

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 2003

In the Matter of the Adoption)
of Amendments to the Wyoming)
Rules of Criminal Procedure)

IN THE SUPREME COURT
STATE OF WYOMING
FILED

DEC 19 2003


JUDY PACHECO, CLERK

**ORDER ADOPTING AMENDMENTS TO RULE 24 OF THE
WYOMING RULES OF CRIMINAL PROCEDURE**

The Board of Judicial Policy and Administration, upon the recommendation of the Permanent Rules Advisory Committee, Criminal Division, has determined that amendments to Rule 24 of the Wyoming Rules of Criminal Procedure are necessary. It is, therefore,

ORDERED that the amendments to Rule 24 of the Wyoming Rules of Criminal Procedure, a copy of which is attached hereto, are adopted and that those amendments be published in the advance sheets of the Pacific Reporter and in the Wyoming Reporter. The amendments shall be effective March 1, 2004, and thereafter shall be spread at length upon the journal of this Court

DATED this 19TH day of December 2003.

BY THE COURT:



WILLIAM U. HILL

Chief Justice, Wyoming Supreme Court
Chairman, Board of Judicial
Policy and Administration

Rule 24. Trial Jurors.

(e) Alternate jurors. The court may direct that not more than six jurors in addition to the regular jury be called and impanelled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall may be discharged or retained after the jury retires to consider its verdict. When the jury retires to consider the verdict, the court in its discretion may retain the alternate jurors during deliberations. If an alternate replaces a juror after deliberations have begun, the court shall instruct the jury to begin its deliberations anew. The trial court must:

- (1) instruct any retained alternate that his oath is still applicable and until a verdict has been rendered and the regular jury discharged, he must refrain from discussing the case with anyone and avoid extrinsic information that may affect his ability to impartially judge the case;
- (2) upon recall, inquire on the record whether the alternate juror did, in fact, comply with the court's instructions;
- (3) instruct the reconstituted jury to begin deliberations anew; and
- (4) inquire on the record whether the remaining members of the original jury can ignore the previous deliberations and set aside any opinions formed during them. If the trial court cannot establish that all of these safeguards are met, then the court may not substitute the alternate, and the matter may proceed pursuant to W.R.Cr.P. 23(b); otherwise, a mistrial may be declared.

Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impanelled, two peremptory challenges if three or four alternate jurors are to be impanelled, and three peremptory challenges if five or six alternate jurors are to be impanelled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by these rules may not be used against an alternate juror.