IN THE

SUPREME COURT OF THE STATE OF ARIZONA

STATE OF ARIZONA,
Appellee,

v.

DIONDRA SHARRELLE HOWARD,
Appellant.

No. CR-25-0211-PR
Filed August 18, 2026

Appeal from the Superior Court in Maricopa County
The Honorable Jennifer Ryan-Touhill, Judge
The Honorable Chuck Whitehead, Judge
No. CR2015-147837-001
AFFIRMED

Opinion of the Court of Appeals, Division One
260 Ariz. 285 (App. 2025)
VACATED

COUNSEL:

Kristin K. Mayes, Arizona Attorney General, Alice M. Jones, Deputy Solicitor General/Section Chief of Criminal Appeals, Karen Moody (argued), Assistant Attorney General, Phoenix, Attorneys for State of Arizona

Stephen M. Johnson (argued), Law Office of Stephen M Johnson, Phoenix, Attorney for Diondra Sharrelle Howard

Mikel Steinfeld (argued), Arizona Attorneys for Criminal Justice, Phoenix, Attorney for Amicus Curiae Arizona Attorneys for Criminal Justice

JUSTICE CRUZ authored the Opinion of the Court, in which CHIEF JUSTICE TIMMER, VICE CHIEF JUSTICE LOPEZ, and JUSTICES BOLICK, BEENE, KING, and BERCH (Retired) joined.[1]

JUSTICE CRUZ, Opinion of the Court:

¶1 We granted review to decide whether Arizona Rule of Criminal Procedure 19.4 required a successor judge, assigned only for sentencing after the guilt and aggravation phases had concluded, to review the trial transcripts before imposing sentence. The court of appeals held that it did. We disagree and hold that Rule 19.4 does not apply. Rule 19.4 governs the replacement of a judge in a proceeding that is interrupted while it is being heard or tried and directs the successor judge to decide whether that interrupted proceeding may resume or must be retried. Ariz. R. Crim. P. 19.4. Here, the guilt and aggravation phases were complete, the court had discharged the jury, and no sentencing proceeding had begun when the court reassigned the case; nothing interrupted a proceeding for a successor judge to resume. Because no interruption occurred during an ongoing proceeding, Rule 19.4 imposed no obligation on the successor judge.

¶2 Whether the sentencing judge was sufficiently informed to impose a sentence is governed not by Rule 19.4 but by Arizona's sentencing jurisprudence, including *State v. Stotts*, 144 Ariz. 72 (1985), and *State v. Grier*, 146 Ariz. 511 (1985). Under those authorities, Defendant Diondra Howard has not shown that the sentencing court abused its discretion, conducted an inadequate investigation, relied on false or misleading information, prejudiced her, or violated due process. We therefore vacate the court of appeals' opinion and affirm the superior court's sentencing orders.

BACKGROUND

¶3 On October 9, 2015, Howard prepared to celebrate her birthday with her two sisters. The three stopped at the home of a man they regarded as an uncle ("Uncle") to finish getting ready before going out.

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[1] Justice William G. Montgomery was recused in this matter. Pursuant to article 6, section 3 of the Arizona Constitution, Justice Rebecca White Berch (Retired) of the Arizona Supreme Court was designated to sit in this matter.

Howard later discovered that her purse and wallet were missing from her car, where she had left them. Uncle walked through the neighborhood looking for those responsible for the theft. He saw two men, asked them about Howard's purse, and one of them eventually handed it to him. Uncle returned the purse to Howard, who became upset upon seeing that the purse was empty. Uncle described the two men to Howard and told her where he had seen them. Howard got into a car with her sisters, drove around, and eventually encountered the two men in a nearby alleyway. Howard drew a handgun, pointed it at one of the men, and demanded her property. Howard ultimately shot the man in the head, and he died as a result. The State charged Howard with one count of second degree murder. On the final day of a seven-day trial, the jury reached a verdict while Howard was reportedly still traveling to the courthouse. The jury could not agree on the second degree murder charge but found Howard guilty of manslaughter based on sudden quarrel or heat of passion.

