

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-20-0008
RULE 3, RULES OF PROCEDURE FOR)
JUDICIAL REVIEW OF ADMINISTRATIVE)
DECISIONS)
) FILED: 8/31/2020
)
)
)
_____)

**ORDER
AMENDING RULE 3, RULES OF PROCEDURE FOR JUDICIAL REVIEW OF
ADMINISTRATIVE DECISIONS**

A petition having been filed to amend Rule 3 of the Rules of Procedure for Judicial Review of Administrative Decisions, and a comment having been received, and having considered the petition and comment, along with other related changes to Rule 3 proposed in Rule Petition R-20-0008,

IT IS ORDERED that Rule 3 of the Rules of Procedure for Judicial Review of Administrative Decisions be amended in accordance with the attachment to this order, effective January 1, 2021.

DATED this 31st day of August, 2020.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

Arizona Supreme Court No. R-20-0008

Page 2 of 5

TO:

Rule 28 Distribution

Aditya Dynar

Timothy Sandefur

Jonathan Matthew Riches

ATTACHMENT A¹

RULES OF PROCEDURE FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

Rule 3. Stay of an Administrative Decision

(a) **Motion for Stay Pending Appeal.** A party may file with the clerk of the superior court a motion to stay a final administrative decision, in whole or in part, pending the final disposition of the appeal, pursuant to A.R.S. § 12-911. The motion for stay must be a separate filing from the notice of appeal required by A.R.S. § 12-904. The party filing the motion for stay must provide proper notice to the agency affected and all other parties to the proceeding before the agency. Form 3 is a template for the motion for stay.

(b) **Standard for Issuance of Stay Pending Appeal.** The superior court may grant the motion for stay pending appeal for good cause shown. The motion for stay must ~~address~~ the following show:

1. ~~The strong likelihood of success on the merits;~~ A colorable claim demonstrating, as regards substantive merit, a seemingly valid, genuine, or plausible claim under the circumstances of the case; and

2. ~~The irreparable harm if the stay is not granted;~~ That the balance of harm favors granting the stay.

3. ~~The harm to the requesting party outweighs the harm to the party opposing the stay; and~~

4. ~~Whether the public policy favors the granting of the stay.~~

(c) **Bond on Appeal.** A stay of an administrative decision may be entered in superior court with or without bond, except if otherwise provided by statute.

¹ Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike through~~.

ATTACHMENT B
Form 3 – Motion for Stay

A.R.S. § 12-911(A)(1)

Distribution:

Clerk of Superior Court—Original

Judge—1

Each party—1

Attorney or Party Name
 State Bar No. (if any)
 Law Firm Name (if any)
 Complete Mailing Address
 Telephone Number
 Email Address
 Attorney for _____ (party name)

SUPERIOR COURT OF ARIZONA
 _____ COUNTY

)		
)	Appellant,	Case No. _____
)		
vs.)		MOTION FOR STAY OF
)		AGENCY DECISION
)	Appellee.	
)		
)		

Appellant moves the Court pursuant to A.R.S. § 12-911(A)(1) and JRAD Rule 3 for a stay of decision of [name of agency] of [date of entry] until final disposition of this action for review of that decision. This motion is made for the reasons stated in the attached Memorandum of Points and Authorities.

DATED this ___ day of _____, 20_____

 Signature of Attorney or
 Self-Represented Party

Continued

Form 3 Continued

MEMORANDUM OF POINTS AND AUTHORITIES [State procedural background, facts and argument. Pursuant to Rule 3(b), the memorandum must address ~~1. A strong likelihood of success on the merits; 2. Irreparable harm if the stay is not granted; 3. That the harm to the requesting party outweighs the harm to the party opposing the stay; and 4. That the public policy favors the granting of the stay.~~ 1. A colorable claim demonstrating, as regards to substantive merit, a seemingly valid, genuine, or plausible claim under the circumstances of the case; and 2. That the balance of harm favors granting the stay.

Signature of Attorney or
Self-Represented Party

Copy of the foregoing [mailed/delivered]
this ____ day of _____, 20 ____, to:
[Attorney or Party Name]
by: _____