

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

FILED
9-22-08 10:00am
MICHAEL K. JEANES, Clerk
By S. J. Marsh
Deputy

STATE OF ARIZONA

Plaintiff,

v.

John Chester Stuart

Defendant,

No. **CR** 2008-006332-001DT

**NOTICE OF RIGHTS OF REVIEW
AFTER CONVICTION
AND PROCEDURE**

RIGHT TO APPEAL

You have a right to appeal from a final judgment of conviction, from an order denying a post-trial motion, or from a sentence which is illegal or excessive. Arizona Constitution art. 2, sec. 24; Arizona Revised Statutes Annotated sec. 13-4031 (1978). IF YOU ARE A NON-CAPITAL DEFENDANT, YOU DO NOT HAVE A RIGHT TO APPEAL IF YOU HAVE PLEADED GUILTY OR NO CONTEST OR HAVE ADMITTED A VIOLATION OF CONDITIONS OF PROBATION. IN THAT CASE, RELIEF MAY BE SOUGHT ONLY BY PETITION FOR A POST-CONVICTION RELIEF. Rules 17.1, 17.2 and 27.8, Rules of Criminal Procedure, 17 A.R.S. Arizona Revised Statutes Annotated sec. 13-4033 (B) (1992).

In order to exercise your right to appeal;

1. You must file a **NOTICE OF APPEAL**, (Form XXIV) **within 20 days of the entry of judgment and sentence. If you do not file a notice of appeal within 20 days you will lose your right to appeal.** The entry of judgment and sentence occurs at the time of sentencing.
2. To file a **NOTICE OF APPEAL**, you should contact your lawyer by letter, telephone or in person, telling him that you want to appeal. You can file the notice of appeal before you leave the courtroom on the day you are sentence if you wish.
3. If you do not have a lawyer, get copies of Form V, **Defendant's Financial Statement and Request for Appointment of Counsel** and Form XXIV (A), **Notice of Appeal**, either from the clerk of the court, jail or prison, fill them both out and file or send them to the clerk of the superior court in the county where you were tried and sentenced. They must arrive at the clerk's office within 20 days after you are sentenced.
4. You should have a lawyer handle your appeal.

RIGHT TO POST-CONVICTION RELIEF

You also have a right to petition the superior court for post-conviction relief. Rule 32, Rules of Criminal Procedure, 17 A.R.S.

In order to exercise your post-conviction right,


1. You must file a **NOTICE OF POST-CONVICTION RELIEF** (Form XXIV (c)) **within 90 days of the entry of judgment and sentence** if you do not file, or you do not have the right to file, a Notice of Appeal. If you do appeal, the time you have to file a Notice of Post-Conviction Relief is extended to **within 30 days of the order and mandate affirming the judgment and sentence on direct appeal.** If you do not timely file a Notice of Post-Conviction Relief you may never have another opportunity to have any errors made in your case corrected by another court.
2. To file a post-conviction relief, get a copy of Form XXIV (c), **NOTICE OF POST-CONVICTION RELIEF**, either from the clerk of the court, jail, or prison, fill it out and file or send it to the clerk of the superior court of the county where you were sentenced. The notice **must arrive** at the clerk's office within 90 days after you were sentenced or within 30 days of the order and mandate affirming the judgment and sentence on direct appeal.
3. You should execute the **Affidavit of Indigency** contained in the Notice of Post-Conviction Relief and request that a lawyer be appointed to represent you if you cannot afford to hire a lawyer.

If you want a full copy of the rules governing appeals and post-conviction relief, the clerk of the court in the county where you were convicted will send you one upon request.

RECEIPT BY DEFENDANT

I have received a copy of this notice explaining my right to appeal, my right to seek post-conviction relief and the procedures I must follow to exercise these rights.

DATE 9.22.08

DEFENDANT 

13-907. Setting aside judgment of convicted person upon discharge; making of application; release from disabilities; exceptions.

Every person convicted of a criminal offense other than a violation of §28-473, the provisions of title 28, chapter 6, or a violation of any local ordinance relating to stopping, standing or operation of a vehicle, but nevertheless including a violation of § 28-661, 28-692, 28-692.02, 28-693 or any local ordinance relating to the same subject matter of such sections, may upon fulfillment of the conditions of probation or sentence and discharge by the court, apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge. The application to set aside the judgment may be made by the convicted person, by his attorney or probation officer authorized in writing. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation pursuant to §28-445 or 28-446, and except that the conviction may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing the provisions of §28-445 or 28-446 as if the judgment of guilt had not been set aside.

13-912. Restoration of civil rights; automatic for first offenders

Upon completion of the term of probation, or upon absolute discharge from imprisonment, and upon the completion of payment of any fine or restitution imposed, any person who has not previously been convicted of any other felony shall automatically be restored any civil rights which were lost or suspended by the conviction.