

PROCESS FOR FEDERAL HABEAS CORPUS



What is a Federal Habeas Corpus Proceeding?

Once a defendant has been convicted and sentenced and after the entire state direct appeal and post-conviction processes are complete, the defendant has one final avenue available to challenge the conviction and sentence. This next, and final step, is called a "federal habeas corpus" proceeding.

How does the process work?

In a Federal habeas proceeding, the defendant, now referred to as the "petitioner", raises federal constitutional claims in federal court. The petition for habeas relief must be filed within a year from the date the post-conviction relief decision was issued.

In federal habeas proceedings, the petitioner can only assert federal claims on issues that have already been presented to the state courts during the direct appeal or the post-conviction process. In most cases new evidence cannot be introduced unless the evidence involves something not previously known to the petitioner (for example, new DNA evidence). If new evidence is at issue, the federal court may hold an "evidentiary hearing," for the purpose of admitting the new evidence into the record.

Though every case is unique, once a case is submitted to the court, there are essentially two possible outcomes:

- The court will either deny the petitioner's request and uphold the conviction and sentence; or
- The court will grant the petition for relief and either:
 - Order a new trial,
 - Modify the sentence, or
 - Order other relief as necessary.

Appealing a Federal Habeas Decision

Either party may challenge the federal court's ruling in the habeas proceeding. The appeal will be heard by the Ninth Circuit Court of Appeals. A federal appeal follows the same basic path as a direct appeal. At this stage the petitioner is once again referred to as the "appellant".

After both parties have briefed the issues, oral arguments are heard by a three-judge panel. The Ninth Circuit Court of Appeals is based in San Francisco and the judges travel to Oregon and Seattle frequently to hear cases. In most circumstances, the oral arguments for a federal habeas proceeding filed in Oregon will be held in Portland. If you have maintained contact with the DOJ and wish to be notified of the various proceedings in your case, you will be notified when the oral argument is scheduled. You have the right to attend the hearing however, the court does not take testimony or statements from the victim or appellant. Following the oral argument, the judges take the case under advisement. The court generally issues a written opinion, however the time it takes for the court to rule on a case varies.

As with other challenges in the appellate process, either side may ask the United States Supreme Court to review the decision of the Ninth Circuit Court.

Review by the U.S. Supreme Court is completely discretionary and very rare. The Court grants review in less than 1% of the cases that are submitted. If the U.S. Supreme Court accepts the appeal the process for briefing the case and oral arguments is very similar to that of the Oregon Supreme Court except the case will be heard in Washington D.C.

Please Contact Us to Find Out More

The best way to know what is going on with your case is to stay in touch with our office:

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