expands and modifies offense of aggravated cruelty to a law enforcement animal.

HB 24-1150 – Adds crime of filing a false slate of presidential electors.

HB 24-1254 – Makes it a misdemeanor for a person to violate one of several new provisions regulating tissue banks.

HB 24-1354 – Creates civil and criminal penalties on pet care facilities for failing to make reasonable attempts to notify all individuals who own a pet animal that is in the possession of the pet facility during a reported outbreak.

SB 24-011 – Amends §§ 18-7-108 and 18-7-109, C.R.S., the offenses of posting a private image for pecuniary gain and posting, possession, or exchange of a private image by a juvenile, to expressly provide that it is not a defense to either offense that the image was partially digitally created or altered.

SB 24-035 – Modifies affirmative defense and statute of limitations for the offense of human trafficking for servitude.

SB 24-108 – Creates offense of unlawful affiliation with a public safety radio network as a class 2 misdemeanor.

SB 24-189 – Amends bias-motivated crimes and harassment to include transgender identity and adding a definition of transgender identity.

Bill impacting evidentiary issues in criminal law:

HB 24-1072 – Amends the procedures courts must follow when determining the admissibility of evidence related to, among other things, the sexual conduct and/or false reporting history of a victim or witness, the victim's manner of dress, and the victim's hairstyle.

Bills creating or amending criminal justice programs:

HB 24-1355 – Creates “Bridges wraparound program,” a community-based alternative to competency proceedings for certain criminal offenses.

SB 24-120 – Amends approval process and types of compensable losses eligible for compensation under the Crime Victim Compensation Act.

Miscellaneous bill:

SB 24-003 – Gives CBI authority to investigate criminal activity involving firearms.

TO: Judge Harris; Criminal Rules Committee

FROM: 48-hour Bond Hearing Subcommittee

DATE: April 14, 2025

RE: Status of Recommending changes to the Rules

Since our last meeting, the subcommittee was granted an audience with the Chief Judge's Council. Through their appointed liaison, the undersigned has been advised that since the enactment of the statute, the Chief Judges Council has determined that the changes have been implemented such that Rule changes are not believed to be necessary.

The subcommittee requests that the Criminal Rules Committee accept the subcommittee's recommendation to close out this topic with no further action.

Respectfully submitted,

Hon. Kandace C. Gerdes on behalf of the subcommittee

RULE 37

(a) Filing Notice of Appeal and Docketing Appeal. The district attorney may appeal a question of law, and the defendant may appeal a judgment of the county court in a criminal action, under simplified procedure to the district court of the county. To appeal, the appellant shall, within 35 days after the date of entry of the judgment or the denial of post-trial motions, whichever is later, file a notice of appeal in the county court, post such advance costs as may be required for the preparation of the record, and serve a copy of the notice of appeal upon the appellee. The appellant shall also, within such 35 days, docket the appeal in the district court and pay the docket fee. No motion for new trial or in arrest of judgment shall be required as a prerequisite to an appeal, but such motions if filed shall be pursuant to Rule 33(b) of these Rules.

(b) Contents of Notice of Appeal and Designation of ~~Transcripts, Record.~~ The notice of appeal shall state with particularity the alleged errors of the county court or other grounds relied upon for the appeal and shall include a designation of all transcripts necessary for resolution of the issues raised on appeal, and shall include a stipulation or designation of the evidence and other proceedings which the appellant desires to have included in the record certified to the district court. ~~If the appellant intends to urge upon appeal that the judgment or a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion.~~ The appellee shall have 14 days after service upon him of the notice of appeal to file with the clerk of the county court and serve upon the appellant a designation of any additional transcripts parts of the transcript or record which the appellee he deems necessary. ~~If ordered by the court, the~~ The advance cost of preparing the additional transcript(s) record shall be posted by the appellant with the clerk of the county court within 7 days after service upon him of the appellee's designation of transcripts, or the appeal will be dismissed. If the district court finds that any part of the additional transcripts record designated by the appellee was unessential to a complete understanding of the questions raised by the appeal, it shall order the appellee to reimburse the appellant for the cost advanced for the preparation of such part without regard to the outcome of the appeal.

