

Local Criminal Rule 6-1 - Petitions Under 28 U.S.C. Section 2254 or 2255 in Cases Involving a Sentence of Capital Punishment

(a) Applicability. This Rule governs the procedures for a petition filed pursuant to 28 U.S.C. §§ 2254 or 2255, in which a prisoner seeks relief from a judgment imposing a sentence of death. The provisions of this Rule may, where appropriate, be determined to be applicable in any collateral challenge not authorized by §§ 2254 or 2255. The application of this Rule may be modified by the Judge to whom the petition is assigned.

(b) Clerk to Maintain the Records of status of cases; Request to Attorney General of Indiana. The clerk will request from the Indiana Attorney General, insofar as reasonably available, information pertaining to the movement of cases through the Indiana courts in which a prisoner is under sentence of death from an Indiana Court and as to which the judgment of conviction and sentence have been affirmed by the Supreme Court of Indiana. This information should include the following: defendant's name, court imposing sentence, date of affirmance on direct appeal by the Supreme Court of Indiana, date that denial of postconviction relief petition was affirmed by the Supreme Court of Indiana, and the execution date, if any.

(c) Clerk to Maintain the Records of status of cases; Request to United States Attorney. The clerk will request from the United States Attorney, insofar as reasonably available, information pertaining to the movement of cases through the federal courts in which a prisoner within the district is under sentence of death from a federal court and as to which the judgment of conviction and sentence are final. This information should include the following: defendant's name, court imposing sentence, date of affirmance on direct appeal by a Court of Appeals and the United States Supreme Court, date that denial of any postconviction relief petition was affirmed by a Court of Appeals or Supreme Court, and the execution date, if any.

(d) Notice of Intention to File Initial Petition. Whenever it is determined that a prisoner under sentence of death will file an initial petition for relief in this court, either counsel or the prisoner may file with the clerk a "Notice of Intention to File Initial Petition for a Writ of Habeas Corpus." Each such Notice will be on the form set out in Appendix A-Criminal to this Rule or in substantially similar terms. Forms will be available from the clerk. The failure to submit such a Notice will not preclude the filing of a petition.

(e) Action by Court Upon Filing of Notice. The clerk will forward copies of the Notice, together with copies of any motions or requests submitted therewith, and any rulings thereon, to the following: (i) the Indiana Attorney General if the prisoner is in state custody or the United States Attorney if the prisoner is in federal custody; (ii) the United States Marshal for the Southern District of Indiana; and (iii) the Warden or Superintendent of the institution where the prisoner is confined.

(f) Appointment of Counsel. Motions or requests for the appointment of counsel will be presented to, and counsel appointed by, the Judge to whom such action is assigned.

(g) Additional Required Materials. Within 14 days of filing the notice or petition, Petitioner or Movant must file a legible copy of the materials listed below. If a required document is not filed, the petitioner or movant must state the reason for the omission. The required documents are:

(1) listing of prior petitions, with docket numbers, filed in any state or federal court challenging the conviction and sentence challenged in the current petition; and

(2) a copy of, or a citation to, each state or federal court opinion, memorandum decision, order, transcript of oral statement of reasons, or judgment involving an issue presented in the petition.

(h) Motions for Stay of Execution.

(1) The movant must attach to the motion for stay a legible copy of the documents listed in section (g) of this Rule, unless the documents have already been filed with the court. If the movant asserts that time does not permit the filing of a written motion, he or she must deliver to the clerk a legible copy of the listed documents as soon as possible. If a required document is not filed, the movant must state the reason for the omission.

(2) Parties must file motions with the clerk during the normal business hours of the clerk's office. The motion must contain a brief account of the prior actions of any court or Judge to which the motion or a substantially similar or related petition for relief has been submitted.

(3) The clerk will adopt procedures for filing of emergency motions or applications pursuant to this Rule when the clerk's office is closed.

(4) The clerk will maintain a separate list of all cases within the scope of this Rule.

Note: December 1, 2009, stylistic amendment. Technical amendment to (g) to achieve consistency in time counting format with the Federal Rules of Civil Procedure. Current Rule was formerly numbered 6.2, and was significantly amended effective January 1, 2007. Former rule 6.1 was eliminated January 1, 2007.