¶4 Immediately following the jury's verdict, and prior to Howard's arrival, the trial judge conducted the aggravation phase. The victim's mother testified about the effect of her son's death on the family. While the jury deliberated on the aggravators, Howard arrived. The jury returned to the courtroom and announced it had found three aggravating factors proven. The trial judge set the matter for sentencing and excused the jury.

¶5 Howard's mother filed a complaint against the trial judge, alleging bias based on the judge's conduct while the jury deliberated on the aggravating factors. The trial judge recused herself from further participation in the case without proceeding to sentencing, and the case was immediately reassigned to another judge.

¶6 Howard moved for a new trial, arguing that the trial judge's recusal suggested possible bias or unfairness during trial. The sentencing judge denied the motion as untimely and reset the matter for sentencing.

¶7 At a status conference, Howard's counsel ("Counsel") asked how the sentencing judge intended to prepare for sentencing, given that he had not presided over the trial. The judge responded that he planned to review the relevant sentencing materials but did not believe review of the trial transcripts was necessary. He added: "If either party thinks that that

is necessary, let me know, and I'll certainly do that." Counsel responded, "[o]kay," but did not request review of any trial transcript.

¶8 About two months later, before sentencing began, Counsel expressed concern about the State's sentencing recommendation, including that the State had submitted it the day before the sentencing hearing. Counsel further argued that the State had taken liberties in describing the evidence and that proceeding before a judge who had neither presided over the trial nor reviewed the transcripts was "fundamentally unfair."

¶9 The sentencing judge asked whether Counsel's concern related to the recommended sentence. Counsel answered: "It's not so much the recommendation itself, Your Honor. It's the material that the State is representing as truth, as being how it happened at trial." But Counsel did not point to any facts in the sentencing memorandum that were inaccurate or misleading. The sentencing judge explained that both parties would present their accounts of the evidence and that the court would independently determine the appropriate sentence. Though Howard complained the State had filed its sentencing memorandum on "the eve before sentencing," she did not request a continuance or any additional time to dispute or otherwise address the statements in the memorandum.

¶10 At sentencing, the judge heard arguments from both parties, including Counsel's account of the trial evidence. He stated that he had reviewed the presentence report, the parties' sentencing memoranda, Howard's psychological evaluation and mitigation report, and the letters submitted on her behalf. The sentencing judge imposed an aggravated eighteen-year prison term.

¶11 Howard appealed. Neither party invoked Rule 19.4 below or on appeal; the court of appeals raised it sua sponte and ordered supplemental briefing, including on the rule's scope and application. *See State v. Howard*, 260 Ariz. 285, 293 ¶ 27 (App. 2025). The court affirmed Howard's conviction, rejecting her challenges to the jury instruction and the alleged judicial bias. *Id.* at 288 ¶ 1. The court divided over whether the sentencing judge was required to review the trial transcripts before imposing sentence. *See id.* at 297 ¶ 45 (Perkins, J., concurring in part and dissenting in part).

¶12 The majority vacated the sentence and remanded for resentencing. *Id.* at 288 ¶ 1, 296 ¶ 44. It reasoned that Rule 19.4's plain language required the sentencing judge to review the record sua sponte to determine whether continuing the proceeding would be unduly prejudicial, and that hearing the parties' sentencing arguments did not amount to "reviewing the record." *Id.* at 293 ¶ 27, 296 ¶ 42. The dissent would have affirmed Howard's sentence, reasoning principally that Rule 19.4 did not apply to a sentencing judge assigned after a completed proceeding; it acknowledged that reviewing the transcripts may have been the better practice, but the rule called for sufficient familiarity with the record to decide whether continuing would cause undue prejudice. *Id.* at 297–98 ¶¶ 50–51, 299 ¶ 60 (Perkins, J., concurring in part and dissenting in part).

¶13 We granted review to address an issue of statewide importance that is likely to recur. We have jurisdiction under article 6, section 5(3) of the Arizona Constitution.

DISCUSSION

¶14 This case presents a question about judicial substitution under Rule 19.4: when the judge presiding over a criminal proceeding becomes unavailable, and a successor judge is appointed to preside over the matter, must the successor judge review the transcripts before proceeding? The parties offer competing answers. The State contends that Rule 19.4 permits a successor judge to review the transcripts as needed but does not categorically require it. Howard contends that the rule imposes an affirmative duty to review the transcripts and independently determine whether continuing the proceeding would be unduly prejudicial.

