



Scottsdale City Court • 3700 N 75th Street Scottsdale, AZ 85251 • (480) 312-2442

Fax: (480) 312-2764 • court@scottsdaleaz.gov • www.ScottsdaleAZ.gov/Court
ORI: AZ007111J • Maricopa County, Arizona

Post-Conviction Relief

The purpose of a Post-Conviction proceeding is to determine if the outcome was erroneous, and to give the original trial court an opportunity to correct any irregularities that may have occurred at trial or sentencing. When filed within 90 days of entry of judgment, this notice is used to initiate proceedings to challenge a conviction after a guilty disposition has been rendered on a case. It 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.

It is not the purpose of a Post-Conviction proceeding to provide a substitute for direct appeal, or to provide a second appeal. If there are allegations of trial error involving constitutional violations, the defendant must show the circumstances for not raising any constitutional violations on direct appeal. It is not to provide an alternative method of reviewing errors in trial conduct, nor an opportunity for a delayed petition for rehearing.

The Arizona Revised Statute explaining the scope of post-conviction relief is A.R.S. §13-4231 (www.azleg.gov). The rules explaining how to begin a post-conviction relief proceeding may be found in Arizona Rules of Criminal Procedure, Rule 32 (Post-Conviction Relief for Defendants Sentenced Following a Trial or a Contested Probation Violation Hearing) and Rule 33 (Post-Conviction Relief for Defendants Who Pled Guilty or No Contest, Who Admitted a Probation Violation, or Who Had an Automatic Probation Violation) (www.azcourts.gov). It is the filer's responsibility to read and understand Rule 32 and Rule 33 and follow all applicable timelines and legal requirements.

The defendant must also submit a copy of the Post-Conviction Relief packet to the Prosecutor's Office. Their address is: City of Scottsdale Prosecutor's Office, 3700 N 75th St., Scottsdale, AZ 85251. Their fax number is (480) 312-7795.

Instructions for filing form

1. Complete all necessary information on the form(s).
2. Have the designated pages of the Notice and Petition notarized and make a copy of all documents for your records, as the court will keep the originals that you file (there may be a fee charged by the notary).
3. Submit the completed form to the Court.

If filing by email:

Attach the completed form and send to court@scottsdaleaz.gov.

Only Word and PDF documents will be accepted. Photos (.jpeg or other photo files) will not be accepted.

If filing by fax:

Fax the completed form to Scottsdale City Court at (480) 312-2764.

If filing by mail:

Mail the completed form to Scottsdale City Court, 3700 North 75th Street, Scottsdale, Arizona 85251.

If filing in person:

Bring the completed form to the Court, take a number in the lobby and wait for a Clerk to assist you or you may place your filing in the drop box.

It is the filer's responsibility to ensure the Court is in receipt of your filing. All responses will be sent via USPS mail to the last address on file.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing [] Self or [] Attorney for _____
Lawyer's Bar Number: _____

For Clerk's Use Only

SCOTTSDALE CITY COURT OF ARIZONA
IN MARICOPA COUNTY

STATE OF ARIZONA, Plaintiff

[Case/Complaint No.]

-vs-

**NOTICE REQUESTING
POST-CONVICTION RELIEF**

Defendant (FIRST, MI, 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 33.1(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 Defendant’s claim are sufficient to establish that no reasonable factfinder would find the Defendant guilty of the offense beyond a reasonable doubt [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:

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.

Date

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.

Date

Defendant’s Signature

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

For Clerk's Use Only

SCOTTSDALE CITY COURT OF ARIZONA
IN MARICOPA COUNTY

STATE OF ARIZONA, Plaintiff

[Case/Complaint No.]

-vs-

Defendant (FIRST, MI, 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 have imposed the death penalty.
- Any **other ground** within the scope of Rule 32, Rules of Criminal Procedure (Specify):

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 factfinder 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 are:

- 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

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing [] Self or [] Attorney for _____
Lawyer's Bar Number: _____

For Clerk's Use Only

SCOTTSDALE CITY COURT OF ARIZONA
IN MARICOPA COUNTY

STATE OF ARIZONA, Plaintiff

[Case/Complaint No.]

-vs-

**DEFENDANT'S REQUEST FOR
THE COURT RECORD**

Defendant (FIRST, MI, and LAST NAME)

Note: The court's record includes all documents filed with the clerk. The court's record also includes transcripts of oral proceedings conducted in the courtroom. A defendant who requests copies of items admitted into evidence must make the request by a separate motion.

The Defendant has filed a Notice Requesting Post-Conviction Relief under [] **Rule 32** (or) [] **Rule 33**.

The Defendant now requires items from the court's record to prepare the Defendant's petition for post-conviction relief.

The Defendant requests the items checked below. The Defendant's signature below affirms that the Defendant has not previously received the requested items.

[] **THE DEFENDANT REQUESTS DOCUMENTS FILED WITH THE CLERK.**

The filed documents presumptively include the charging documents, motions and responses to motions and replies, minute entries, presentence reports and other reports to the court, and court orders. This is referred to as "the presumptive record."

If the Defendant wants to **omit items** in the presumptive record, list them here:

If the Defendant requests **items in addition to** what is in the presumptive record, list them here:

THE DEFENDANT REQUESTS TRANSCRIPTS OF COURT PROCEEDINGS.

1. If the Defendant's Notice Requesting Post-Conviction Relief was filed under **Rule 32**, the Defendant requests transcripts of the following:

Evidentiary hearings.

Specify the subjects of the evidentiary hearings, or indicate "all": _____

Trial. If this box is checked, specify whether the Defendant requests transcripts of: (Check all that apply.)

Hearings on pretrial motions

Jury selection

Opening statements

Testimony of witnesses

Final arguments

Hearings on legal issues during trial

Hearings on Post-Trial Motions

Settlement Conference

Sentencing, including any presentence hearing

Rule 11 Hearings

Other (specify): _____

2. If the Defendant's Notice Requesting Post-Conviction Relief was filed under **Rule 33**, the Defendant requests transcripts of the following:

Change of Plea

Presentence Hearing

- Sentencing
- Probation Revocation Arraignment
- Probation Violation Hearing
- Probation Violation Disposition Hearing
- Rule 11 Hearing
- Settlement Conference
- Other (specify): _____

3. Omitted Proceedings. The court will **not** provide transcripts of the following proceedings unless the Defendant checks a box requesting one or more specific items.

- Hearings on Motions to Continue
- Hearings Concerning Conditions of the Defendant's Pretrial Release
- Arraignments
- Pretrial Conferences
- Trials in which no verdict was returned

Dated this ____ day of _____, 20__.

Defendant or Attorney for Defendant

Copy of the foregoing

Mailed this ____ day of _____, 20__ to:
