

Form 25. Petition for Post-Conviction Relief

Court Name or Location: _____

County: _____

STATE OF ARIZONA, Plaintiff

Case Number: _____

-vs-

Defendant (first, middle, and last name)

**PETITION FOR POST-
CONVICTION RELIEF UNDER**
 RULE 32 **RULE 33**

INSTRUCTIONS TO THE DEFENDANT

- (1) You must file a Notice Requesting Post-Conviction Relief (Form 24(b)) before you file this petition.
- (2) Answer the questions in this petition in readable handwriting or by typing. Use additional blank pages for completing your answers, if necessary, but write on only one side of the page.
- (3) Indicate above whether you are filing this petition under **Rule 32** or **Rule 33**. If you are filing under **Rule 32**, answer question 2. If you are filing under **Rule 33**, answer question 3.
- (4) Do not raise issues you have already raised on your appeal (if any) or in a previous petition for post-conviction relief (if any). Include in this petition every ground for relief you are aware of and that has not been raised and decided previously. If you do not raise such a ground now, you may not be able to raise it later.
- (5) File your completed petition with the clerk of the court where you were convicted and sentenced (or mail it to the clerk of that court for filing).

There are **time limits** for filing the petition.

- If you file under Rule 32, see the time limits in Rule 32.7.
- If you file under Rule 33, see the time limits in Rule 33.7.

1. INFORMATION ABOUT THE DEFENDANT

Name: _____

Current Status: On Probation Incarcerated On Parole On Community Supervision

Inmate number (if any): _____

2. RULE 32 GROUNDS FOR RELIEF

Defendant claims the following grounds for relief.

- Rule 32.1(a):** The Defendant’s conviction was obtained, or the Defendant’s sentence was imposed, in violation of the United States or Arizona constitutions, specifically:
 - The Defendant was denied the constitutional right to representation by a **competent and effective lawyer** at every critical stage of the proceeding.
 - The State used evidence at trial it obtained during an **unlawful arrest**.
 - The State used evidence at trial it obtained during an **unconstitutional search and seizure**.
 - The State used an **identification** at trial that violated the Defendant’s constitutional rights.

- The State used a **coerced confession** at trial; used a statement obtained in the absence of a lawyer, at a time when representation by a lawyer was constitutionally required; or there was other infringement of the Defendant's right against self-incrimination.
 - The State **suppressed** favorable evidence.
 - The State used **perjured testimony**.
 - There was a violation of the Defendant's right not to be placed **twice in jeopardy** for the same offense or punished twice for the same act.
 - To determine the Defendant's sentence, the State used a **prior conviction** that was obtained in violation of the United States or Arizona constitutions or Arizona statutes.
 - 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.
 - Rule 32.1(b)**: The court did not have subject matter **jurisdiction** to render a judgment or to impose a sentence on the Defendant.
 - Rule 32.1(c)**: The **sentence** is not authorized by law.
 - Rule 32.1(d)**: The Defendant continues to be or will continue to be in custody after his or her **sentence expired**.
 - Rule 32.1(e)**: Newly discovered **material facts** probably exist, and those facts probably would have changed the judgment or sentence.
 - Rule 32.1(f)**: The failure to **timely file** a notice of appeal was not the Defendant's fault.
 - Rule 32.1(g)**: There has been significant **change in the law** that, if applicable to the Defendant's case, would probably overturn the Defendant's conviction or sentence.
 - Rule 32.1(h)**: This petition demonstrates by **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.
 - Any **other ground** within the scope of Rule 32, Rules of Criminal Procedure (Specify):
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3. RULE 33 GROUNDS FOR RELIEF

Defendant claims the following grounds for relief.

- Rule 33.1(a)**: The Defendant's plea or admission to a probation violation was obtained, or the Defendant's sentence was imposed, in violation of the United States or Arizona constitutions.
 - The Defendant was denied the constitutional right to representation by a **competent and effective lawyer** at every critical stage of the proceeding.
 - There was a violation of the Defendant's right not to be **punished twice** for the same act.

- [] 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.
- [] **Rule 33.1(b):** The court did not have subject matter **jurisdiction** to render a judgment or to impose a sentence on the Defendant.
- [] **Rule 33.1(c):** The **sentence** is not authorized by law or by the plea agreement.
- [] **Rule 33.1(d):** The Defendant continues to be or will continue to be in custody after his or her **sentence expired**.
- [] **Rule 33.1(e):** Newly discovered **material facts** probably exist, and those facts probably would have changed the judgment or sentence.
- [] **Rule 33.1(f):** The failure to **timely file** a notice of post-conviction was not the Defendant's fault.
- [] **Rule 33.1(g):** There has been a significant **change in the law** that, if applicable to the Defendant's case, would probably overturn the Defendant's conviction or sentence.
- [] **Rule 33.1(h):** This petition demonstrates by **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.

4. SUPPORTING FACTS AND DOCUMENTS

A. The Defendant submits the following **facts and legal authorities** in support of this petition. (Use additional pages if necessary.)

B. Identify any newly discovered material facts in support of a claim for newly discovered evidence. Specify when the Defendant learned of these facts for the first time, and how they would have affected the trial or proceeding.

C. The following **affidavits, transcripts, and documents** are attached in support of the petition:

Affidavits [Exhibit(s) # _____]

Transcripts [Exhibit(s) # _____]

Documents [Exhibit(s) # _____]

D. No affidavits, transcripts or other supporting documents are attached because:

5. ACTIONS TAKEN

The Defendant has taken the following actions to secure relief from his conviction or sentence:

A. Appeal? **Yes** **No** (If yes, name the courts to which appeals were taken, date, number, and result.)

B. Previous Post-Conviction Proceedings? **Yes** **No** (If yes, name the court in which the previous petitions were filed, dates, and results. Include any appeals from decisions on those petitions.)

C. Previous Habeas Corpus or Special Action Proceedings in the Courts of Arizona?
 Yes **No** (If yes, name the courts 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** **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.)

- E.** If the answers to one or more of the questions 5A, 5B, 5C, or 5D are “yes,” explain why the issues that are raised in this petition have not been finally decided or raised before. (State facts.)

6. RELIEF REQUESTED

Because of the foregoing reasons, the relief which the petitioner requests is:

- 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): _____

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.

Date

Defendant’s signature