

DEATH PENALTY APPEALS GUIDE



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If you are reading this manual, you or your family have likely suffered through unimaginable circumstances. As your Attorney General, I am committed to helping you and your family through the healing process with dignity and hope.

Our Victim Advocates can help you to navigate and understand the legal processes in which you find yourselves and direct you to resources that you may find helpful. Our Crime Victim Compensation Program may be able to help you mitigate financial impacts from the crime.

This guide can help you understand the long, complicated, and sometimes frustrating process of death penalty appeals. It is meant to simplify the process and answer frequently asked questions. Overall, it can help you to track the progress of your family's case as appeals advance through both State and Federal court systems.

In addition to our team in the Bureau of Victim Assistance, please know that the capital litigation attorneys here at the Attorney General's Office may be able to help answer questions about your specific case.



A handwritten signature in black ink, reading "Lynn Fitch". The signature is written in a cursive style with large, flowing loops.

Lynn Fitch
Attorney General
State of Mississippi

The following flow chart shows the various steps your case may go through. In this guide, we will explain what each step means in the judicial system and how it may impact your family.

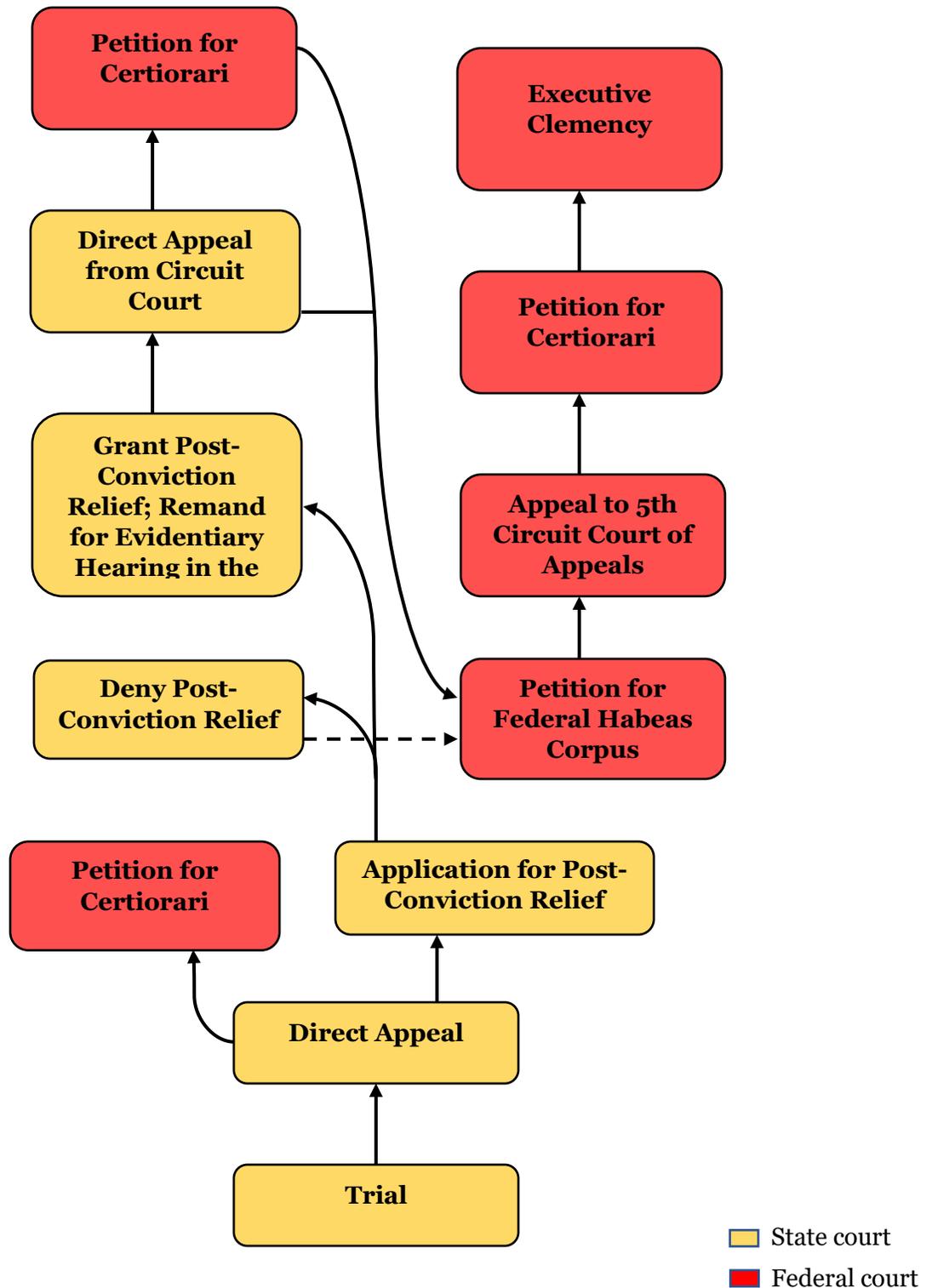


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I. CAPITAL MURDER

The possibility of a death sentence sets capital murder apart from all other criminal offenses, including other forms of murder. Capital murder is the only offense that is punishable by death. So, what is capital murder? It, like all crimes, is defined by statute. There are eleven definitions of capital murder. They are listed under Mississippi Code Annotated section 97-3-19(2) and may be summarized as:

- (A) Murder of a peace officer or fireman who was acting in his/her official or as a result of an act performed in his/her official capacity;
- (B) Murder committed by a person who is under sentence of life imprisonment;
- (C) Murder committed by use or detonation of a bomb or explosive device;
- (D) Murder committed by any person who has been offered or has received anything of value for committing the murder. All parties involved may be charged with capital murder;
- (E) A killing, whether intended or not, that is caused by a person who is committing or attempting to commit a rape, burglary, kidnap, arson, robbery, sexual battery or unnatural intercourse with a child under 12, or nonconsensual unnatural intercourse with another person;
- (F) A killing, whether intended or not, that is caused by a person who is engaged or attempting to engage in the felonious abuse and/or sexual battery of child in violation of Miss. Code Ann. section 97-5-39(2);
