

## Form 24(b). Notice Requesting Post-Conviction Relief

Court Name or Location: \_\_\_\_\_

County: \_\_\_\_\_

STATE OF ARIZONA, Plaintiff

Case Number: \_\_\_\_\_

-vs-

### NOTICE REQUESTING POST CONVICTION RELIEF

\_\_\_\_\_  
Defendant (first, middle, and last name)

If the Defendant was sentenced after a **trial** or after a **probation violation hearing**, the Defendant must request relief under **Rule 32** of the Arizona Rules of Criminal Procedure.

If the Defendant was sentenced after a **plea of guilty or no contest**, after the **admission of a probation violation**, or after an **automatic violation of probation**, the Defendant must request relief under **Rule 33** of the Arizona Rules of Criminal Procedure.

There are time limits for filing this notice. See section C below. There are also time limits for filing a petition for post-conviction relief. See **Rules 32.7 and 33.7**.

#### A. INFORMATION ABOUT THE DEFENDANT:

1. Name (first, middle, and last): \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_
3. Mailing address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_
4. Is the Defendant currently in jail or prison? ☐ Yes ☐ No  
**If yes**, the Defendant's inmate number is: \_\_\_\_\_

#### B. INFORMATION ABOUT THE DEFENDANT'S SENTENCE:

1. The Defendant was sentenced on the following date: \_\_\_\_\_
2. The Defendant was sentenced after:  
☐ a plea of guilty or no contest.  
☐ a trial.  
☐ an admission of a probation violation.  
☐ an automatic violation of probation (because the Defendant was convicted of another crime).  
☐ a probation violation hearing.
3. The Defendant was sentenced in this case for the following crime or crimes:  
\_\_\_\_\_
4. The Defendant received the following sentence:  
\_\_\_\_\_
5. The Defendant was represented by the following lawyer at sentencing:  
\_\_\_\_\_
6. After the Defendant was sentenced, the Defendant had an appeal: ☐ Yes ☐ No  
**If yes**, the appellate court issued its mandate on: \_\_\_\_\_
7. After the Defendant was sentenced, the Defendant had a previous post-conviction proceeding (under Rule 32 or Rule 33): ☐ Yes ☐ No

If yes, that proceeding was final on the following date: \_\_\_\_\_

**C. POST-CONVICTION RELIEF CLAIM:**

**Under Rule 32.1(a)**, a Defendant may request post-conviction relief after a trial or a contested probation violation hearing if the Defendant's conviction was obtained, or the sentence was imposed, in violation of the United States or Arizona constitutions. **Under Rule 33.1(a)**, a Defendant may request post-conviction relief if the Defendant's guilty or no contest plea or admission to a probation violation was obtained, or the sentence was imposed, in violation of the United States or Arizona constitutions. A claim of incompetent or ineffective assistance of counsel is raised under Rule 32.1(a) or Rule 33.1(a).

1. Is the Defendant raising a claim under **Rule 32.1(a)**? ☐ Yes ☐ No

**If yes**, this notice is being timely filed:

☐ within 90 days after the **oral pronouncement** of sentence,

**OR**

☐ within 30 days after the issuance of the mandate in the **direct appeal**.

**OR**

☐ This notice is not timely, but that is not the Defendant's fault because:

\_\_\_\_\_

2. Is the Defendant raising a claim under **Rule 33.1(a)**? ☐ Yes ☐ No

**If yes**, this notice is being timely filed:

☐ **within 90 days** after the oral pronouncement of sentence,

**OR**

☐ The Defendant is raising a claim that the Defendant received **ineffective assistance** of Rule 33 counsel in Defendant's first Rule 33 proceeding **AND** This notice is being filed:

☐ no later than 30 days after the **trial court's final order** in the first post-conviction proceeding.

**OR**

☐ if the Defendant requested appellate review of that order, no later than 30 days after the **appellate court issued its mandate** in that proceeding.

**OR**

☐ This notice is not timely, but that is not the Defendant's fault because:

\_\_\_\_\_

3. Is the Defendant raising a claim under **Rule 32.1(b)-(h) or Rule 33.1(b)-(h)**?

☐ Yes ☐ No

**If yes**, check all boxes that apply.

☐ The court did not have **subject matter jurisdiction** to render a judgment or impose a sentence on the Defendant [Rule 32.1(b) or 33.1(b)].

☐ The sentence as imposed is **not authorized by law**, or, if the Defendant entered a plea, the sentence is **not authorized** by the plea agreement. [Rule 32.1(c) or 3.1(c)].

- ☐ The Defendant continues to be or will continue to be **in custody after the sentence expires** [Rule 32.1(d) or 33.1(d)].
- ☐ **Newly discovered material facts** probably exist, and those facts probably would have changed the judgment or sentence [Rule 32.1(e) or 33.1(e)].
- ☐ The **failure to timely file a notice** of appeal or a notice of post-conviction relief was not the Defendant's fault [Rule 32.1(f) or 33.1(f)].
- ☐ There has been a **significant change in the law** that, if applicable to the Defendant's case, would probably overturn the Defendant's judgment or sentence [Rule 32.1(g) or 33.1(g)].
- ☐ There is **clear and convincing evidence** that the facts underlying the claim would be sufficient to establish that no reasonable fact-finder would find the Defendant guilty of the offense beyond a reasonable doubt, or that no reasonable fact-finder would find the defendant eligible for the death penalty in an aggravation phase held pursuant to A.R.S. § 13-752. [Rule 32.1(h) or 33.1(h)].

The Defendant:

☐ has raised each claim within a reasonable time after learning of the claim,

**OR**

☐ has failed to timely file a notice, but that is not the Defendant's fault because:

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4. Is this a **successive** post-conviction relief notice?

☐ **Yes** ☐ **No**

**If yes**, you must explain why the claim was not raised in a previous post-conviction relief notice or petition.

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### **REQUEST FOR POST-CONVICTION RELIEF:**

I am requesting post-conviction relief. I understand that my petition for post-conviction relief must include every ground for relief that is known to me that has not been previously raised and decided.

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Date

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Defendant's signature

### **REQUEST FOR AN ATTORNEY AND DECLARATION OF INDIGENCY:**

I request the court to appoint an attorney to represent me in this post-conviction proceeding.

I am indigent, and because of my poverty I am financially unable to pay a lawyer to represent me without incurring substantial hardship to myself or my family.

I declare under penalty of perjury that the foregoing is true and correct.

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Date

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Defendant's signature