



## FOR IMMEDIATE RELEASE

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### NCLA Petition Pending Before Arizona Supreme Court Would Fix Inadvertent Error in JRAD Rule 3 *R-20-0008 Petition to Amend Rule 3*

Washington, DC (February 5, 2019) – The New Civil Liberties Alliance has filed a [Petition](#) with the Arizona Supreme Court to amend Rule 3 of the Rules of Procedure for Judicial Review of Administrative Decisions (JRAD Rule 3) because it ignores the current statute (A.R.S. 12-911) passed almost 50 years ago. The purpose of A.R.S. 12-911, which only requires a showing of “good cause,” is to make it easier to maintain the status quo while a neutral, independent judge evaluates the disputed administrative decision. But in 2017, the Court inadvertently amended its own court rules and made it harder to obtain such stays. The Supreme Court failed to catch the error in time, and the flawed rule stands today in the way of the legislature’s carefully crafted objective of protecting the public from the administrative proceedings of state agencies.

Without this check on agency decisions, it is harder to control the Administrative State. Administrative adjudication in Arizona is rife with self-serving decisions issued by agencies acting as prosecutors, factfinders, judges, and enforcers. JRAD Rule 3 makes it extremely difficult and cost-prohibitive for JRAD appellants to obtain any effective relief through the courts against a state agency’s abuses. NCLA’s Petition asks the Court to correct this error and bring its court rules into compliance with the statute.

The Court has opened the comment period on NCLA’s Petition. Comments should be submitted on or before May 1, 2020, at the following online site: <https://www.azcourts.gov/Rules-Forum/aft/1079>

#### NCLA released the following statement:

“The state constitution empowers the Arizona Supreme Court to issue *procedural*, not substantive, rules. Here, the court issued a procedural rule to cancel out A.R.S. 12-911, a substantive standard enacted by the legislature. That’s doubly problematic. First, it frustrates the distribution of powers between the legislative and judicial branches. Second, the current, stricter court rule is not within the scope of the Court’s constitutional rulemaking authority.”

—Adi Dynar, NCLA Litigation Counsel

#### ABOUT NCLA

NCLA is a nonpartisan nonprofit civil rights organization founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State.

NCLA’s public-interest litigation and other *pro bono* advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

For more information, visit us online: [NCLAlegal.org](http://NCLAlegal.org).