

# Postconviction Appeal 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 four 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.)

Notice of Appeal form- [PDF format](#)

Statement of the Case Form- [PDF format](#)

2. **File** with the Clerk of the Appellate Courts one signed 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 telling you to file the missing statement of the case within ten days.

\_\_\_\_\_ One signed copy of the notice of appeal (Form 33)

\_\_\_\_\_ One signed copy of the statement of the case (Form 133)

3. **Serve** each of the following parties with one copy of your notice of appeal and statement of the case. "Service" means mailing to or arranging for personal delivery of the documents to the required parties. The personal delivery must be done by the sheriff or another person 18 years or older who is not a party to the appeal. 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, 1800 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** a notarized affidavit of service or a certificate of service with the Clerk of the Appellate Courts to prove that you have served the parties listed in step 3.

[Affidavit of Service by U.S. Mail Delivery](#) (PDF format)

[Affidavit of Service by Personal Delivery](#) (PDF format)

[Certificate of Service by U.S. Mail Delivery](#) (PDF format)

[Certificate of Service by Personal Delivery](#) (PDF format)

5. **Review** the notice of case filing and appellate court file number that you receive from the Clerk of the Appellate Courts. After you file your appeal documents 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 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. It must include legal authorities (case citations, statutes, rules) and references to the transcript or record to support all statements of fact and arguments contained in the brief. When your brief is ready, you must make copies, file, and serve it as follows. But make sure that you keep a copy of your brief for your own records.

\_\_\_\_\_ **File** five copies (four bound and one unbound) of your brief with the Clerk of the Appellate Courts

\_\_\_\_\_ **Serve** two copies of your brief on the attorneys for respondent, the State of Minnesota.

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 15 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 it 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 conference, your case is deemed submitted and the court of appeals generally will issue a written decision within 90 days. If the court of appeals does not rule in your favor, you have thirty days after the filing of the decision to file a petition requesting further review by the Minnesota Supreme Court.