- (G) Murder committed on educational property as defined by Miss. Code Ann. section 97-37-17;
- (H) Murder of an elected official with knowledge that the victim was an elected official;
- (I) Murder of 3 or more persons as a result of a single act, scheme, course of conduct, or criminal episode;
- (J) Murder of 3 or more persons in a 3-year period; or
- (K) Murder of a government witness in a criminal trial, a confidential information for the government, or a person who is cooperating with or assisting or perceived to be cooperating with or assisting the government, and the motive for killing was that the person was assisting the prosecution of a crime.

II. TRIAL

Trial will be held in the circuit court of the county where the crime was committed, unless there is a legal reason for moving it to another county.

Our State's district attorneys (DAs) prosecute felonies, including capital murder. When a defendant is charged with committing capital murder, the DA for the district where the offense was committed decides whether to seek a death sentence. If a death sentence will be sought, then trial will occur in two phases.

Phase I: Guilt/Innocence:

During the first phase (the Guilt/Innocence phase), the jury decides the defendant's guilt or innocence based on the evidence presented. If the jury unanimously finds the defendant guilty, then trial proceeds to the second phase.

Phase II: Sentencing:

During the second phase (the Sentencing phase), the jury decides the defendant's punishment. The State will offer evidence of one or more aggravating circumstances (i.e., circumstances that warrant a death sentence). An example of an aggravating circumstance is one where the crime was especially heinous, atrocious, or cruel. The defense, in turn, may offer evidence of mitigating circumstances to make a case for life imprisonment as opposed to the death penalty. An example of a mitigating circumstance is one where the defendant has no significant criminal history. The jury must unanimously find at least one aggravating circumstance outweighs the mitigating circumstances before a sentence of death may be imposed.

Questions regarding trial proceedings should be directed to the District Attorney's Office in the county or district where the crime occurred. To locate the Victim Assistance Coordinator in the District Attorney's Office in your area, please contact your local DA.

III. DIRECT APPEAL REVIEW

A defendant, who is convicted of capital murder and sentenced to death at trial, is entitled to an automatic appeal in the Mississippi Supreme Court. This appeal is referred to as “direct appeal.” The defendant may be represented by the same attorney who represented him at trial or by state-funded attorneys in the Capital Defense Counsel Division of the State Public Defender’s Office. The State will be represented by attorneys in the Criminal Appeals Division of the Mississippi Attorney General’s Office.