¶15 We review the interpretation of the Arizona Rules of Criminal Procedure de novo. *See State v. Whitman*, 234 Ariz. 565, 566 ¶ 5 (2014). We interpret our rules using the same principles that govern statutory construction. *Chronis v. Steinle*, 220 Ariz. 559, 560 ¶ 6 (2009); *State v. Hansen*, 215 Ariz. 287, 289 ¶ 7 (2007). We therefore begin with the text, reading the rule as a whole, in context, and giving effect to each of its provisions. *See State v. Serrato*, 259 Ariz. 493, 496 ¶ 9 (2025); *Nicaise v. Sundaram*, 245 Ariz. 566, 568 ¶ 11 (2019). If the language is clear, we apply it as written unless doing so would produce an absurd result or violate the constitution, *4QTKIDZ, LLC v. HNT Holdings, LLC*, 253 Ariz. 382, 385 ¶ 5 (2022), and

when the "plain language is unambiguous in context, it is dispositive," *In re Drummond*, 257 Ariz. 15, 18 ¶ 5 (2024).

I. Rule 19.4 Did Not Apply to a Successor Judge Assigned for Sentencing After the Guilt and Aggravation Phases of the Trial Had Concluded

¶16 Rule 19.4 provides:

> If the judge who is hearing or trying a criminal proceeding becomes ill or is otherwise incapacitated, that judge may be replaced by another judge of the same court. If no other judge is available, the clerk or bailiff must recess the court and notify the presiding judge or, if unavailable, the Supreme Court Chief Justice, who will enter an order continuing the trial until selection of another judge to resume the proceeding . . . . If the new judge believes after reviewing the record that continuing the proceeding would be unduly prejudicial, the judge must order a new trial or proceeding . . . .

¶17 Rule 19.4 governs the substitution of a judge who becomes unable to continue presiding over a criminal proceeding. By its terms, Rule 19.4 operates only when a judge "hearing or trying" a criminal proceeding is replaced, and a successor judge must decide whether to "resume the proceeding" or order a new trial. Ariz. R. Crim. P. 19.4. Those conditions were not present here. When the case was reassigned after the trial judge's recusal, the guilt and aggravation phases were complete, the jury had returned its verdict and found three aggravating circumstances, and the jury had been discharged; no sentencing proceeding had begun. No proceeding was interrupted for a successor judge to resume, and Rule 19.4 did not apply.

¶18 The court of appeals' majority read Rule 19.4 to require the sentencing judge to review the trial transcripts before sentencing. *Howard*, 260 Ariz. at 295–96 ¶¶ 39–43. We disagree, because that reading severs the rule's record-review clause from its purpose.

¶19 Rule 19.4 appears in part 6 of the Arizona Rules of Criminal Procedure, which governs trial proceedings, and the surrounding rules, likewise, address matters arising during trial. *See, e.g.*, Ariz. R. Crim. P. 21.

Placement of the rule is not dispositive, but it informs the context in which the rule operates. *See Nicaise*, 245 Ariz. at 568 ¶ 11. The text points the same way. Rule 19.4 contemplates a judge "hearing or trying" a criminal proceeding, directs that another judge may "resume the proceeding," and authorizes a new trial if continuation would be unduly prejudicial. These are the characteristics of a proceeding already underway and interrupted; they do not apply to successive phases of a criminal case that remain after substitution.

