

CHECKLIST

These are the steps that you must follow to bring your postconviction appeal.

Please follow the directions exactly. If you do not do so, you may miss an important step and you could lose your opportunity to appeal.

1. **Complete** the following forms, filling in all of the blanks. If you do not fill in all of the blanks, the clerk of the appellate courts may have to send the forms back to you and it might then be too late for you to appeal. This document includes one copy of each form. Once you complete the forms, you should make at least six (6) copies of each form. One of the copies is for you to keep for your records.

_____ Notice of Appeal (Form 33).
(This is the form that tells the court of appeals that you want to appeal.)

_____ Statement of the Case (Form 133).
(This is an outline of your case that summarizes the reasons why you think the decision of the district court was wrong. You can make detailed arguments in the brief that you will file later with the court of appeals. It is not necessary to attach any other documents to this form, but a copy of the district court's order denying your petition for postconviction relief may be helpful to the court.)

2. **File** with the clerk of the appellate courts the original and one copy of the completed forms **within 60 days** after entry of the district court's order denying your petition for postconviction relief. "Filing" means that you must mail by first-class mail or hand-deliver these documents to the following address: Clerk of the Appellate Courts, 25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 305, St. Paul, MN 55155. If you miss the deadline and do not file your notice of appeal with the clerk of the appellate courts within 60 days of entry of the district court's order, your appeal may be dismissed as untimely. If you do not file the statement of the case along with the notice of appeal, you will receive a notice of case filing giving you another chance to do so.

_____ Original notice of appeal (Form 33) and one copy.

_____ Original statement of the case (Form 133) and one copy.

3. **Serve** each of the following parties with one copy of your notice of appeal and statement of the case. “Service” means that you have mailed the papers or have personally given the papers to the required parties. In a postconviction appeal under Minn. R.Crim. P. 28.02, subd. 4(1), the following parties must be served:

_____ The prosecuting attorney.

_____ The Minnesota Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101

_____ The district court administrator in the county in which the order you are appealing was filed.

4. **File** an original notarized “affidavit of service” with the clerk of the appellate courts to indicate that you have served the parties listed in step 3. An affidavit of service is a sworn, notarized statement stating that you served the appeal papers on the prosecuting attorney, the Minnesota Attorney General, and the district court administrator. This packet gives you one copy of an affidavit of service, and you must make any more copies that you need.

_____ Original, notarized affidavit of service.

5. **Receive** a notice of case filing and appellate court file number in the mail. After you file your appeal papers with the clerk of the appellate courts, the clerk will assign your appeal an appellate court file number and will send you a notice of case filing. The notice of case filing will alert you to any problems or deficiencies with your appeal and give you ten (10) days to correct those problems. If you do not correct the problems, the court of appeals may dismiss your appeal.

6. **Determine** whether you need to order transcripts. If an evidentiary hearing was held in the district court on your petition for postconviction relief, you need to order transcripts. If no hearing was held and if you have already had a direct appeal of your conviction, transcripts likely were prepared for your direct appeal. Those transcripts are already part of the record and will be sent to the clerk of the appellate courts by the district court administrator.

7. **Prepare** your brief and file it by the deadline (usually, 60 days after the appeal is filed or 63 days after the court reporter mails you a copy of the postconviction hearing transcript, if there is one). A brief is a written argument explaining why you believe the district court's decision is wrong. When your brief is ready, you must make nine copies and file and serve it as follows. But make sure that you keep a copy of your brief for your own records.

_____ **File** seven (7) copies of your brief with the clerk of the appellate courts.

_____ **Serve** two (2) copies of your brief on the respondent.

8. **Wait** for the respondent to file its brief and for your appeal to be scheduled. The respondent has 45 days to serve you with a brief and to file its brief with the clerk of the appellate courts. If the respondent files a brief that raises new issues that are not addressed in your initial brief, you may serve and file a reply brief within ten (10) days of the date you are served with the respondent's brief. But you do not have to file a reply brief if you do not want to do so.

Once all the briefs are filed, your case is placed on a list of cases ready to be scheduled with the court of appeals and will be scheduled when an opening appears on the court's calendar. You will receive a notice of the date that your case is scheduled to be considered at a nonoral conference by a panel of three judges from the court of appeals. On the day of the nonoral conference, your case is deemed submitted and the court of appeals generally will issue a written decision within 90 days. If you are dissatisfied with the result reached by the court of appeals, you have thirty (30) days after the filing of the decision to file a petition requesting further review by the Minnesota Supreme Court.