Direct appeal proceedings usually begin within 30 days from the date that trial proceedings are completely final with the defendant filing a notice of appeal in the circuit court. When a notice of appeal is filed the clerk of the circuit court will begin the process of compiling the official state court record. The record contents include all papers filed in the circuit court, the trial transcript, and trial exhibits. This record is what the Mississippi Supreme Court will review when considering the defendant’s claims of error and the State’s responses to those claims.

Shortly after it has received the state court record, the Mississippi Supreme Court will establish deadlines by which the parties are to file their briefs. In a typical case, three briefs will be filed.

First, the defendant’s opening brief will be filed. It will contain claims that the defendant is entitled to relief for errors made at trial.

Second, the State will file its responsive brief. This brief will contain responses to the defendant’s claims and the reasons for denying those claims and requests for relief.

Third and finally, the defendant will file a reply brief. Nothing new will be presented in this brief. Instead, it will contain arguments supporting the claims in the defendant’s opening brief and arguments rebutting the State’s responses.

When all the briefs are filed, usually several months later, the attorneys for the parties will appear in the Mississippi Supreme Court to argue the case. Victims and/or survivors have a right to attend oral arguments. Those who are registered with the Attorney General’s Office will be notified of oral argument. See the Resource section later in this guide for more information on how to register with our Bureau of Victim Assistance.

The Mississippi Supreme Court will then consider the case and usually render a decision within 270 days from the date the final briefs are filed. The Court’s decision, the reasons supporting it, and its disposition of the case will be published in a written opinion. The Court’s decision will dispose of the case in one of the following ways:

1. By affirming the conviction and sentence, the Court has failed to find any reason to disturb the conviction or sentence;
2. By affirming the conviction, vacating the sentence, and remanding the case to the circuit court for an entirely new sentencing phase trial, the Court has found error(s) at trial that are sufficiently serious to undermine the validity of the sentence but not the conviction. To remove these doubts, the Court

invalidates the sentence and returns the case to the circuit court for a new sentencing phase trial;

3. By affirming the conviction, vacating the death sentence, and remanding the case to the circuit court with instruction that a sentence of life imprisonment be imposed, the Court has found an error or reason that prohibits the defendant from being sentenced to death and must return the case to the circuit court so that it may impose one of only two available sentences (life with parole or life without parole);
4. By reversing the conviction, vacating the sentence, and remanding the case for retrial, the Court has found error which seriously undermines the confidence in the conviction and sentence, requiring a new trial; or
5. By reversing the conviction and sentence, and affirming a conviction for a lesser-included offense to the capital murder charge (e.g., murder or manslaughter), the Court has found the evidence at trial did not prove the capital murder offense charged but did show the defendant was guilty of a lesser offense. The capital murder conviction and death sentence are nullified, and the case is returned to the circuit court for the purpose of imposing an appropriate sentence.

After the Mississippi Supreme Court affirms the conviction and sentence, the defendant will file a motion for rehearing, which is a request that the Court reconsider its decision. Most motions for rehearing are denied. In the rare occasion a rehearing is granted, it is usually to correct an error within the original opinion, and the Court will then issue a modified opinion.

After a motion for rehearing is denied, the Mississippi Supreme Court's mandate will issue twenty-one days later. The mandate is a technical formality and serves as notice that the Court's decision is final and direct appeal has concluded.

IV. CERTIORARI REVIEW

When the Mississippi Supreme Court denies the motion for rehearing, the defendant may then petition the Supreme Court of the United States to review the case, by filing a petition for writ of certiorari. This is not an appeal of right. The Supreme Court has complete discretion as to whether it will review a case. Generally, the Supreme Court only reviews those cases that present an important issue of federal law or the state's highest court has relied on Supreme Court precedent and reached a decision that is contrary to what the Supreme Court's precedent says. In most cases, the Supreme Court denies the petition for writ of certiorari.

If the Supreme Court grants the petition, then it will review the case on the merits. The parties will prepare and file merits briefs and argue the case to the Court in Washington, D.C. A decision will issue at some time after oral argument. The Court, in deciding the case, may:

1. Affirm the conviction and sentence;
2. Affirm the conviction, vacate the sentence, and remand the case to the lower court with instruction to reconsider the case in light of its decision; or
3. Vacate both the conviction and sentence and remand the case to the lower court with instruction to reconsider the case in light of its decision.

