

IN THE SUPREME COURT OF ALABAMA
March 22, 2002

ORDER

IT IS ORDERED that Rule 32.6(a), Alabama Rules of Criminal Procedure, is amended to read in accordance with the appendix attached to this order;

IT IS FURTHER ORDERED that this amendment shall be effective August 1, 2002;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 32.6:

"Note from the reporter of decisions: The order amending Rule 32.6(a), effective August 1, 2002, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 2d."

Moore, C.J., and Houston, See, Lyons, Brown, Johnstone, Harwood, Woodall, and Stuart, JJ., concur.

APPENDIX
[Rule 32.6(a)]

(a) Form, Filing, and Service of Petition. A proceeding under this rule is commenced by filing a petition, verified by the petitioner or the petitioner's attorney, with the clerk of the court. A petition may be filed at any time after entry of judgment and sentence (subject to the provisions of Rule 32.2(c)). The petition should be filed by using or following the form accompanying this rule. If that form is not used or followed, the court shall return the petition to the petitioner to be amended to comply with the form. The petition shall be accompanied by two copies thereof. It shall also be accompanied by the filing fee prescribed by law or rule in civil cases in the circuit court unless the petitioner applies for and is given leave to prosecute the petition in forma pauperis. If the petitioner desires to prosecute the petition in forma pauperis, he or she shall file the "In Forma Pauperis Declaration" at the end of the form. In all such cases, the petition shall also be accompanied by a certificate of the warden or other appropriate officer of the institution in which the petitioner is confined, stating the amount of money or securities on deposit to the petitioner's credit in any account in the institution for the previous twelve (12) months, which certificate may be considered by the court in acting upon the petitioner's application for leave to proceed in forma pauperis. If the application to proceed in forma pauperis is granted, the filing fee shall be waived. If, upon final disposition of the petition, the court finds that all of the claims for relief are precluded for any of the reasons stated in Rule 32.2, it may assess the filing fee, or any portion thereof, and order the correctional institution having custody of the petitioner to withhold 50% of all moneys the institution then has on deposit for the petitioner, or receives in the future for the petitioner, until the filing fee that has been assessed by the court has been collected and paid in full. The order shall also direct the institution to forward to the clerk of the court in which the petition was filed, at least once every three months until that portion of the filing fee assessed by the court is paid in full, any such moneys collected from the petitioner.

Upon receipt of the petition and the filing fee, or an order granting leave to the petitioner to proceed in forma pauperis, the clerk shall file the petition and promptly send a copy to the district attorney (or, in the case of a petition filed in the municipal court, to the municipal prosecutor).