



Self-Represented Bench Trial Guide

Disclaimer

- This guide is meant to give self-represented Defendants a brief outline of a bench trial. This guide is not a substitute for an attorney. This guide is not a complete catalog of all your rights, and you should not consider the guide as legal advice on how to conduct your case. The court cannot offer you legal advice, including on how to proceed or how to defend your case.

Commonly Used Terms

- Attorney – person licensed to practice law in Arizona, also called a lawyer or counsel.
- Defendant – person who is charged with a criminal offense.
- Evidence – testimony and exhibits offered at trial.
- Exhibits – items brought to court to show the judge during the trial. The judge decides whether those items are allowed to be shown at the trial. The judge will keep any exhibits that are allowed to be shown during the trial. Make sure you bring them in a format the judge can keep. Paper copies and USB drives are acceptable.
 - NOTE – Copies of all exhibits must be given to the prosecutor at least 7 days before your trial. The prosecutor will also give you copies of all their evidence and exhibits at least 7 days prior to trial.
- Oath – a promise to tell the truth.
- Objection – either party may object to testimony or exhibits. That means that the party thinks there is a legal reason the judge should not consider the testimony or exhibit. The judge will decide whether that evidence can legally be considered.
- Parties – the people or entities directly involved in the case. In a criminal case this is typically the State, represented by the prosecutor, and the Defendant, also called litigants.
- Prosecutor – attorney representing the State.
- Subpoena – a judge's order that a person appear in court.
- Testimony – statements made to a judge after promising to tell the truth.

When can an attorney be appointed at little or no cost?

- The court is only legally allowed to appoint an attorney if the person charged with a crime cannot afford to hire an attorney AND the state is asking for jail time if the

Defendant is found guilty OR the person cannot afford to hire an attorney AND the court finds the interests of justice require an attorney to be appointed.

Can the judge help me during the trial if I do not hire an attorney?

- People representing themselves must comply with the same law and procedural rules as attorneys.
- The Code of Judicial Conduct provides that the judge may, but is not required to, give brief information about the proceeding and evidentiary and foundational requirements; modify the traditional order of taking evidence; attempt to make legal concepts understandable; explain the basis for a ruling; and make referrals to any resources available to assist the litigant in preparation of the case. The judge is not required to do these things but is allowed to do them without violating the Code of Judicial Conduct. If you feel you need further explanation from the judge you may ask the judge. It is up to the judge what information they decide to provide.

What is a bench trial?

- A bench trial is a trial where the judge decides whether the State can prove a person charged with a crime guilty beyond a reasonable doubt.
- The law determines which misdemeanor charges are heard by a jury and which are heard by the judge.

How is a bench trial conducted?

- The judge must conduct a bench trial as set out in the Arizona Rules of Criminal Procedure and other rules that apply in criminal cases, like the Arizona Rules of Evidence. These rules apply to both attorneys and people representing themselves at trial.
 - If you search Arizona Court Rules on the internet there are free versions of the Arizona Rules of Criminal Procedure and Arizona Rules of Evidence available.

What happens at a bench trial?

1. Opening statements – the parties are allowed to start the trial by making a statement to the judge about what they believe the evidence will show. An opening statement is not an argument. Often the parties do not give opening statements in bench trials because the judge is deciding the case instead of a jury.
2. State's case
 - a. The prosecutor will call witnesses.
 - i. The prosecutor will ask the witness questions. The questions must be relevant to the case the judge is hearing.
 1. This is called direct examination.
 - ii. You will then have the chance to ask the witness questions if you wish. Your questions must be relevant to the case the judge is hearing.
 1. This is called cross examination.

- iii. The state may ask follow up questions. Those questions must relate to the questions you asked on cross examination.
 1. This is called redirect examination.
3. Conclusion of the State's case
 - a. After the State finishes calling witnesses, the State will rest their case.
 - b. At the end of the State's case, you can make a motion under Rule 20 of the Arizona Rules of Criminal Procedure that the judge should find you not guilty if the State has presented no substantial evidence to support the judge finding you guilty. If the judge grants your motion the case will be over, and you are found not guilty. If the judge denies your motion the trial will proceed.
4. Defendant's case
 - a. You are presumed innocent under the law. You are not required to testify or present any evidence. The State must prove you guilty beyond a reasonable doubt for the judge to find you guilty. If you choose not to testify or call witnesses the judge will not use that against you in determining if you are guilty or not guilty.
 - b. If you call witnesses, you will ask the witness questions, the prosecutor will ask questions, and you can ask follow up questions, as explained above.
 - i. If you have witnesses you want to come to court but do not think they will come just because you ask them to, you can ask the judge for a subpoena ordering the person to appear. You must make this request before the trial, with enough time for you to provide the court order to the witness who you want to come to court.
 - c. If you testify you will tell the judge, under oath, what you feel is relevant to the case. If you testify the prosecutor will be allowed to ask you questions.
 - d. If you have exhibits you want the judge to look at, you can introduce them during your case. You can do this by presenting them during your testimony or by asking one of your witnesses about them. The judge will decide whether the exhibit can legally be considered as evidence.
 - i. You must provide copies of your exhibits to the State at least 7 days before the trial.
 - ii. The court will mark your exhibits with letters, A, B, C, etc. When you show your exhibits to your witness or the judge you should refer to them by their assigned letter.
 - iii. You must bring your exhibits in a form that the court can keep for the file. You can bring paper copies or a USB drive for the court to keep.
5. State's rebuttal case
 - a. Because the State has the burden to prove you guilty beyond a reasonable doubt, the State gets the last opportunity to call witnesses. If you testify or call witnesses the State may call witnesses in rebuttal.

- i. That questioning will be done in the same manner described above.
- 6. Closing arguments
 - a. When both sides are done presenting evidence, each party will be allowed to make a closing argument. This is your chance to argue to the judge why you believe you should be found not guilty. You cannot provide any new information during your closing argument; you can only argue from the evidence that has been discussed at trial.
 - b. The State gives the first closing argument, then you can give a closing argument, and then, because the State has the burden of proof, the State is allowed a rebuttal closing argument.
- 7. Verdict
 - a. If the judge can announce a verdict at the end of the trial, a verdict will be announced in court on the day of trial. Sometimes the judge will take the case under advisement if the judge needs more time to look at the law or the evidence in the case. If that happens, a review hearing will be set, and you may receive the judge's verdict in writing before the hearing. If you receive a verdict finding you not guilty you will not have to come back to court.
- 8. Sentencing
 - a. If you are found guilty the case will move to sentencing. Sentencing usually happens on the day of trial but could be set out for up to 30 days if there is a good reason.
 - b. At sentencing you, the prosecutor, and any victims will get to tell the judge what you think the sentence should be. The judge will consider all that information and decide the sentence.
- 9. Appeal
 - a. If you are found guilty you have the right to appeal the judge's decision. You must file a notice of appeal within 14 days of your sentencing. The court has notice of appeal forms, which can be requested at the front window. You will also be given more information on the appeal process at the time of your sentencing.