If the Supreme Court chooses the second or third option (2 or 3 above), then the case will return to the Mississippi Supreme Court. And it may:

1. Reconsider the case and affirm it without a new trial;
2. Reconsider the case and reverse the conviction, reverse the sentence, or reverse both; or
3. Remand the case to the circuit court for an entirely new trial or a new guilt/innocence or sentencing phase trial. In cases where an entirely new trial is granted or a new sentencing phase trial is granted and the defendant is sentenced to death a second time, the appeals process restarts.

V. POST-CONVICTION REVIEW

Post-Conviction review (PCR) is an additional stage of Mississippi's appeals process. But PCR proceedings do not provide defendants with a second bite at the apple. Review in PCR proceedings is intended to be limited to claims that could not and should not have been presented at trial or direct appeal. Claims that do not fall into that category are not proper PCR claims. An example of a proper PCR claim is one where the defendant's trial attorney made an error so serious that no competent attorney would have made it, and the attorney's error undermined the defense.

PCR proceedings begin when direct appeal proceedings are final—when the Mississippi Supreme Court issues its mandate on direct appeal. A defendant under sentence of death has one year to investigate and prepare claims that will be presented in a PCR application. The PCR petition is filed in the Mississippi Supreme Court.

During this one-year time period, the Mississippi Supreme Court will order the Mississippi Office of Capital Post-Conviction Counsel to select an attorney who will assist the defendant in the efforts to obtain post-conviction relief unless the defendant has hired counsel or chooses to forgo post-conviction review.

Also, during this one-year time period, the State of Mississippi, with limited exception, must allow the defendant an opportunity to inspect its files related to the capital-murder conviction. Additionally, the defendant's trial and direct appeal counsel must turn over their case files to the defendant.

Once filed by the defendant, the Mississippi Supreme Court will review each claim in the PCR petition. The Court will determine whether each claim is capable of being reviewed under state law. For example, the Court cannot review a claim that was not filed within the one-year statute of limitations, absent limited circumstances. The Court will then ask whether those claims in a PCR application that are capable of being reviewed present a substantial showing of the denial of a state or federal right.

If a claim fails on either point, then the Court has found no reason for disturbing the conviction or sentence and will deny the defendant's PCR application. In this scenario, the proceedings will finally conclude with the Court issuing a mandate in the PCR case.

But, if some or all the defendant's claims may be reviewed in PCR proceedings (they're "procedurally alive") and substantially show the denial of some right, the Mississippi Supreme Court has the discretion to grant relief for those claims in one of two ways. The Court can grant the defendant's requested relief outright. Or, the Court can allow the defendant an opportunity to prove his claim(s) in the trial court (the more common option).

In this more common scenario, the defendant will file a PCR petition that contains only those claims the Mississippi Supreme Court has expressly identified. PCR proceedings in the trial court will almost always culminate in an evidentiary hearing (a hearing that is like a trial without a jury). An evidentiary hearing allows the trial court to hear testimony and consider evidence from the defendant and the State on the claim(s) at issue.

To obtain relief in the trial court, the defendant must prove their claim is more likely than not true. If the defendant proves the claim(s) by that standard, the trial court will grant the request for relief. A typical request for relief is that the trial court orders a new trial or sentencing phase trial.

If the defendant fails to prove any claim(s), the trial court must deny the relief requested. At that point, the defendant may directly appeal the decision to the Mississippi Supreme Court. The State may appeal to the Mississippi Supreme Court if the trial court finds in the defendant's favor. The appeals process then follows the same steps as stated above for a direct appeal. However, if the Mississippi Supreme Court denies PCR, the defendant can again seek review in the United States Supreme Court.

Note: If the trial court grants the defendant's request for relief and the State decides against pursuing an appeal, then the District Attorney becomes responsible for prosecuting the case. Depending on the relief that is granted, the District Attorney may choose to retry the defendant or seek a sentence of death for a second time.

VI. FEDERAL HABEAS CORPUS REVIEW

Once state PCR has been denied, the defendant may then file a petition for writ of habeas corpus in the United States District Court for the district in which the conviction occurred. There are two Federal Court Districts in Mississippi:

1. Northern District – Serves the following counties: Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, DeSoto, Grenada, Humphreys, Itawamba, Lafayette, Lee, Leflore, Lowndes, Marshall, Monroe, Montgomery, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Washington, Webster, Winston, Yalobusha.
2. Southern District – Serves the following counties: Adams, Amite, Claiborne, Clarke, Copiah, Covington, Franklin, Forrest, George, Greene, Hancock, Harrison, Hinds, Holmes, Issaquena, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Madison, Marion, Neshoba, Newton, Noxubee, Pearl River, Perry, Pike, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson, Yazoo.

