

G8

POST-CONVICTION RELIEF

Petition for Post-Conviction Relief

(Forms & Instructions)

SELF-SERVICE CENTER

**PETITION FOR
POST-CONVICTION RELIEF**

CHECKLIST

You may use the forms and instructions in this packet if . . .

- ✓ You want to file for post-conviction relief, AND
- ✓ This filing is part of the original criminal action with the same case number, AND
- ✓ You are raising the issue issues in this petition for the first time, AND
- ✓ You understand that you must file a NOTICE of Request for Post-Conviction Relief *before* you file the PETITION for Post-Conviction Relief.
- ✓ You have read the post-conviction relief statutes (A.R.S. § 13-4231 and those that follow), and you are eligible for relief under the statutes.

DO NOT USE THE FORMS in this packet if:

- ✗ You previously petitioned for post-conviction relief, OR
- ✗ You previously raised the issues in this petition before on appeal, OR
- ✗ You have appealed this case to a higher court.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Self-Service Center website.

GENERAL INFORMATION ABOUT POST-CONVICTION RELIEF

Post-conviction relief:

- Is a process for raising an issue unknown at trial or for some reason not available at trial;
- Provides a formal setting for the defendant to establish facts underlying a claim for relief when those facts have not been previously shown in court, and
- Provides a formal setting to eliminate confusion and avoid repetitious and successive applications for relief while protecting the Petitioner's constitutional rights.

The purpose of a statute or rule providing for post-conviction relief is:

- To provide a means to question the alleged constitutional problem of a judgment or sentence, and
- To afford a simple and efficient remedy to any defendant who claims that his or her conviction was obtained by disregarding a fundamental fairness essential to the very concept of justice;
- The purpose of a post-conviction proceeding is also to determine if the trial court's judgment was clearly erroneous, and to give the trial court that made the initial determinations an opportunity to correct any irregularities that may have occurred at trial or sentencing.

It is NOT the purpose of a state post-conviction relief statute or rule:

- To provide a substitute for direct appeal, or
- To provide a second appeal. Thus, allegations of trial error involving constitutional violations are not able to be judicially heard in a motion for post-conviction relief without a showing of exceptional circumstances for not raising the constitutional grounds on direct appeal.
- To provide an alternative method of reviewing mere errors in the conduct of the trial, or an opportunity for a belated Petition for rehearing.

NOTE: A person unable to pay costs of this post-conviction relief proceeding and to obtain the services of an attorney should:

- 1) indicate financial hardship and request counsel in Question 8 of the NOTICE form, and
- 2) execute the Affidavit of Indigency on the last page of the NOTICE form.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, can be found at the Graham County Superior Court Self-Service Center.



The state law explaining how to begin a post-conviction relief proceeding may be found in 16A A.R.S. Rules Crim. Procedure, Rule 32.4.

INSTRUCTIONS: HOW TO COMPLETE THE FORMS AND STEPS IN THE POST-CONVICTION RELIEF PROCESS

STEP 1: In **BLACK INK**, please complete the forms in this packet with instructions below:

FORM: NOTICE FOR POST-CONVICTION RELIEF

Heading

- At the top of the form, please fill in your name, street address, city, state, zip code, telephone number (if not protected), attorney bar number (if you are represented by an attorney).
- Put a check mark in the box if you are representing yourself.
- If you have an attorney representing you, place a check mark in that box.
- Write your first and last name on the line above “defendant”.
- Write in your case number on the line at the upper right side of the page.

Items 1 – 3

- Complete the personal information requested
- Information about your conviction may be found online at the Graham County Superior Court website. The case history lists the name of the crime, and the associated statute number. You may also find information about your sentence in the case history.
- Remember to fill in your case number on the top right side of each page of the form.

Item 4

- Place a check mark in the boxes that apply to you.

Item 5

- Write in the name of the attorney who represented you during each part of your case named under part A.
- In part B, if you are claiming ineffective assistance of counsel, check mark the “yes” box.
- In part C, place a check mark in the appropriate box, and write the name of your attorney if you have one.
- If you have no attorney and you want the court to appoint one for this matter, place a check mark in the “yes” box in part D.

Item 6

- Do not answer this question if you are filing your Notice on time, or you have never filed a Rule 32 case.
- If you answered “yes” to the first question in item 6, continue on the following page and place a check mark in the box that best describes the reason for your claim. Next, on the lines provided, write out the facts that support your claim, and the reason(s) you did not raise the claim in the previous Petition or in a timely manner.