(c) Contents of Record on Appeal. Upon the filing of a notice of appeal and, unless the appellant is granted leave to proceed as indigent, upon the posting of any advance costs by the appellant, as are required for the preparation of any transcripts, a record, unless the appellant is granted leave to proceed as an indigent, the clerk of the county court shall prepare and issue as soon as possible a record of the proceedings in the county court. The record on appeal in all cases shall consist of (1) all documents filed in the county court case as of the date of filing of a notice of appeal or any amended notice of appeal; (2) transcripts designated in accordance with section (b) or, if a transcript is unavailable, a statement of the evidence or proceedings certified

Commented [eh1]: What costs is this referring to - costs for the transcripts? So the appellant has 35 days to file the notice of appeal and designation of transcripts and to pay in advance for the transcripts? If yes, I think that could be clearer and should be noted in section (b).

Commented [eh2]: Can this be clearer - I assume this means that the appellant has to file the notice of appeal in the district court. Should we just say that?

Commented [eh3]: This feels like outdated language. What about: "No motion for a new trial or other post-trial relief shall be required ..." (Crim. P. 33(b) is entitled "Motions for New Trial or Other Relief Directed by the Court.")

Commented [eh4]: Question: if appellants ordinarily file a separate form to designate transcripts, then do we need to say something like, "Within the time for filing the notice of appeal, the appellant shall separately designate all transcripts necessary for resolution of the issues raised on appeal" rather than saying that the designation is included in the NOA.

by the county court; and (3) any timely filed post-trial motion, responses to the motion, and any order on the post-trial motion. ~~including the summons and complaint or warrant, the separate complaint if any has been issued, and the judgment. The record shall also include a transcription or a joint stipulation of such part of the actual evidence and other proceedings as the parties designate. If the proceedings have been recorded electronically, the designated transcription of designated evidence and proceedings shall be prepared in the office of the clerk of the court, either by him or her or under his or her supervision,~~ within 42 days after the filing of the notice of appeal or within such additional time as may be granted by the county court. The clerk shall notify ~~in writing the opposing parties~~ in writing of the completion of the record, and the such parties shall have 14 days ~~within which~~ to file objections. If none are received, the record shall be certified forthwith by the clerk. If objections are made, the parties shall be called for a hearing and the objections settled by the county court judge and the record then certified.

Commented [eh5]: This language tracks C.A.R. 10(a)(1)-(2).

(d) Filing of Record. When the record has been duly certified and any additional fees therefor paid, it shall be electronically transmitted to ~~filed with~~ the clerk of the district court by the clerk of the county court. ~~The, and the opposing~~ parties shall be notified by the clerk of the county court ~~when the electronic record is certified~~ of such filing.

Commented [eh6]: I don't think this is necessary anymore, given that we are changing the rule so that the appellant no longer has to designate the ROA. There's no equivalent process under CAR 10 - instead there's a section about supplementing the record on appeal if any material part of the record is erroneously omitted. See CAR 10(e). Maybe we delete this, but add something about supplementing the record after it's certified and sent to the district court?

(e) Briefs. A written brief setting out matters relied upon as constituting error and outlining any arguments to be made shall be filed in the district court by the appellant within 21 days after ~~the certification of the record is transmitted to the district court.~~ A copy of the appellant's brief shall be served upon the appellee. The appellee may file an answering brief within 21 days after such service. A reply brief may be filed within 14 days after service of the answering brief. In the discretion of the district court, the time for filing briefs and answers may be extended.

Commented [eh7]: This language was suggested by the clerks who requested the amendments - but is this sufficiently covered by the last three sentences of section (c)?
Maybe this sentence should say: "The parties shall be notified by the clerk of the county court that the certified electronic record has been transmitted to the district court."

