

## Alabama Rules of Criminal Procedure

### Rule 32. Post-conviction remedies.

#### *Rule 32.1. Scope of remedy.*

Subject to the limitations of Rule 32.2, any defendant who has been convicted of a criminal offense may institute a proceeding in the court of original conviction to secure appropriate relief on the ground that:

(a) The constitution of the United States or of the State of Alabama requires a new trial, a new sentence proceeding, or other relief.

(b) The court was without jurisdiction to render judgment or to impose sentence.

(c) The sentence imposed exceeds the maximum authorized by law or is otherwise not authorized by law.

(d) The petitioner is being held in custody after the petitioner's sentence has expired.

(e) Newly discovered material facts exist which require that the conviction or sentence be vacated by the court, because:

(1) The facts relied upon were not known by the petitioner or the petitioner's counsel at the time of trial or sentencing or in time to file a posttrial motion pursuant to Rule 24, or in time to be included in any previous collateral proceeding and could not have been discovered by any of those times through the exercise of reasonable diligence;

(2) The facts are not merely cumulative to other facts that were known;

(3) The facts do not merely amount to impeachment evidence;

(4) If the facts had been known at the time of trial or of sentencing, the result probably would have been different; and

(5) The facts establish that the petitioner is innocent of the crime for which the petitioner was convicted or should not have received the sentence that the petitioner received.

(f) The petitioner failed to appeal within the prescribed time from the conviction or sentence itself or from the dismissal or denial of a petition previously filed pursuant to this rule and that failure was without fault on the petitioner's part.

A petition that challenges multiple judgments entered in more than a single trial or guilty-plea proceeding shall be dismissed without prejudice.

[Amended eff. 8-1-2002; Amended 1-13-2005, eff. 6-1-2005.]

### **Committee Comments**

Postconviction petitions may be filed in the court of original conviction by any defendant who has been convicted of a criminal offense. Rules 32.6(a), 32.7(a), and 32.10(a) recognize that these petitions may be filed in municipal courts; such postconviction relief, however, will rarely be sought since a defendant is entitled to appeal a municipal-court conviction to the circuit court for a trial de novo.

**Note from the reporter of decisions:** The order adding the Committee Comments to Rule 32.1, effective January 9, 2001, is published in that volume of *Alabama Reporter* that contains Alabama cases from 778 So.2d.

**Note from the reporter of decisions:** The order amending Rule 32.1, effective August 1, 2002, is published in that volume of *Alabama Reporter* that contains Alabama cases from 810 So.2d.

**Note from the reporter of decisions:** The order amending Rule 32.1(f) and Rule 32.2 (c), and adopting the Court Comment to Amendment 32.2(c), effective June 1, 2005, is published in that volume of *Alabama Reporter* that contains Alabama cases from 890 So.2d.