

COLLATERAL TIME LIMIT SUMMARY COMMENCEMENT

Your collateral time limitations begin when your conviction and/or sentence becomes final. This occurs:

1. 30-days after you have been sentenced, if you do not appeal your conviction and/or sentence. See Ramos v. State, 658 So.2d 169 (3DCA95), or
2. When your appeal becomes final, by the issuance of a MANDATE by the appellate court. See Rosado v. State, 654 So.2d 623 (5DCA95), or
3. Upon vacating and resentencing in an appeal or a post conviction action. (Note: If your post conviction action (3.800/3.850 etc.) does not vacate your conviction, resulting in a new trial or cause resentencing this **Does Not** begin your time limitations again).

CORRECTION, REDUCTION, AND MODIFICATION OF SENTENCES

CORRECTION OF ILLEGAL SENTENCE:

Fla.R.Crim.P. 3.800(a)

A 3.800(a) motion only addresses a sentence that COULD NOT have been imposed in absence of the error. There is no time limit for filing this motion. See Fla.R.Crim.P. 3.800(a) and; State v. Mancino, 714 So.2d 429 (Fla. 98).

CORRECTION OF SENTENCING ERROR:

Fla.R.Crim.P. 3.800(b)

If counsel represents you they will file this motion. It is very rare for an inmate to file this motion. See Fla.R.Crim.P. 3.800(b).

MOTION TO REDUCE: Fla.R.Crim.P. 3.800(c)

The court that sentenced you must receive this motion within 60-days from the date your sentence becomes final. See Fla.R.Crim.P. 3.800(c).

CORRECTION OF JAIL CREDIT

Fla.R.Crim.P. 3.801

Motions to correct jail credit must be filed within one year of sentence becoming final, see rule.

POST CONVICTION RELIEF MOTIONS:

Fla.R.Crim.P. 3.850

You have 2- years to file this motion with the original court after your conviction becomes final. See Fla.R.Crim.P. 3.850.

COLLATERAL APPEALS

[From Rule 3.800(a) or 3.850 Actions]

REHEARING: Must be filed 15-days from the date the denial order was rendered in which to file a **Motion for Rehearing** on a 3.850 or 3.800(a) Motion. This **will** “toll” or postpone the running of the time for filing your notice of appeal. See Fla.R.App.P. 9.330(a), Fla.R.Crim.P. 3.850(g) and Chapter 20.5, Fla. Appellate Practice, by Padovano.

You have 30-days from the date the court denied your motion, or motion for rehearing (whichever is later) in which to file a **Notice of Appeal**. See Fla.R.App.P. 9.140(b)(3), Fla.R.Crim.P. 3.850(g).

Briefs: Following a “**Summary Denial**” the Initial Brief is due 15-days after you have filed your notice

of appeal. See Fla.R.App.P. 9.141(b). A brief in this type of appeal is optional - **NOT Required**.

Following a denial of a motion that had an evidentiary hearing, the Initial Brief is due within 30-days after the Clerk of the lower court transmits the record on appeal. See Fla.R.App.P. 9.140(g).

STATE HABEAS CORPUS (Fla.R.App.P. 9.141)

This petition can be filed to secure a belated appeal, to claim ineffective assistance of appellate counsel. You have 2-years from the date your conviction-sentence became final to initiate this action.

FEDERAL HABEAS CORPUS, 28 U. S. C. § 2254

This proceeding is used to seek federal review of errors or claims that reach constitutional proportion. All state actions should be reviewed for constitutional type errors that were raised therein. Any such errors, which were “exhausted” in State Courts (exception - 4th Amend. claims) should be raised.

You have 1-year from the time your conviction-sentence becomes final to file this petition. Properly filing any state post conviction action “tolls” this time until that action becomes final. See 28 U. S. C. § 2244(d)(2). The 1-year period does not begin to run until 90-days after your DIRECT appeal was final. This 90-day period is the U.S. Certiorari time limit that tolls the running of the 1-year period even if you do not file the certiorari petition. If you do file a certiorari petition, the 1-year period begins to run when the petition is denied.

NOTE: Your time for filing this petition is not tolled until you actually file your post conviction motion. Your time does not get reinstated. **EXAMPLE:** If you take 6-months after your mandate is issued to prepare your 3.850 Motion, when that action becomes final you only have 6-months in which to file your Federal Habeas Corpus.

See 28 U.S.C.A. §2254; Habeas Corpus Practice and Procedure by Hertz and Liebman and; Florida and Federal Digest “Habeas Corpus” Keys.

GENERAL INFORMATION

MAILBOX RULE:

Prisoner’s who are acting Pro Se are allowed to compute time limitations according to the “Mail Box” Rule defined in Haag v. State, 591 So.2d 614 (Fla. 1992) In sum your filing date is when you turn your pleading over to the prison authorities for mailing.

CIVIL LITIGATION REMEDIES:

Prisoner Civil litigation pursuant to Fla.R.Civ.P. 1.630 has varying time limitations unique unto itself. See Rule 1.630 and Fla.R.App.P. 9.100; Padovano, Florida Appellate Practice, Chapter 29; West Florida Digest, “Prisons”; and Florida Jurisprudence “Prisons and Prisoners” for additional information. See § 95.11, Fla. Statutes (limitations of action).