¶20 The word "proceeding" takes its meaning from context. As we long ago recognized, the word "has many different meanings, depending upon the context in which it is used," and its intended meaning is "gathered from the context." *Ariz. Corp. Comm'n v. Heralds of Liberty*, 17 Ariz. 462, 466 (1916). So understood, "proceeding" can describe an entire criminal action or a single procedural step or phase within it. *See City of Sedona v. Devol*, 196 Ariz. 178, 181 ¶¶ 15–16 (App. 1999) (contrasting "proceeding" used synonymously with an "action" or "suit" describing "the entire course of an action" with its use to describe "a mere procedural step that is part of a larger action" (quoting *Proceeding*, Black's Law Dictionary (6th ed. 1990))). Rule 19.4's repeated references to hearing, trying, resuming, and ordering a new trial show that the rule uses "proceeding" in the latter sense—to mean the particular proceeding interrupted by the judge's unavailability, not every subsequent phase of the case. Read in that light, Rule 19.4 reaches only the interrupted proceeding itself. Because the trial here was not interrupted but completed, and sentencing had not begun, the rule did not apply. The rule's record-review clause serves only to let a successor judge decide whether an interrupted proceeding may fairly continue or must be retried—not to prescribe how a judge must prepare for a later sentencing. Ariz. R. Crim. P. 19.4.

¶21 By the time this case was reassigned to the sentencing judge, the trial judge had concluded the guilt and aggravation phases of the trial. The jury had returned its verdict, found three aggravating circumstances, and had been discharged. Only sentencing remained.

¶22 Howard's contrary reading would expand Rule 19.4 well beyond its text. In her view, a successor judge assigned only for sentencing would have to review the entire trial record to decide whether a new trial is necessary. But Arizona's rules already prescribe the procedures for a new trial. *See* Ariz. R. Crim. P. 24.1. Nothing in Rule 19.4 suggests that it creates

an alternative mechanism for a successor sentencing judge to reopen completed trial proceedings merely because a substitution occurred. We avoid constructions that produce such incongruous results. *See State ex rel. Montgomery v. Harris*, 237 Ariz. 98, 102 ¶ 14 (2014).

¶23 We do not suggest that Rule 19.4 is categorically inapplicable to sentencing. Had a judge's unavailability interrupted an ongoing sentencing proceeding, the successor judge would have to determine whether that proceeding could fairly continue. But no sentencing proceeding had begun when this case was reassigned. Nor do we decide the outer limits of judicial incapacity under the rule—the triggering event here being the trial judge's recusal rather than illness or incapacity—which is an issue the parties did not brief. It is enough that Rule 19.4 does not reach a successor judge assigned solely to conduct a sentencing that had not begun.

¶24 We therefore hold that Rule 19.4 did not apply to the sentencing, because no proceeding was interrupted while being heard or tried, and no sentencing proceeding had begun. Whether the sentencing judge possessed sufficient information to impose a sentence is governed not by Rule 19.4 but by Arizona's sentencing statutes, rules, and decisions concerning abuse of discretion and due process.[2]

[2] Nothing in our analysis should be understood to suggest that a successor judge has no ethical obligation to be adequately prepared. The Arizona Code of Judicial Conduct requires a judge to perform judicial and administrative duties "competently, diligently, and promptly," Ariz. Code of Jud. Conduct R. 2.5(A), and the comment to that rule treats competence as encompassing the preparation reasonably necessary to discharge the judge's responsibilities. Howard has not contended that the sentencing judge violated any such obligation. In any event, the Code "is not designed or intended as a basis for civil or criminal liability," nor as a basis "for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court." *Id.* The adequacy of the sentencing court's preparation is, therefore, governed by the sentencing standards discussed below, not by the Code.

II. Arizona Sentencing Law Governs the Adequacy of the Sentencing Judge's Investigation and Howard's Due Process Claim

¶25 Because Rule 19.4 did not govern the sentencing judge's preparation for sentencing, we turn to the standards that do. Howard contends that being sentenced by a judge who had not reviewed the trial transcripts deprived her of due process and produced an inadequately informed sentence. The court of appeals resolved the appeal solely under Rule 19.4 and did not reach whether the sentencing court conducted an adequate investigation or denied Howard due process. Those issues were raised in the superior court and briefed in the court of appeals, and, after oral argument in this court, we ordered supplemental briefing directing the parties to address them. When a party raises an issue in the court of appeals that the court does not decide, Rule 31.21(l)(2) permits this Court to decide the issue, remand the issue to the court of appeals, or dispose of the issue as appropriate.

