

IN THE SUPREME COURT, STATE OF WYOMING

APRIL TERM, A.D. 1988

IN THE MATTER OF THE )  
AMENDMENT OF RULE 34 )  
AND RULE 36, WYOMING )  
RULES OF CRIMINAL )  
PROCEDURE. )

IN THE SUPREME COURT  
STATE OF WYOMING  
**FILED**

SEP 22 1988

  
CLERK

ORDER

The Criminal Rules Division of the Permanent Rules Advisory Committee having recommended to the court the following amendments of Rule 34 and Rule 36, Wyoming Rules of Criminal Procedure, and the court having approved said amendments, it is therefore

ORDERED that Rule 34, Wyoming Rules of Criminal Procedure be, and it is hereby amended by the deletion of the present Rule 34, and the substitution of the following rule, to read as follows:

Rule 34. New Trial.

The court on motion of a defendant may grant a new trial to that defendant if required in the interest of justice. If trial was by the court without a jury, the court, on motion of a defendant for a new trial, may vacate the judgment if entered, take additional testimony, and direct the entry of a new judgment.

(a) A motion for a new trial based on any grounds, except newly discovered evidence, shall be made within ten (10) days after verdict or finding of guilty or within such further time as the court may fix during the ten (10) day period. The motion shall be determined and a dispositive order entered within ten (10) days after the motion is filed and if not so entered shall be deemed denied, unless within that period the determination shall be continued by order of the court, but no continuance shall extend the time to a day more than thirty (30) days from the date the verdict or finding of guilty is returned.

(b) A motion for a new trial based on the grounds of newly discovered evidence may

be made only before or within two (2) years after final judgment but if an appeal is pending, the court may grant the motion only on remand of the case. A motion for new trial based on the ground of newly discovered evidence shall be heard and determined and a dispositive order entered within thirty (30) days after the motion is filed unless within that time, the determination is continued by order of the court, but no continuance shall extend the time to a day more than sixty (60) days from the date that the original motion was filed. When disposition of a motion for new trial based on newly discovered evidence is made without hearing, the order shall include a statement of the reason for determination without hearing.

FURTHER ORDERED that Rule 36, Wyoming Rules of Criminal Procedure be, and it is hereby amended by the deletion of the present Rule 36, and the substitution of the following rule, to read as follows:

Rule 36. Correction or Reduction of Sentence.

(a) Correction of sentence. The court may correct an illegal sentence at any time. Additionally the court may correct, reduce, or modify a sentence within the time and in the manner provided herein for the reduction of sentence.

(b) Reduction of sentence. A motion to reduce a sentence may be made or the court may reduce a sentence without motion, within one (1) year after the sentence is imposed or probation is revoked, or within one (1) year after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within one (1) year after entry of any order or judgment of the Supreme Court denying review of, or having the effect of upholding, a judgment of conviction or probation revocation. The court shall determine the motion within a reasonable time. Changing a sentence from a sentence of incarceration to a grant of probation shall constitute a permissible reduction of sentence under this subdivision. The court may determine the motion with or without a hearing.

FURTHER ORDERED that the foregoing amended rules be published in the advance sheets of the Pacific Reporter and thereafter in the Wyoming Reporter; that said amended rules shall become effective sixty (60) days after publication in the advance sheets of the Pacific Reporter, and thereupon be spread at length on the journal of this court.

Dated September 21, 1988.

By the Court

A handwritten signature in black ink, appearing to read "G. Joseph Cardine", written in a cursive style.

G. JOSEPH CARDINE  
Chief Justice