

RULE CHANGE 2008 (18)

CHAPTER 29

COLORADO RULES OF CRIMINAL PROCEDURE

Rule 35. Postconviction Remedies

(c) Other Remedies

(3) One who is aggrieved and claiming either a right to be released or to have a judgment of conviction set aside on one or more of the grounds enumerated in section (c) (2) of this Rule may file a motion in the court which imposed the sentence to vacate, set aside, or correct the sentence, or to make such order as necessary to correct a violation of his constitutional rights. The following procedures shall apply to the filing and hearing of such motions:

(I) Any motion filed outside of the time limits set forth in § 16-5-402, 6 C.R.S., shall allege facts which, if true, would establish one of the exceptions listed in § 16-5-402 (2), 6 C.R.S.

(II) Any motion filed ~~pro se shall be filed on Form 4, and any motion filed by an attorney~~ shall substantially comply with the format of Form 4 and shall substantially ~~comply with and~~ contain the information identified ~~detailed~~ in Form 4, Petition for Postconviction Relief Pursuant to Crim. P. 35 (c). See Appendix to Chapter 29.

(III) If a ~~pro se~~ motion ~~substantially~~ fails to comply with Subsection (II) Form 4, Petition for Postconviction Relief Pursuant to Crim. P. 35(c), the court shall return to the defense ~~defendant~~ a copy of the document filed along with a blank copy of Form 4 and direct that a motion in substantial compliance with the form be filed within forty-five days.

Amended by the Court, En Banc December 11, 2008, effective immediately.

BY THE COURT:

**Alex J. Martinez
Justice, Colorado Supreme Court**