

Attachment A

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

Court Name or Location: _____

County: _____

STATE OF ARIZONA, Plaintiff

[CASE/COMPLAINT NO.]

-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 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 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:

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.

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