

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2009

In the Matter of Amendments to)
Rule 39 of the Wyoming)
Rules of Criminal Procedure)

**ORDER ADOPTING AMENDMENTS TO RULE 39 OF THE
WYOMING RULES OF CRIMINAL PROCEDURE**

This matter came before the Court upon a recommendation from the Permanent Rules Advisory Committee, Criminal Division. This Court, having carefully reviewed the proposed amendments, finds that the proposed amendments should be adopted. It is, therefore,

ORDERED that the amendments to Rule 39 of the Wyoming Rules of Criminal Procedure, attached hereto, be and hereby are adopted by the Court to be effective July 1, 2010; and it is further

ORDERED that this order and those amendments be published in the advance sheets of the Pacific Reporter and in the Wyoming Court Rules Volume. This order shall also be made available online at this Court's website, <http://www.courts.state.wy.us>. The amendments shall thereafter be spread at length upon the journal of this Court.

DATED this 2nd day of March, 2010.

BY THE COURT:

BARTON R. VOIGT
Chief Justice

Wyoming Rules of Criminal Procedure

Rule 39. Revocation or modification of probation.

(a) *Revocation.* -- Proceedings for revocation of probation shall be initiated by a petition for revocation filed by the attorney for the state, setting forth the conditions of probation which are alleged to have been violated by the probationer and the facts establishing the violation.

(5) *Hearing.* -- At the hearing upon the petition for revocation of probation, the state must establish the violation of the conditions of probation alleged in the petition by a preponderance of the evidence.

(A) The probationer shall have the right to appear in person and by counsel, ~~and~~ to confront and examine adverse witnesses, and at the dispositional stage to make a statement in mitigation of revocation.

(B) The Wyoming Rules of Evidence shall apply to the adjudicative phase of probation revocation hearings; however, hearsay that is probative, trustworthy and credible may be received into evidence. The Wyoming Rules of Evidence do not apply to the dispositional stage.
