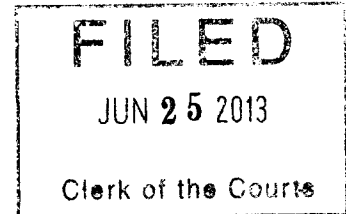


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE RULE 13, SECTION 1(d)(1),
RULES OF THE TENNESSEE SUPREME COURT

No. M2013-00837-SC-RL2-RL



ORDER

The General Assembly recently passed resolutions ratifying the rules amendments adopted by the Court in orders filed on December 18, 2012, and the amendments therefore will take effect on July 1, 2013. Those amendments include the adoption of new Tenn. R. Crim. P. 36.1, which establishes a procedure for seeking correction of an illegal sentence. In pertinent part, paragraph (a) of Rule 36.1 authorizes either the defendant or the State to file a motion to correct an illegal sentence. Paragraph (b) of the rule goes on to state: "If the motion states a colorable claim that the sentence is illegal, and if the defendant is indigent and is not already represented by counsel, the trial court shall appoint counsel to represent the defendant."

On April 8, 2013, the Court filed an order seeking public comments on a proposed amendment that would add proceedings initiated pursuant to Tenn. R. Crim. P. 36.1 to the proceedings listed in Tenn. Sup. Ct. R. 13, § 1(d)(1). The comment period expired on May 8, 2013, and no written comments were received by the Court.

Consistent with Tenn. R. Crim. P. 36.1(b), the Court hereby amends Tenn. Sup. Ct. R. 13, § 1(d)(1) as set out in the Appendix to this order. This amendment shall take effect on July 1, 2013.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

[Tenn. Sup. Ct. R. 13, § 1(d)(1) is amended as indicated below by underlining (new text) and ~~overstriking~~ (deleted text).]

Section 1. Right to counsel and procedure for appointment of counsel.

(a) * * * *

(d)(1) In the following cases, and in all other cases required by law, the court or appointing authority shall advise any party without counsel of the right to be represented throughout the case by counsel and that counsel will be appointed if the party is indigent and requests appointment of counsel.

(A) Cases in which an adult is charged with a felony or a misdemeanor and is in jeopardy of incarceration;

(B) Contempt of court proceedings in which the defendant is in jeopardy of incarceration;

(C) Proceedings initiated by a petition for habeas corpus, early release from incarceration, suspended sentence, or probation revocation;

(D) Proceedings initiated by a petition for post-conviction relief, subject to the provisions of Tennessee Supreme Court Rule 28 and Tennessee Code Annotated sections 40-30-101 et seq.;

(E) Parole revocation proceedings pursuant to the authority of state and/or federal law;

(F) Judicial proceedings under Tennessee Code Annotated, Title 33, Chapters 3 through 8, Mental Health Law;

(G) Cases in which a superintendent of a mental health facility files a petition under the guardianship law, Tennessee Code Annotated, Title 34; ~~and~~

(H) Cases under Tennessee Code Annotated section 37-10-304 and Tennessee Supreme Court Rule 24, relative to petitions for waiver of parental consent for abortions by minors; ~~and~~
and

(I) Proceedings initiated pursuant to Tenn. R. Crim. P. 36.1 and in which the trial court, pursuant to Tenn. R. Crim. P. 36.1(b), has determined that the motion states a colorable claim for relief.

(2) * * * *

[end of Appendix]