

# *Public Defender of Indiana*

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*One North Capitol, Suite 800  
Indianapolis, IN 46204-2026  
Telephone: (317) 232-2475*

September 21, 2017

Dear Mr.:

A matter has come to my attention that may affect your conviction under cause number \_\_\_\_\_ in Vanderburgh County. Psychologist Dr. Albert Fink was appointed by the trial court to conduct a mental competency evaluation of you. Dr. Fink filed a competency report with the court finding you competent to stand trial. However, it is believed Dr. Fink filed this report without ever seeing you or conducting any competency testing on you.

If you would like to attack your conviction based on this reason or any other reason, you may file a Petition for Post-Conviction Relief with the court in which you were convicted. Please find attached a sample post-conviction form.

If you are incarcerated in the Indiana Department of Correction and you would like the State Public Defender to review your case, you must request our assistance in Question #18 of the petition and complete the Affidavit of Indigency. When we receive the Petition, I will appoint an attorney to review your case.

If you are not incarcerated in the Indiana Department of Correction, you cannot be represented by the State Public Defender and must either hire private counsel or proceed pro se.

If you had a trial and appeal and feel that you need your transcripts in order to prepare a pro se petition, you can file a request with the Clerk of the Court of Appeals. The necessary forms are also in the law library. Our office does not have possession of your transcripts so we cannot send them to you.

If you pled guilty and your plea agreement was not a "fixed" agreement but an "open" agreement where the court had discretion as to what sentence you received, you must pursue a direct appeal if you wish to challenge your sentence. If the time limit has expired for you to pursue a direct appeal (30 days from date of sentencing) then you must ask the court for permission to file a belated appeal under Post-Conviction Rule 2.

Mr.

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If you want a different judge on your case, you must request a change of judge within ten (10) days of filing your petition for post-conviction relief, by affidavit, stating reasons you feel the judge would be biased or prejudiced against you.

There is no time limit for filing your post-conviction relief petition. There is, however, a one-year time limit for filing habeas corpus petitions in federal court. Since all federal constitutional claims must be presented to a state court before they are available for federal review, you should keep this one-year limit in mind when deciding when to file your post-conviction relief petition. Filing your petition in state court will stop the running of the one-year period.

You also may face the possibility of receiving an increase in your sentence if your trial or guilty plea is overturned and you are resentenced.

If you have any questions, please feel free to contact us at the address listed above. I wish you the best of luck.

Sincerely,

Stephen T. Owens  
Public Defender of Indiana

STO/bwb

Enclosure