

Alabama Rules of Criminal Procedure

Rule 32. Post-conviction remedies.

Rule 32.7. Additional pleadings; summary disposition; amendments.

(a) PROSECUTOR'S RESPONSE. Within thirty (30) days after the service of the petition, or within the time otherwise specified by the court, the district attorney (or, in the case of a petition filed in the municipal court, the municipal prosecutor) shall file with the court and send to the petitioner or counsel for the petitioner, if any, a response, which may be supported by affidavits and a certified record or such portions thereof as are appropriate or material to the issues raised in the petition.

(b) AMENDMENT OF PLEADINGS. Amendments to pleadings may be permitted at any stage of the proceedings prior to the entry of judgment.

(c) APPOINTMENT OF COUNSEL. If the court does not summarily dismiss the petition, and if it appears that the petitioner is indigent or otherwise unable to obtain the assistance of counsel and desires the assistance of counsel, and it further appears that counsel is necessary to assert or protect the rights of the petitioner, the court shall appoint counsel.

(d) SUMMARY DISPOSITION. If the court determines that the petition is not sufficiently specific, or is precluded, or fails to state a claim, or that no material issue of fact or law exists which would entitle the petitioner to relief under this rule and that no purpose would be served by any further proceedings, the court may either dismiss the petition or grant leave to file an amended petition. Leave to amend shall be freely granted. Otherwise, the court shall direct that the proceedings continue and set a date for hearing.

(e) ASSESSMENT OF FILING FEE. If, upon final disposition of the petition, the court finds that all the claims for relief are precluded for any of the reasons stated in Rule 32.2, are lacking in specificity as required by Rule 32.6(b), or fail to state a claim of law or fact that is meritorious, it may assess the filing fee, or any portion thereof, and order the correctional institution having custody of the petitioner to withhold 50% of all moneys the institution then has on deposit for the petitioner, or receives in the future for the petitioner, until the filing fee that has been assessed by the court has been collected and paid in full. The order shall also direct the institution to forward to the clerk of the court in which the petition was filed, at least once every three months until that portion of the filing fee assessed by the court is paid in full, any such moneys collected from the petitioner.

[Amended eff. 11-28-2012.]

Note from the reporter of decisions: The order amending, effective November 28, 2012, Rule 18.4(g) and Rule 32.6 and adopting, effective November 28, 2012, Rule 32.7(e) and the Committee Comments to Rule 18.4(g) Effective November 28, 2012, are published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.