Item 7 and 8

- Notice Declaration: If everything you wrote in the Notice form is true, sign and date your signature on the lines under the “Declaration” portion of the form.
- Affidavit: A person unable to pay costs of this post-conviction relief proceeding and to obtain the services of an attorney should 1) indicate financial hardship and request counsel in this Item 8 of the NOTICE form, and 2) Sign and date the Affidavit of Indigency in front of the Notary Public on the last page of the NOTICE form.

FORM: PETITION FOR POST-CONVICTION RELIEF

General

- In order for this Petition to be considered by the court, you must **first file** a **Notice** of Post-Conviction Relief.
- Each numbered item in the Petition must be answered fully and concisely in legible handwriting or by typing. When necessary, an answer to a particular question may be completed on an additional blank page, making clear to which question the continued answer refers.
- Any false statement of fact made and sworn to under oath in this Petition could serve as the basis for prosecution and a perjury conviction. Therefore, be careful to assure that all answers are true and correct.
- For this Petition, you may not use an issue which has already been raised and decided on appeal or in a previous Petition.
- Be careful to include 1) every new reason for relief you know of, and 2) that the new reason being used in the Petition has not been raised and decided before this Petition.
- Remember, if you raise an issue or reason for relief that has already been heard by the court or appealed, you may not use the same reason for this Petition.

Heading

- At the top of the form, please fill in your name, street address, city, state, zip code, telephone number (if not protected), attorney bar number (if you are represented by an attorney).
- Put a check mark in the box if you are representing yourself.
- If you have an attorney representing you, place a check mark in that box.
- Write your first and last name on the line above “defendant”.
- Write in your case number on the line at the upper right side of the page.

Items 1 – 2

- Complete the personal information requested on the lines given.
- Information about your sentence and conviction may be found online at the Graham County Superior Court website. The case history lists the name of the crime, and the associated statute number. You may also find information about your sentence in the case history.
- Remember to fill in your case number on the top right side of each page of the form.

Item 3

- Carefully read the list of reasons for post-conviction relief.
- Then go back to the top of the list and place a check mark in the box(es) that apply to you.

Item 4

- Briefly write the facts that support the reasons you believe you should be granted post-conviction relief.
- If you need more space than the lines provide, continue the facts on an attached sheet, clearly marked “Petition – Item 4 – Attachment.”

Item 5

- Part A: On the line provided, note the exhibit numbers of all affidavits, records and other supporting evidence you are attaching as exhibits in support of this Petition.
- Part B: Briefly list the reasons why you have no affidavits, no records or other evidence supporting your claim for post-conviction relief.

Item 6

- Place a check mark in the appropriate box(es) to tell the court the other actions you have taken to get post-conviction relief. If you have not taken any of these actions, leave the boxes blank.

Item 7

- On the lines provided, write the new issue(s) you raise in this Petition (issues which have never before been raised or decided) and explain WHY they are new issues.

Item 8

- Place a check mark in the box that describes the kind of post-conviction relief you want the court to order.

Declaration

- If everything you wrote in the Petition form is true, sign and date your signature on the lines provided for the Defendant, with a Notary Public present.

FORM: REQUEST FOR RECORDS FOR POST-CONVICTION RELIEF

Top of Page

- Complete the personal information and your case number on the lines provided.

Request for Preparation of Record

- For each record you need prepared (Superior Court record, transcripts, probation violation, etc.) place a check mark in the box beside the name of that record.

Signature

- Review everything you wrote on the form.
- Sign and date your signature on the lines provided. You may sign on the line marked “attorney” if you do not yet have attorney representation.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____



Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN GRAHAM COUNTY

State of Arizona

Case Number: _____

NOTICE OF REQUEST FOR POST- CONVICTION RELIEF

Defendant (First, MI, Last)

STATEMENTS MADE TO THE COURT, UNDER OATH OR AFFIRMATION:

1. INFORMATION ABOUT ME, the DEFENDANT:

Name: _____
Address: _____
Date of Birth: _____
Prison/Inmate Number (if any): _____

2. INFORMATION ABOUT MY CONVICTION: I was convicted of the following crime(s):

<u>Common Name</u>	<u>Statute Number (A.R.S.)</u>
--------------------	--------------------------------

3. INFORMATION ABOUT MY SENTENCE:

Defendant was Sentenced on (date): _____, 20____

To a TERM of _____, beginning on (date) _____, 20____,

Following a: (Place a check mark in the box below that applies.)

- Trial by jury
- Trial to Judge without a Jury
- Plea of Guilty
- Plea of No Contest
- Probation Revocation Admission
- Probation Revocation Violation Hearing in the Superior Court in _____ County with judicial officer _____ presiding.

The file number of this case was CR-_____.