(f) Stay of Execution. Pending the docketing of the appeal, a stay of execution shall be granted by the county court upon request. If a sentence of imprisonment has been imposed, the defendant may be required to post bail, and if a fine and costs have been imposed, a deposit of the amount thereof may be required by the county court. ~~After the docketing of the appeal, Upon a request for stay of execution shall be considered and resolved made any time after the docketing of the appeal, such action may be taken~~ by the district court. Stays of execution granted by the county court or district court and, with the written consent of the sureties if any, bonds posted with such courts, shall remain in effect until after final disposition of the appeal, unless modified by the district court.

Commented [eh8]: There don't need to be ANY briefing standards like under CAR 28?

(g) Trials de Novo; Penalty Not Increased. If for any reason an adequate record cannot be certified to the district court the case shall be tried de novo in that court. No action on appeal shall result in an increase in penalty.

(h) Judgment; How Enforced. Unless there is further review by the ~~ss~~Supreme ~~c~~Court upon writ of certiorari pursuant to the rules of such court, after final disposition of the appeal the judgment on appeal entered by the district court shall be certified to the county court for action as directed by the district court. ~~But, except in cases tried de novo by the district court or in cases in which the district court modifies the county court judgment, and in such cases,~~ the judgment on appeal shall be that of the district court and so enforceable.

Commented [eh9]: Lower case is consistent with Rule 37.1(e)

(i) Appeals to Superior Court. In counties in which a superior court has been established, appeals from the county court shall be taken to the superior court rather than the district court. All of the provisions of this section governing appeals from the county court to the district court are applicable when the appeal is taken to the superior court, and the term “district court” as used in this section shall be understood to include the superior court.

Commented [eh10]: What even is this??

RULE 37.1

(a) Grounds. The prosecuting attorney may file an interlocutory appeal in the district court from a ruling of a county court granting a motion made in advance of trial by the defendant for return of property and to suppress evidence or granting a motion to suppress evidence or granting a motion to suppress an extra-judicial confession or admission; provided that the prosecuting attorney certifies to the judge who granted such motion and to the district court that the appeal is not taken for purposes of delay and that the evidence is a substantial part of the proof of the charge pending against the defendant.

(b) Filing Notice of Appeal. The prosecuting attorney shall file the notice of appeal with the clerk of the district court and shall serve the defendant and the clerk of the trial court with a copy thereof. Such notice of appeal shall be filed within 14 days of the entry of the order being appealed and any docket fee shall be paid at the time of the filing.

(c) Contents of Record on Appeal. The record for an interlocutory appeal shall consist of the information or charging document, the motions filed by the defendant or defendants, and the grounds stated in section (a) above; a transcript of all testimony taken at the hearing on said motions; ~~and~~ such exhibits or reasonable copies, facsimiles, or photographs thereof as the parties may designate (subject to the provisions in [C.A.R. 11\(b\)](#) pertaining to exhibits of bulk); ~~and the court's order or ruling~~ ~~the order of court ruling~~ on said motions and the date, if one has been fixed, that the case is set for trial or a certificate by the clerk that the case has not been set for trial. The record shall be [electronically transmitted](#) ~~filed~~ within 14 days of the date of filing the notice of appeal, and may be supplemented by order of the district court.

(d) Briefs. Within 14 days after the record has been [transmitted to filed in](#) the district court, the prosecuting attorney shall file an opening brief. Within 14 days after service of ~~the said~~ opening brief, the defendant shall file an answer brief, and the prosecuting attorney shall have 7 days after service of ~~the said~~ answer brief to file a reply brief.

(e) Disposition of Cause. Unless oral argument is ordered by the court and it rules on the record and in the presence of the parties, the decision of the [district](#) court shall be by written opinion, copies of which shall be transmitted by the clerk of the court by mail to the [county court trial](#) judge and to all parties. No petition for rehearing shall be permitted. A certified copy of the judgment and directions to the county court, and a copy of the written opinion, if any, shall constitute the mandate of the district court, concluding the appeal and restoring jurisdiction to the county court. Such mandate shall issue and be transmitted by the clerk of the court by mail to the [county court trial](#) judge and all parties on the 44th day after the district court's oral or written order, unless the district court is given notice by one of the parties that it has sought further review by the supreme court upon a writ of certiorari pursuant to the rules of that

court, in which case the mandate shall issue upon notification that certiorari has been denied or upon receiving the remittitur of the supreme court.