Federal habeas proceedings are a defendant's third level of review. Federal habeas proceedings, like state PCR, are not intended as another bite at the apple. This form of review is intended to prevent extreme instances of constitutional violations. The defendant has one year from the end of state PCR proceedings to file a federal habeas corpus petition in the district court.

After consideration, the federal district court then rules on the case. The district court's options are:

1. To deny relief on the conviction and sentence;
2. To deny relief as to the conviction of capital murder and vacate the sentence of death. In these cases, the court usually sets a time within which a new trial must begin in circuit court; or
3. To vacate the conviction and death sentence and order that the state retry the defendant.

Certificate of Appealability (COA)

If the district court denies relief on the petition for writ of habeas corpus, the defendant must apply to the district court for a certificate of appealability (COA) which is a request for permission to appeal the judgment to the United States Court of Appeals for the Fifth Circuit.

If the district court grants a COA, it must set forth the specific grounds on which it is allowing the appeal. This means that it can grant permission to appeal on individual issues raised by the defendant.

The district court may find that there are no grounds which would likely be meritorious and deny a COA. If the district court denies a COA, the defendant may then apply directly to the United States Court of Appeals for the Fifth Circuit, requesting that it grant a COA.

The Fifth Circuit can either grant or deny the COA. If the Fifth Circuit denies the application for a COA, it is a final decision and no further review is allowed in that court. The Defendant can then request that the United States Supreme Court review the denial of a COA.

The United States Supreme Court can grant or deny a COA and remand the case to the Fifth Circuit for consideration on the issues.

Note: If the district court grants habeas relief, the State may appeal without the necessity of obtaining a COA.

If a COA is granted either by the district court or the Fifth Circuit, the issues designated for appeal are briefed by both parties. The Fifth Circuit can decide the case with or without conducting oral arguments.

When the Fifth Circuit rules on the case, it can:

1. Affirm the district court's denial of relief or grant of relief. This means that the defendant loses if the district court rules against him, or the State loses if the district court grants relief.
2. Affirm the district court's decision in part and reverse it in part. This may mean that the conviction and/or sentence gets set aside in the case of a defendant's appeal. On the other hand, it can mean that the conviction and/or sentence is reinstated in the case of the State's appeal.
3. Reverse the district court and vacate the conviction and sentence of death and remand the case to the district court with instructions to reconsider the case and make a new decision.

If relief is denied by the Fifth Circuit, then the defendant can again seek relief in the United States Supreme Court by filing a petition for writ of certiorari. Again, certiorari review is completely discretionary.

If the Supreme Court denies relief, the case has reached the end of the first time through the system.

If the Supreme Court grants relief, it could grant total relief which would mean that the case starts all over from the trial court level, or it could order the lower court to reconsider its ruling. This would allow the federal appeals court to review the case again and reach any of the results that it could have before, including denying all relief.

VII. ADDITIONAL REVIEW (OTHER APPEALS)

Often, the capital defendant will attempt to go back into state court and start the PCR process again by filing a second application in the Mississippi Supreme Court. Under state statutes and the rulings of the Mississippi Supreme Court, the claims in these PCR applications will only be considered in limited circumstances.

If the second PCR application is denied by the Mississippi Supreme Court, then the defendant can attempt to go back into federal court with a second petition for writ of habeas corpus. The defendant must get permission from the Fifth Circuit before filing a second habeas corpus petition in the district court. The district court cannot consider the petition without permission from the appeals court. If permission to file a second or successive petition for writ of habeas corpus is denied, the case is at an end.

An additional avenue for a defendant to attempt to delay his execution is to file a federal lawsuit under 28 U.S.C. § 1983. These so-called section 1983 lawsuits usually contain claims that the methods or procedures used in carrying out the execution are unconstitutional. The filing of such suits can, but do not often, delay the execution for any length of time.

One final avenue of litigation is available to the capital defendant—a defendant can file a petition for writ of habeas corpus as an original matter with the United States Supreme Court. This is an extraordinary petition and to date, none have been granted by the Supreme Court in a death penalty case. These other appeals or attempts at litigation usually take place in the last weeks or days prior to an execution date that has been set by the Mississippi Supreme Court.