4. OTHER ACTIONS TO SECURE RELIEF: Defendant has taken the following actions to get relief from his/her convictions or sentences. (Check the box below that applies to you):

- Direct Appeal - YES or NO
- Previous Rule 32 Proceedings - YES or NO

5. INFORMATION ABOUT ATTORNEY REPRESENTATION: (Check the boxes that apply.)

A. Defendant was represented by the following lawyers:

(Write in the name and address of the lawyer below):

- Trial or Change of Plea: _____
- Sentencing Hearing: _____
- Appeal (If any): _____
- Previous Rule 32 Proceedings (If any): _____

B. Is Defendant raising a claim of ineffective assistance of counsel? YES or NO

C. Is Defendant presently represented by a lawyer? YES or NO If "Yes", write lawyer's name and address here:

D. If at this time you are not represented by a lawyer; do you want the court to appoint a lawyer for this Post - Conviction proceeding? YES or NO

6. UNTIMELY NOTICE or PREVIOUS RULE 32 CASE: Answer this section **ONLY IF** this is an untimely notice –or- the defendant has filed a previous Rule 32 petition in this case.

- Is a claim pursuant to Rule 32.1(d), (e), (f), (g), or (h) being raised in this petition? YES or NO
- If YES, place a check mark in the appropriate box:

- The defendant is being held in custody after the sentence imposed has been expired.
 - Newly discovered material facts exist which probably would have changed the verdict or sentence.
 - The defendant's failure to file timely notice of post-conviction relief or notice of appeal was without fault on the defendant's part.
 - There has been a significant change in the law that would probably overturn the conviction or sentence.
 - Facts exist which establish by clear and convincing evidence that the defendant is actually innocent.
- **STATE THE FACTS** that support the claim and the reasons for not raising the claim in the previous petition or in a timely manner.

7. NOTICE: I AM REQUESTING a HEARING FOR POST-CONVICTION RELIEF.

DECLARATION: I declare under penalty of perjury that the information contained in this form and in any attachments is true to the best of my knowledge or belief. I also understand that the failure to raise any known ground for relief in my petition will prohibit me from raising it at a future date.

Signature

Date

8. AFFIDAVIT OF INDIGENCY: I have requested the appointment of a lawyer to represent me in post-conviction proceedings. I swear under oath and penalty of perjury that I am indigent and because of my poverty I am financially unable to pay for the cost of a lawyer to represent me without incurring substantial hardship to myself or my family.

Date

Defendant

State of Arizona)
)
County of)ss.

Subscribed and Sworn to or Affirmed before me on:

Date

My Commission Expires

Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____



Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN GRAHAM COUNTY

State of Arizona

Case Number: _____

PETITION FOR POST- CONVICTION RELIEF

Defendant's Name (First, MI, Last)

STATEMENTS MADE TO THE COURT, UNDER OATH:

1. INFORMATION ABOUT ME, the DEFENDANT / PETITIONER:

Name: _____

Address: _____

Date of Birth: _____

Prison/Inmate Number (if any): _____

2. CURRENT INFORMATION ABOUT MY SENTENCE: Defendant / Petitioner is now:

- On Community Supervision
- On Parole
- On Probation
- Confined in (name of prison/jail): _____

3. REASON(S) FOR REQUESTED RELIEF: Defendant / Petitioner is eligible for relief because of the following reason(s) (Place a check mark next to the reason(s) that apply to your case):

- The introduction at trial of evidence obtained pursuant to an unlawful arrest.
- The introduction at trial of evidence obtained by an unconstitutional search and seizure.
- The introduction at trial of an identification obtained in violation of constitutional rights.
- The introduction at trial of a coerced confession.

- The introduction at trial of a statement obtained in the absence of a lawyer at a time when representation is constitutionally required.
- Any other infringement of the right against self-incrimination.
- The denial of the constitutional right to representation by a competent lawyer at every critical stage of the proceeding.
- The unconstitutional suppression of evidence by the state.
- The unconstitutional use of perjured testimony by the state.
- An unlawfully induced plea of guilty or no contest.
- Violation of the right not to be placed twice in jeopardy for the same offense.
- The abridgement of any other right guaranteed by the constitution or the laws of this state, or the constitution of the United States, including a right that was not recognized as existing at the time of the trial if retrospective application of that right is required.
- The existence of newly discovered material which requires the court to vacate the conviction or sentence. [Specify when the defendant / petitioner learned of these facts for the first time, and show how they would have affected the trial.]