(f) Time. The time limits herein may only be enlarged by order of the appropriate court before the existing time limit has expired.

(g) If no procedure is specifically prescribed by this rule, the court shall look to the Rules of Appellate Procedure for guidance.

(h) Nothing in this Rule 37.1 shall be construed to deprive the county court of jurisdiction to consider bail issues during the pendency of the interlocutory appeal.

Commented [eh1]: Seems odd that this provision is in Rule 37.1 but not Rule 37.

MEMORANDUM

To: Judge Harris and the Colorado Criminal Procedure Rules Committee

From: Magdalena Rosa, Judge Chelsea Malone, and Kevin McReynolds

Date: April 15, 2025

RE: Request for Amendment to Colo. R. Crim. P. 16- updating language to include electronic forms of communication.

Issue: Should Rule 16 be amended to clarify that electronic communications by witnesses, the accused, or co-defendants are discoverable as statements, documents, or recorded message?

Discussion

After reaching out to some stakeholders, the subcommittee members were uncertain that this amendment to the rule was needed/warranted. As next steps, the subcommittee members concluded that input from a broader swath of stakeholders including members of the Colorado Criminal Procedure Rules Committee is needed before deciding.

Potential Revisions if Amendment is Needed/Warranted

Option 1:

Crim. P. 16 (1)(I)(a)(IX) All witness statements, documentary evidence, and electronic surveillance as provided in subsections (I), (IV), and (VI), not otherwise produced, that are contained in any form of electronic written communications.

Option 2:

“Crim. P. 16 (1)(I)(a)(1)(IX) Statements, documents, and electronic surveillance of conversations under subsection (a)(1)(I), (a)(1)(IV), and (a)(1)(VI) *includes* emails, text messages, and other electronic communications unless not subject to disclosure pursuant to subsection Part I (e).”

TO: Judge Harris; Criminal Rules Committee
FROM: Rule 35 Subcommittee
DATE: April 14, 2025
RE: Topics for future consideration re: Rule 35

The subcommittee met and outlined topics for the Committee's consideration:

- I. Making 35(c) consistent for all stakeholders
 - a. Establishing rules for discovery of post-conviction motions
 - b. Establishing deadlines for the following events
 - i. Trial judge initial view in light of *Segura* 2024 CO 70¹
 - ii. Public Defender office deadline to determine conflict
 - iii. Deadline of post-conviction counsel to supplement and affirmative duty to argue or abandon any pro se claims
 - iv. Deadline for trial court to issue ruling/set for hearing and then rule
 - c. Word limit in briefing? i.e., appellate brief limits as a thought
- II. Addressing unlawful revocations under R 35(c)(2)(VII) – due to statutory constraints in C.R.S. § 18-1-410 we do not recommend any changes to the Rule.
- III. Successive Petitions in particular with Rule 35(c)(1) – examined in light of *Crabtree*
- IV. Sufficiency of the Petition – After *Townsell v. People*, 2024WL4165510² is decided, we could explore the appropriateness of guidelines for sufficiency and for successive petitions (where original petition has been ruled upon)

John Lee advised that the issues on *cert* are:

Whether the standard for appointment of counsel under Criminal Rule of Procedure 35(c) differs from the standard for granting a hearing. Whether an indigent pro se petitioner alleging ineffective assistance of counsel for failure to investigate DNA evidence must specify how exculpatory DNA evidence would undermine confidence in the conviction to sustain a Rule 35(c) motion.

Whether petitioner is entitled to postconviction counsel and a hearing to develop his claim that trial counsel rendered ineffective assistance of counsel by failing to investigate DNA evidence.

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[https://1.next.westlaw.com/Document/I719621209ae411ef9a31efc7c396dcea/View/FullText.html?transitionType=UniqueDocItem&contextData=\(sc.Search\)&userEnteredCitation=2024+co+70](https://1.next.westlaw.com/Document/I719621209ae411ef9a31efc7c396dcea/View/FullText.html?transitionType=UniqueDocItem&contextData=(sc.Search)&userEnteredCitation=2024+co+70)

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