



Overview of the Post-Conviction Relief Process

Anyone who has been convicted of a crime has the right to ask the original judge to review the case if they think the conviction or sentence violates the law or there is important new evidence that should be considered. This type of appeal is called a Post-Conviction Relief (PCR) Proceeding. If you have opted in for post-conviction notification, here are some things you should know regarding the PCR process:

There are several steps in the PCR process. To begin, a defendant, now called a “petitioner” must file a “Notice” requesting post-conviction relief with the court. The Notice simply gives some general information about the case and states the appellant’s intention to challenge the conviction or sentence. If the judge allows the matter to proceed, a deadline is set for the second step, which is the filing of a PCR Petition. In the Petition, the petitioner or their attorney must write out all their complaints (or claims) and the legal reasons supporting them. Sometimes they will need more time to file the Petition, and it is not uncommon for the judge to extend the filing deadline if asked to do so.

Please be aware that it is not uncommon for the petitioner to request that the judge extend the deadline multiple times.

After the PCR Petition has been filed, the judge will set a deadline for the State to file its response; this deadline can be extended if the State needs more time to answer all of the claims in the Petition. Then the petitioner will have the opportunity to file a reply to the State’s arguments. Once the judge has received all these filings, a decision will be made regarding each claim.



What are the Possible Outcomes?

After reviewing *each* claim, the judge has three options:

1. **Summarily dismiss the claim(s):** if the court finds no basis for the petitioner’s claim(s), the judge can summarily dismiss the petition without further proceedings in that court.
2. **Set an evidentiary hearing:** if the judge needs to hear more evidence on any of the claims, a hearing will be set at which both sides can present witnesses and evidence to support their arguments. After the evidentiary hearing, the judge will choose to either deny or grant relief on the claim(s).
3. **Grant relief:** if the judge finds that any of the petitioner’s claims have merit without the need for an evidentiary hearing, relief will be granted. The type of relief granted will depend on the type of claim. FOR EXAMPLE: If the court agrees that the sentence was illegal under the law, the remedy may be a new sentencing hearing. If the court found that the plea was entered into unfairly, If the court found that the defense attorney was ineffective, the remedy could be a new plea agreement or a new trial. In most cases, a grant of Post-Conviction Relief *does not* mean the charges are dismissed or that the petitioner gets released from custody. In most cases, a grant of Post-Conviction Relief means redoing a part of the process that was done unlawfully the first time.

If a judge denies relief and dismisses the Petition, the defendant can ask the Arizona Court of Appeals or the Arizona Supreme Court to review the judge’s decision.

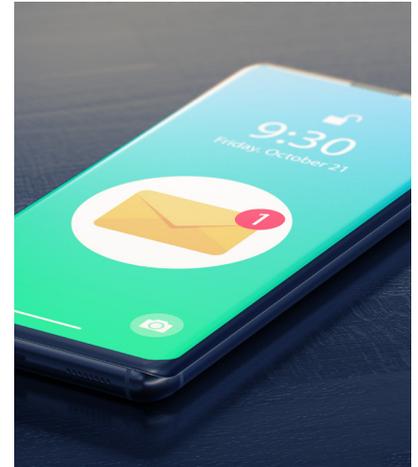
If the appeals courts agree with the judge, the Post-Conviction Proceeding is completed, and the

appellant's conviction and sentence remain the same.

If an appeals court disagrees with the judge's ruling on PCR, they will send the case back to the judge explaining why the ruling was wrong and instruct the judge on what to do next.

Notifications You Will Receive

1. You will receive notice when the petitioner files a PCR Petition, but not the initial "Notice."
2. If the judge sets an evidentiary hearing, you will be notified of your right to be present and the date, time, and location of the hearing.
3. You will receive notice of the judge's final PCR ruling.
4. You will receive notice if the appellant seeks review by a higher court and of that court's ruling.



Why Haven't You Received Any Notices?

It is important that you opt-in for post-conviction notification. This is a separate opt-in process from the initial case. The form will arrive with a letter explaining the defendant's sentence. It is important that you complete and submit this form if you wish to receive post-conviction notification. Failure to submit the form will result in you not being notified of any post-conviction filings or proceedings.

1. Keep your contact information current. Over the years, when you move, change phone numbers, or change email addresses, it is easy to forget to update your information. You must update your contact information with MCAO Victim Services if you have opted in for post-conviction notification and you wish to receive future notification of post-conviction filings and proceedings.
2. Many times, a defendant will file a PCR Notice but then fail to file a Petition. If the appellant never files a Petition, you will not receive notification.

Review of Your Rights Related to Post-Conviction Relief Proceedings

1. You have the right to be notified when the PCR Petition is filed, when an evidentiary hearing has been set, and of the outcome of the PCR proceeding.
2. You have the right to be present at any evidentiary hearing that is set.

To exercise notification and other rights, crime victims must "opt in" by completing the appropriate forms. To do so, contact the MCAO Victim Services Division at (602)506-8522.

(See Article 2, § 2.1 of the Arizona State Constitution, and A.R.S. § 13-4401 et seq. and A.R.S. § 13-806). For more information on filing a petition for an injunction against harassment at the post-conviction phase, see A.R.S §12-809, §13-901 and § 31-411.01 relating to protective orders.