¶26 Although both parties suggested a remand would be appropriate to resolve the outstanding issues here, Howard's remaining claims present questions of law resolvable on a fully developed record and require only the application of settled sentencing law to undisputed facts. Judicial economy, therefore, favors resolving them now, and we do so rather than remanding the case, because Howard has fully briefed these issues here so that deciding them does not deprive her of the appellate consideration to which she is entitled.

¶27 Arizona's sentencing statutes and rules identify the information a sentencing court may receive and must consider. Section 13-701(C) of the Arizona Revised Statutes provides that mitigating circumstances may be established through evidence or information presented at trial or at sentencing. Section 13-701(G) requires the court to state on the record the factual findings supporting an aggravated or mitigated sentence. Article 2, section 2.1(A)(4) of the Arizona Constitution affords crime victims the right to be heard at sentencing, and Rule 26.7 authorizes the parties to present evidence and information relevant to sentencing. Ariz. R. Crim. P. 26.7(b)(2). Together these authorities establish that sentencing is an individualized determination informed by the information properly presented to the court.

¶28 Arizona law also fixes the standard by which we review the adequacy of a sentencing court's investigation. *See Stotts*, 144 Ariz. at 87–88. In *Stotts*, we explained that a sentence within the statutory range will not be disturbed absent an abuse of discretion, which occurs when the decision is arbitrary or capricious or when the court fails "to conduct an adequate investigation into the facts relevant to sentencing." *Id.* at 87. The question is, therefore, not whether the judge reviewed every available source, but whether the court had sufficient reliable information to exercise its sentencing discretion intelligently.

¶29 In *Grier*, 146 Ariz. at 515, we recognized that a defendant has a due process right to a fair sentencing procedure, which includes the right to be sentenced on the basis of accurate information—a principle drawn from *United States v. Tucker*, 404 U.S. 443, 447 (1972). A sentencing court accordingly abuses its discretion when it fails to investigate facts necessary to the intelligent exercise of its sentencing authority. *Grier*, 146 Ariz. at 517. But a defendant does not obtain relief merely by disputing the court's characterization of the evidence. The defendant must show both that the information before the court was materially false or misleading and that the court relied on that information in imposing a sentence. *Id.* at 515.

¶30 These principles frame Howard's claim. The dispositive issues are whether the sentencing court conducted an adequate investigation into the facts relevant to sentencing, whether it relied on materially false or misleading information, and whether any deficiency deprived Howard of a fundamentally fair proceeding. We address each issue in turn.

III. Howard Has Not Established an Abuse of Discretion or a Due Process Violation

¶31 Howard has not satisfied the standards of *Stotts* and *Grier*. She identifies no materially false or misleading information presented to the sentencing court and no finding the sentencing judge made using or applying objectively inaccurate information. Instead, she disputes the State's characterization of the evidence and the sentencing judge's assessment of her conduct. Neither dispute establishes reliance on materially false or misleading information.

¶32 The State characterized Howard's conduct as a deliberate, rage-driven decision to arm herself and take the law into her own hands—hunting down the victim over a stolen purse, confronting him at gunpoint and shooting him, then abandoning him and fleeing the scene rather than calling for help. The State argued that these actions reflected a sustained lack of remorse that, together with the statutory and non-statutory aggravators, warranted the maximum sentence. The sentencing judge, in turn, characterized the offense as "a senseless act of violence that has affected so many people" and observed that "[w]e as a society don't allow vigilantism." Howard challenges the "vigilantism" characterization in particular. But in context, the sentencing judge used that term to describe her decision to pursue a confrontation rather than leave the matter to law enforcement. Whether described as vigilantism, taking the law into one's own hands, or seeking out a confrontation, the factual premise for the characterization finds support in the record. Disagreements with the State's or the sentencing judge's characterization of the evidence, therefore, do not show that the sentencing judge relied on materially false or misleading information. *See Grier*, 146 Ariz. at 515; *cf. State v. Herrera*, 176 Ariz. 9, 19 (1993).