When all these avenues of litigation are exhausted, the State is usually allowed to carry out its judgment and execute the defendant, unless executive clemency is granted.

VIII. EXECUTIVE CLEMENCY

One final attempt to stop an execution can be made by requesting that the Governor of Mississippi grant her executive clemency. The Governor has the power to:

1. Commute the sentence of death to a life sentence;
2. Commute the death sentence to a life sentence, and then commute that sentence to time served, thereby freeing the defendant from further incarceration;
3. Grant the defendant a pardon, thereby freeing the defendant from further incarceration and all responsibility for the crime; or
4. Grant a reprieve or respite for a period before the execution is carried out.

The Governor usually conducts some sort of clemency hearing prior to the execution and decides on the matter before the time set for the execution. This decision is usually announced after all court proceedings are concluded.

IX. EXECUTION

Executions in Mississippi are carried out by lethal injection and occur at 6:00 p.m. on the day set by the Mississippi Supreme Court for the execution, or at any time within the next twenty-four hours after that time. All executions are conducted at the Mississippi State Penitentiary located in Parchman, MS. By statute, two immediate family members of the victim's family may witness the execution, if they so desire.

X. RESOURCES

BUREAU OF VICTIM ASSISTANCE

The Bureau of Victim Assistance (BOVA) serves as the single point of contact for crime victims. BOVA provides a wide variety of services for crime victims: assistance obtaining victims' rights; assistance with the Crime Victim Compensation Application; criminal justice and court-related services; information about the Crime Victims' Bill of Rights; general information and referral to appropriate victim service providers; notification of State appellate court decisions; personal advocacy and support services; and victim advocacy.

Through BOVA, the Victim Compensation Program provides financial assistance to victims of violent crime and their family members. The goal of the program is to provide a method of compensating and assisting those persons who are innocent victims of criminal acts and who suffer bodily injury or death. The Program operates with revenue derived from fees, fines and assessments imposed on criminals, court ordered restitution, and federal grants. Applicants to the program can apply for reimbursement for a variety of expenses, including execution travel and lost wages to attend the execution. For more information about these services, please contact them by email at victimassistance@ago.ms.gov, by phone at 1-800-829-6766, or by visiting the web page at www.ago.state.ms.us/divisions/bureau-of-victim-assistance/.

CRIME VICTIMS' BILL OF RIGHTS

The Mississippi Crime Victims' Bill of Rights states that certain crime victims have the right to be treated with fairness, dignity, and respect throughout the criminal justice system; and have the right to be informed, present and heard. It is enshrined in Section 26(a) of the Mississippi Constitution.

These rights are not automatic. In order to invoke these rights, you must complete a Request to Exercise Victims' Rights form.

Additionally, if you have already invoked your rights, it is your responsibility to provide changes to your contact information to BOVA. Failure to provide these changes may be considered a withdrawal of your request for victims' rights.

If you are involved in a pending death penalty case and would like to invoke your rights or update your contact information, please contact BOVA by email at victimassistance@ago.ms.gov, by phone at 1-800-829-6766, or by visiting the web page at www.ago.state.ms.us/divisions/bureau-of-victim-assistance/.

MDOC VICTIM SERVICES

The role of the Mississippi Department of Corrections (MDOC), Division of Victim Services (DVS) is to provide support services before, during, and after the execution process.

Once the Mississippi Supreme Court notifies MDOC that an execution date has been set, the DVS director will make an appointment to meet with the victim's family to inform the family about the process on the day of the execution. Execution details are explained to make the process smooth for the victim's family and friends.

Two members of the victim's immediately family will be allowed to witness the execution. On the day of the execution, victim's families and friends may arrive at the Mississippi State Penitentiary located at Parchman no earlier than 4:30 p.m. Families and friends are gathered in a separate area and kept away from any media and protestors. The two witnesses will be escorted by the DVS director and a security officer to the execution chamber. Any other family and friends will remain in the room and will not witness the execution. After the execution, the DVS director can read a written statement from the family, or the family can speak with the media. Once the process is over, there will be a debriefing, and the family and friends will leave the penitentiary grounds.

The day of the execution can be a long, emotional, and strenuous day. DVS tries to make the day as easy and as smooth as possible for the families. DVS is dedicated to taking care of the families during the entire process.

XI. GLOSSARY

AFFIRM

When a court upholds conviction, ruling or decision.

AGGRAVATING FACTORS

Reasons why the defendant should receive the harshest sentence allowable.

