

Pursuant to *ARCAP 17*, Petitioner brings this supplemental citation of legal authority. Three of Petitioner's claims for relief constitute structural error by the trial court – error which is not subject to “harmless error analysis” pursuant to *Arizona v. Fulminante*, 499 U. S. 279, 309 (1991) and *Chapman v. California*, 386 U. S. 18, 23 (1967) – and thus require automatic reversal of conviction regardless of prejudice.

The “Neder” Standard of Structural Error

The Arizona Supreme Court explained in *State v. Ring*, 204 Ariz. 534, 65 P.3d 915 (2003) , "structural errors 'deprive defendants of "basic protections" without which a "criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence... and no criminal punishment may be regarded as fundamentally fair.'"" *Id.* at 552, ¶ 45, 65 P.3d at 933 (quoting *Neder v. United States*, 527 U.S. 1, 8-9 (1999) (quoting *Rose v. Clark*, 478 U.S. 570, 577-78 (1986))). When structural error occurs, automatic reversal of judgment is required. *Id.* at 552, ¶ 45, 65 P.3d at 933. No consideration is given to the factual setting and whether the error may or may not be harmless. *State v. Henderson*, 100 P.3d 911 at ¶ 11 (Ariz. App. 2004). Structural error requires reversal. *Id.*

The *Neder* Court defined a narrow class of cases which constitute structural error, which includes, but is not limited to, complete denial of counsel at critical stages of the prosecution, *Gideon v. Wainwright*, 372 U. S. 335 (1963), denial of

self-representation at trial, *McKaskle v. Wiggins*, 465 U. S.168 (1984), and denial of public trial, *Waller v. Georgia*, 467 U. S. 39 (1984).

As stated on page 3, paragraph one, of the Petition for Review, Petitioner “believes the trial court abused discretion by not only summarily dismissing said PCR, but doing so without providing any reasoning for doing so.” In page 4-6 of the Petition for Review filed in this Court, Petitioner brought the claim that the trial court not only denied him his right to a speedy trial, but “his right to trial by jury was revoked entirely.” Though Petitioner was prejudiced by said structural error, this *sua sponte* revoking of his Sixth Amendment right to a public trial by jury is not subject to harmless error analysis, thus prejudice is not required for automatic reversal of convictions.

In pages 10-12 of the Petition for Review, Petitioner brings the claim that he was denied his right to self-representation throughout this prosecution. Further, in pages 12-14, Petitioner brings claims that he was denied counsel at arraignment and denied standby counsel on appeal. Again, in all of said claims, Petitioner was ultimately prejudiced; however all of said errors are structural in nature and require automatic reversal of convictions regardless of subsequent prejudice.

DATED this 28th day of October, 2009.

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In Propria Persona Petitioner

CERTIFICATE OF SERVICE AND FILING

I hereby certify that on October 28, 2009, an original and six (6) copies of the foregoing document was mailed/delivered to the Court of Appeals, Division One, and one (1) copy was mailed/delivered to:

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