

IN THE SUPREME COURT, STATE OF WYOMING

**OCTOBER TERM, 1993
STATE OF WYOMING
FILED**

NOV - 2 1993

In the Matter of the Amendment of)
Rules 23(a) and 33(b), Wyoming Rules)
of Criminal Procedure)

JERRILL D. CARTER, CLERK
Judy Pacheco
by DEPUTY

**ORDER AMENDING RULES 23(a) and 33(b), WYOMING RULES OF
CRIMINAL PROCEDURE AND
ORDER RESCINDING ORDER PROVIDING A TECHNICAL CORRECTION TO
RULE 33(b), WYOMING RULES OF CRIMINAL PROCEDURE**

The court on September 28, 1993, having entered an Order Providing A Technical Correction to Rule 33(b), Wyoming Rules of Criminal Procedure and the court having been advised by the chairman of the Permanent Rules Committee--Criminal Division, that the rule should be further amended for clarification purposes; and the Permanent Rules Committee--Criminal Division having further recommended amendments to Rule 23(a), Wyoming Rules of Criminal Procedure; it is therefore

ORDERED that the Order Providing A Technical Correction to Rule 33(b), Wyoming Rules of Criminal Procedure, entered on September 28, 1993, be, and it is hereby, rescinded; and it is further

ORDERED that Rule 33(b), Wyoming Rules of Criminal Procedure, be, and it is hereby, amended to read effective this date, as follows:

Rule 33. New trial.

(b) *Any grounds except newly discovered evidence.* -- A motion for a new trial based on any grounds, except newly discovered evidence, shall be made within 30~~15~~ days after verdict or finding of guilty or within such further time as the court may fix during the 10~~15~~ day period; but the time for filing the motion may not be extended to a day more than 30 days from the date the verdict or finding of guilty is returned. The motion shall be determined and a dispositive order entered within 30~~15~~ 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 30~~60~~ days from the date the verdict or finding of guilty is returned.

It is further

ORDERED that Rule 23(a), Wyoming rules of Criminal Procedure, be, and it is hereby, amended to read effective this date, as follows:

Rule 23. Trial by jury or court.

(a) *Trial by jury.* -- Cases required to be tried by jury shall be so tried unless the defendant waives a jury trial with the approval of the court and the consent of the state. A waiver of jury shall be made in writing or on the record. There shall be no right to a jury trial, except: (1) when a statute or ordinance so provides, or (2) when the offense charged is driving under the influence of alcoholic beverages or controlled substances, or (3) when the offense charged is one for which the statute or ordinance alleged to have been violated provides for incarceration as a possible punishment.

It is further

ORDERED that this order shall be published in the advance sheets of the Pacific Reporter and in the Wyoming Reporter, and thereupon shall be spread at length upon the journal of this court.

Dated and effective this 1st day of November, 1993.

BY THE COURT:


Richard J. Macy
Chief Justice