¶33 Nor has Howard shown that the sentencing judge failed to conduct an adequate investigation. Before sentencing, the judge reviewed the presentence report, the parties' sentencing memoranda, Howard's psychological evaluation and mitigation report, and the letters submitted on her behalf. He heard arguments from both parties, including Counsel's account of the trial evidence. Those materials informed him about the offense, Howard's background and circumstances, the aggravating and mitigating factors, and the impact of the offense on the victim's family. Howard identifies no category of relevant sentencing information the sentencing judge refused or failed to consider. On this record, the investigation was adequate under *Stotts*. *See* 144 Ariz. at 87.

¶34 Howard also failed to identify any specific portion of the trial record that required review before sentencing. At the status conference, Counsel asked in general terms whether the sentencing judge would review the transcripts. The judge answered that he did not believe review was necessary but expressly invited the parties to identify materials warranting review. Howard did not request review of any particular transcript, witness, exhibit, or factual dispute. When Counsel later objected at sentencing, she again asserted only that the State had taken liberties with

the evidence, without identifying any challenged statements or directing the court to the portions of the record showing their inaccuracy. And though the State submitted its sentencing memorandum on the eve of the sentencing hearing, Howard did not request additional time to prepare or investigate any statement contained in that memorandum. Howard's generalized objections did not give the sentencing judge a meaningful opportunity to investigate or correct any alleged error. *See State v. Rutledge*, 205 Ariz. 7, 13 ¶ 30 (2003) ("The purpose of an objection is to permit the trial court to rectify possible error, and to enable the opposition to obviate the objection if possible." (quoting *State v. Hoffman*, 78 Ariz. 319, 325 (1955))).

¶35 Howard has, likewise, not shown that reviewing the transcripts would have affected the sentence. She identifies no factual misunderstanding that review would have corrected, no aggravating circumstance the sentencing judge improperly considered, and no mitigating evidence he overlooked. Her claim, thus, rests on the premise that transcript review was required as a matter of procedure, not on any showing that its absence affected the sentence. *Stotts* and *Grier* require more: a showing that the sentencing process was inadequately informed or that the sentencing judge relied on materially false information. *Stotts*, 144 Ariz. at 87; *Grier*, 146 Ariz. at 515. Howard has shown neither.

¶36 Finally, Howard has not established prejudice. She has never identified what the sentencing judge would have learned by reviewing the trial transcripts or how that information would have altered the judge's exercise of discretion. *See State v. Alston*, 261 Ariz. 82, 90 ¶ 24 (App. 2025) (explaining that to justify resentencing, a defendant "must demonstrate that absent the error the court could have reasonably imposed a lighter sentence"). At oral argument here, defense counsel conceded that no appellate issue would remain if the sentencing judge reviewed the transcripts, reached the same conclusions, and imposed the same sentence. That concession underscores the absence of demonstrated prejudice from the procedure that was followed here.

¶37 We do not suggest that the sentencing judge could not or should not have undertaken additional review. Reviewing more of the record or continuing the sentencing hearing may well have been prudent. *See Howard*, 260 Ariz. at 299 ¶ 60 (Perkins, J., concurring in part and dissenting in part). But due process does not require the best possible procedure; it requires a fundamentally fair one. *See Rivera v. Illinois*,

556 U.S. 148, 158 (2009). Howard has not pointed to any evidence that the sentencing judge conducted an inadequate investigation, relied on materially false or misleading information, or denied Howard a fair opportunity to present mitigation and to contest the State's arguments. She has, therefore, failed to establish either an abuse of discretion under *Stotts*, 144 Ariz. at 87, or a due process violation under *Grier*, 146 Ariz. at 515.

CONCLUSION

¶38 We hold that Rule 19.4 did not apply to the judge assigned to conduct Howard's sentencing, because no proceeding was interrupted while being heard or tried and no sentencing proceeding had begun. Rule 19.4's record-review requirement serves only to determine whether an interrupted proceeding may continue without undue prejudice and does not prescribe the preparation a successor judge must undertake before a sentencing that is held after the guilt and aggravation phases have concluded. Whether the court possessed sufficient information to impose sentence is governed by Arizona's sentencing statutes, rules, and decisions, including *Stotts* and *Grier*.

¶39 Because Howard has not shown that the sentencing court conducted an inadequate investigation, relied on materially false or misleading information, abused its discretion, or violated due process, we vacate the opinion of the court of appeals and affirm the superior court's sentencing order.