

# Tennessee Appeals Process

## Trial

1	DISTRICT ATTORNEY
Local District Attorney prosecutes the case and if a capital case, decides whether to seek the death penalty	

2	STATE TRIAL COURT
Jury decides on guilt and sentence	

## Direct Appeal

3	COURT OF CRIMINAL APPEALS
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4	TENNESSEE SUPREME COURT
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5	U.S. SUPREME COURT
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In a direct appeal, a defendant can raise questions about the validity of his or her conviction and/or sentence in a brief filed in the Court of Criminal Appeals. An attorney from the Criminal Appeals Division of the Attorney General's Office then files a responsive brief and argues on behalf of the State. The court may also decide to hear oral arguments at this stage or at any stage of the case. A three-judge panel of the Court of Criminal Appeals will issue an opinion after reviewing briefs, the trial court record, and any arguments.

After a decision is issued by the Court of Criminal Appeals, either side may request permission to appeal the decision to the Tennessee Supreme Court. Unlike the Court of Criminal Appeals, review of appeals in the Supreme Court is granted or denied at the discretion of the Court. If the Supreme Court grants permission to appeal, attorneys for both sides will submit briefs to the court, and there may be an oral argument. If permission to appeal is denied, the decision by the Court of Criminal Appeals is the final decision in the direct appeal. The only exception to this discretionary review is in capital cases, where a defendant's conviction and death sentence are automatically reviewed by the Supreme Court.

## Post-Conviction Petition

6	STATE TRIAL COURT
Petition for post-conviction relief; raises new legal questions	

7	COURT OF CRIMINAL APPEALS
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8	TENNESSEE SUPREME COURT
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9	U.S. SUPREME COURT
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Within one year of the final order in a case, a defendant may file a petition for post-conviction relief in the county trial court. A post-conviction petition is a request to overturn a conviction or sentence based on constitutional rights violations. The local district attorney general handles post-conviction petitions in the trial courts.

If post-conviction relief is denied, a defendant may appeal to the Court of Criminal Appeals. Just as in a direct appeal, if the defendant loses in the Court of Criminal Appeals, he or she may seek permission to appeal to the Tennessee Supreme Court. Review is granted or denied at the discretion of the Supreme Court in both capital and non-capital cases.

## Petition for Writ of Habeas Corpus

10	FEDERAL DISTRICT COURT
Petition for habeas corpus relief raises federal constitutional issues	

11	SIXTH CIRCUIT COURT OF APPEALS
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12	U.S. SUPREME COURT
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Upon completion of all available state appeals, a defendant may file a petition for writ of habeas corpus in the federal district court. The primary function of the writ of habeas corpus is not to determine guilt or innocence but to petition for release from unlawful imprisonment. A defendant is entitled to federal habeas corpus relief only by showing a violation of a federal constitutional right.

If federal habeas corpus relief is denied in the district court, a defendant may ask the United States Court of Appeals for the Sixth Circuit to grant an appeal. If the district court decision is affirmed in the Court of Appeals, the defendant may petition the United States Supreme Court to review the case. However, review by the United States Supreme Court is rarely granted. In capital cases, once the habeas action is closed, the Attorney General's Office will file a motion asking the Tennessee Supreme Court to set an execution date.

## Clemency

13	GOVERNOR	Petition for executive clemency
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In capital cases, an inmate will likely file an application seeking executive clemency. Clemency is an act of the governor reducing a death sentence to life imprisonment or granting a full or conditional pardon. The authority to grant or deny clemency rests solely with the governor. Under the Tennessee Constitution, the governor may grant full or conditional pardons, reprieves of execution, and commutation of sentences.