

Existing law provides procedures for post-conviction relief.

Existing law provides that no application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final unless the application alleges, and the petitioner proves or the state admits, that the facts upon which the claim is predicated were not known to the petitioner or his attorney.

New law retains existing law except it makes existing law applicable to information known by the defendant or his prior attorneys. Further provides that the petitioner shall prove that he exercised diligence in attempting to discover any post-conviction claims that may exist.

New law defines "diligence" as a subjective inquiry that must take into account the circumstances of the petitioner. Those circumstances shall include but are not limited to the educational background of the petitioner, the petitioner's access to formally trained inmate counsel, the financial resources of the petitioner, the age of the petitioner, the mental abilities of the petitioner, or whether the interests of justice will be served by the consideration of new evidence. Requires new facts discovered to be submitted to the court within two years of discovery.

Prior law provided that the court may deny relief for claims which were known at trial but not raised on appeal, claims raised at trial but not appealed, new claims which were not raised in subsequent applications, or claims which raise new issues which could have been raised in previous applications.

New law provides that the court shall deny relief for those same reasons.

Effective August 1, 2014.

(Amends C.Cr.P. Arts. 930.4(B), (C), (D), and (E) and 930.8(A)(1))