APPEAL BRIEFS

A written legal argument stating the legal reasoning applied to facts in a particular situation.

APPELLANT

The party who is appealing a lower court's decision.

APPELLANT'S BRIEF

Written arguments by counsel required to be filed with the appellate court explaining why the trial court acted incorrectly.

APPELLEE

The party who is defending a lower court's decision.

APPELLEE'S BRIEF

Written arguments by counsel required to be filed with the appellate court explaining why the trial court acted correctly.

APPLICATION FOR POST-CONVICTION RELIEF

A document filed by the defendant asking the Mississippi Supreme Court to set aside the original conviction, sentence, or both.

CERTIFICATE OF APPEALABILITY

Formal, written permission to appeal to a United States Court of Appeals, which is issued either by a Federal District Court or Circuit Court of Appeals, such as the Fifth Circuit Court of Appeals, which has jurisdiction over Mississippi cases.

CERTIORARI

A writ or order by which a higher court reviews a decision of a lower court.

CLEMENCY

The use of executive power by the Governor to reduce a criminal sentence resulting from a criminal conviction.

COMMUTE

The use of executive power by the Governor to shorten a sentence, usually to time already served, or reduce a death sentence to a lesser sentence.

CONVICTION

A finding by a judge or jury that the defendant is guilty of a crime.

DIRECT APPEAL

The automatic appeal to the Mississippi Supreme Court the defendant is entitled to after being convicted of a capital offense and sentenced to death.

DISTRICT ATTORNEY (DA)

A lawyer who is elected to represent a state government in criminal cases in a designated county or judicial district. In some states, a District Attorney may be called a Prosecuting Attorney, County Attorney, or State's Attorney.

GRANT

To give or permit.

HABEAS CORPUS PETITION

A petition filed by the defendant that is normally used to test the legality of the detention or imprisonment and does not normally address guilt or innocence.

INEFFECTIVE ASSISTANCE OF COUNSEL

Claims that the attorney at trial or on direct appeal did not represent the defendant in the manner required by the Constitution.

MANDATE

A command, order, or direction, written or oral, which a court is authorized to give, and a person is bound to obey.

MITIGATING FACTORS

Reasons the defendant should receive a lesser sentence.

MOTION FOR REHEARING

A brief filed by the defendant with the Mississippi Supreme Court or Court of Appeals asking the Court to reconsider its ruling. The brief will contain reasons why the defendant thinks the Court was in error.

PARDON

The use of executive power by the Governor to forgive a person convicted of a crime, thus removing any remaining penalties or punishments and preventing any new prosecution of the person for the crime for which the pardon was given.

PETITION FOR WRIT OF CERTIORARI

A written request filed in the U.S. Supreme Court that urges that Court to exercise discretionary review and consider specific issues in a particular case.

POST-CONVICTION PETITION

A written document challenging a conviction(s) and/or sentence(s) on grounds that could not have been presented on direct appeal; usually alleging a constitutional violation, jurisdictional defect, or newly discovered evidence.

PROCEEDINGS

The regular and orderly course of a lawsuit, including the events that take place between the time a defendant is indicted and convicted.

PROSECUTOR (PROSECUTING ATTORNEY)

An attorney employed by a government agency to represent the government in criminal proceedings against persons accused of committing criminal offenses. Also commonly called a District Attorney (DA), City Attorney, County Attorney, Youth Court Prosecutor, State's Attorney, or United States Attorney.

PUBLIC DEFENDER

An attorney appointed by the court or governmental body to provide legal counsel to indigent defendants in criminal proceedings.

RECONSIDER

To reexamine a matter or to take the matter up again.

REMAND

The act of returning something (e.g., a claim or a case) by an appellate court to a lower court for further action.

REPRIEVE

A temporary delay in the imposition of a death sentence.

RESPITE

A temporary suspension of the execution of sentence.

REVERSAL

The act of overturning a ruling or judgment, especially on appeal.

REVERSED AND REMANDED

When a conviction is overturned, and the case is returned to the lower court for further proceedings.

REVERSED AND RENDERED

When a conviction is overturned, but the final decision is made by the appellate court and no further proceedings will be held on the case.

REVERSIBLE ERROR

An error that is a ground for reversing a case because the error affects a party's substantive rights or the case's outcome.

SENTENCE

The penalty imposed on the defendant.

VACATE

To nullify or cancel; to make void.