- The lack of jurisdiction of the court which entered the conviction or sentence.
- The use by the state in determining sentence of a prior conviction obtained in violation of the United States or Arizona constitutions.
- Sentence imposed other than in accordance with the sentencing procedures established by rule and statute.
- Being held beyond the term of sentence or after parole or probation has been unlawfully revoked.
- The failure of the judge at sentencing to advise defendant / petitioner of his/her right to appeal, and the procedures for doing so.
- The failure of defendant / petitioner's attorney to file a timely notice of appeal after being instructed to do so.
- The obstruction by state officials of the right to appeal.
- Any other ground within the scope of Rule 32, Arizona Rules of Criminal Procedure (Please specify the grounds below):

4. **SUPPORTING FACTS:** The facts in support of the alleged error(s) upon which this petition is based are contained below and in the Attachment:[State facts clearly and fully; citations or discussions of authorities need not be included].

5. **SUPPORTING EXHIBITS:**

A. The following exhibits are attached in support of this Petition:

- Affidavits (Exhibit(s) # _____
- Records (Exhibit(s) # _____
- Other Supporting evidence (Exhibit(s) # _____

B. No affidavits, records, or other supporting evidence are attached because (state reason(s) below):

6. **OTHER ACTIONS TO SECURE RELIEF:** The Petitioner / Defendant has taken the following actions to secure relief from his/her convictions or sentences: (Place a check mark in the appropriate box below)

A. Direct Appeal: YES or NO If YES, list the courts to which the appeals were taken, date of appeals, number, and result:

B. Previous Rule 32 Proceedings: YES or NO If YES, name the court in which such petitions were filed, dates, numbers, and results including all appeals from decisions on such petitions:

C. Previous Habeas Corpus or Special Action Proceedings in the Courts of Arizona:

YES or NO If YES, name the court(s) in which such petitions were filed, dates, numbers, and results including all appeals from decisions on such petitions:

D. Habeas Corpus or Other Petitions in Federal Courts: YES or NO If YES, name the districts in which petitions were filed, dates, court numbers – civil action or miscellaneous, and results, including all appeals from decisions on such petitions:

7. **NEW ISSUE(s):** The issue(s) which are raised in this petition have not been raised nor finally decided *before this time* because:

8. **POST-CONVICTION RELIEF REQUESTED:** Because of the reasons stated in the above Petition, the relief which I the Defendant / Petitioner request is: (Place a check mark in the appropriate box):

- A. Release from custody and discharge.
- B. A new trial.
- C. Correction of Sentence.
- D. The right to file a delayed appeal.
- E. Other relief (specify):

DECLARATION: I declare under penalty of perjury that the information contained in this form and in any attachments is true to the best of my knowledge and belief. I also understand that the failure to raise any known ground for relief in my petition will prohibit me from raising it at a future date.

Date

State of Arizona)
)
County of)ss.

My Commission Expires

Defendant

Subscribed and Sworn to or Affirmed before me on:

Date

Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

For Clerk's Use Only

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN GRAHAM COUNTY

State of Arizona

Case Number: _____

REQUEST FOR PREPARATION OF POST- CONVICTION RELIEF RECORD

Defendant's Name (First, MI, Last)

The defendant has filed a Petition for Post-Conviction Relief in the above-entitled cause. Defendant requests, pursuant to Rule 32.4(d) Arizona Rules of Criminal Procedure, the preparation of the following portions of the court record and transcripts for review. The defendant has not previously received the documents requested.

SUPERIOR COURT RECORD: (Check the boxes before the items you request)

- Instruments
- Minute Entries
- Presentence Report
- Criminal History
- Rule 11 Reports

TRANSCRIPTS: (Check the box if you request transcripts)

- Transcripts

PROBATION VIOLATION: (Check the boxes before the items you request)

- Probation Revocation
- Admission of Violation
- Violation Hearing
- Predisposition Hearing, if any
- Disposition hearing

CHANGE OF PLEA: (Check the boxes before the items you request)

- Change of Plea
- Presentence Hearing, if any
- Sentencing

TRIAL: (Check the boxes before the items you request)

- All Pretrial Motions (except deletions)
- Voir Dire
- Opening Arguments
- Closing Arguments
- All trial proceedings (from calling of the case to the verdict)
- Trial or Admission of Prior Conviction(s)
- All Post-Trial Motions (except deletions)
- Presentence Hearing, if any
- Sentencing

DELETIONS: (Check the boxes before the items you request)

- Motions to Continue by Defendant
- Hearings dealing with Release Conditions
- Pretrial Conferences
- Arraignments
- Mistried Cases
- Stipulated Rule 11 hearings

DATED this ___ day of _____, 20__

Defendant or Attorney for Defendant

Copy of the foregoing Mailed this _____ day of _____, 20_____ to:

