

**FORM FOR SUCCESSIVE POST-CONVICTION
RELIEF RULE 1 PETITIONS**

(To Be Filed With Petition For Post-Conviction Relief)

Roy Lee Ward,)	
Appellant,)	
)	
v.)	No. 25S-SD-00167
)	
State of Indiana,)	
Appellee.)	

INSTRUCTIONS - READ CAREFULLY

If you have previously filed a Petition for Post-Conviction Relief directed to this conviction or these convictions and the earlier petition was decided on the merits, you must fill out this form and file it along with your Petition. It must be legibly handwritten or typewritten, signed by the petitioner, and affirmed under the penalties for perjury. Since this must be signed under oath, any false statement of a material fact herein may serve as the basis of prosecution and conviction for perjury. Exercise care to be sure all answers are true and correct.

You must mail the original and two copies of this form along with your petition to the Clerk of the Supreme Court and Court of Appeals, 200 West Washington Street, Room 216, Indianapolis, IN 46204-2732. The Clerk will refer your petition to the Supreme Court in death penalty cases and the Indiana Court of Appeals in all other cases. The court will then decide whether your petition may be filed in the trial court where your first Post-Conviction Remedy Rule 1 petition was adjudicated.

NOTE: The court will allow a second or successive petition for post-conviction relief to be filed if the petitioner establishes a reasonable possibility that the petitioner is entitled to post-conviction relief. However, a petitioner does not establish a reasonable possibility that the petitioner is entitled to post-conviction relief, for example, (1) if the petitioner only alleges grounds for relief that are not different from those which have already been decided on the merits, or (2) if the only grounds alleged, even if different, should have been alleged in an earlier proceeding.

In addition to this form, you may submit no more than fifteen (15) pages, double-spaced, to provide supporting facts. You may also submit exhibits. Any citation of authorities should be avoided and is only appropriate if there has been a change in the law since the judgment you were attacking was entered. Your answer(s) should be confined to relevant facts and must not include legal arguments.

1. Were you represented by an attorney on your prior Petition for Post-Conviction Relief?

Yes No

If yes, name(s) and address(es) of attorney(s).

Laura Volk
Office of the Public Defender of Indiana
One North Capitol, Suite 800
Indianapolis, IN 46204

Thomas Hinesley
Formerly of the Office of Public Defender, now deceased

Proceedings at which each attorney represented you:

Drafting Petition for Post-Conviction Relief _____ _____

Hearing of Petition for Post-Conviction Relief _____ _____

Appeal of denial of Petition for Post-Conviction Relief _____ _____

2. Was there a hearing on your prior Petition?

Yes No

3. If the Petition was denied, did you appeal?

Yes No

If yes, please state result on appeal, date of decision and citation of case if known:

The Indiana Supreme Court affirmed the denial of post-conviction relief on June 21, 2012, *Ward v. State*, 969 N.E.2d 46 (Ind. 2012), rehearing denied September 7, 2012.

4. If you are alleging ground(s) for relief which were raised in your previous Petition, explain why you feel consideration is merited:

Ward seeks permission to raise claims not available to him at the time he filed his first petition. More specifically, his proposed claims concern Indiana's lethal injection protocol Method 2, a one-drug (pentobarbital) lethal injection protocol was not in effect at the time Ward filed his post-conviction petition.

5. If your Petition raises new grounds which were not included in your prior Petition, explain why you are raising these grounds now. Your explanation should rely on FACTS, not your opinions or conclusions:

Ward does not claim the newer one-drug protocol is *per se* a cruel and unusual punishment under the Eighth Amendment of the U.S. Constitution and Article One, Section 16 of the Indiana Constitution. Instead, he claims his execution in particular carries the substantial risk of needless pain and suffering Benjamin Ritchie appeared to experience during his execution on May 20, 2025. Five witnesses remember that after the pentobarbital was injected, Ritchie lurched upward against his restraints as if he was doing a crunch in a sudden motion lasting for seconds. Given Ritchie's experience and the likelihood the State will carry out Ward's execution in the same way, there is a substantial risk Ward's execution will involve needless pain and suffering in violation of

the Eighth Amendment to the U.S. Constitution and Article One, Section 16 of the Indiana Constitution.

Ward also seeks to raise claims related to the State's refusal to answer repeated public records requests for non-protected information related to its lethal injection protocol. To this day, the only information disclosed is the number of doses the State has purchased in the last year, the total cost of those doses (so far) and that some doses expired presumably before being used. This information was not disclosed in response to a public records request, however, the Governor told the news media in his public call to have the legislature examine the death penalty in Indiana in light of the exorbitant cost of the lethal injection drug. None of Ward's public records requests are for information "reasonably calculated to lead to the identity" of the lethal-injection drug supplier, including employees and contractors, the only information protected from disclosure. See IC § 35-38-6-1(f). The State's failure to disclose public information related to its protocol unduly interferes with Ward's First Amendment right to petition the state for redress of grievances, which includes access to courts. See *Snyder v. Nolen*, 380 F.3d 279, 291 (7th Cir. 2004)("The right of access to the courts is the right of an individual, whether free or incarcerated, to obtain access to the courts without undue interference.").

Ward's proposed claims have a reasonable basis in law and fact, and his right to pursue them is not only protected by the First Amendment right to petition for redress of grievances, but also the Fourteenth Amendment right to substantive due process. *Id.*

Ward also seeks to raise claims related to the execution chamber itself, claims which he could not have raised at the time of the first petition because it was unknown if

at the time of his execution the chamber itself would be new, part of a different building or configured differently, if sounds from the chamber could be heard by witnesses during the execution, or if the condemned inmate could see his witnesses immediately before and during his execution. Witnesses from Indiana’s two most recent executions report they could hear no sound emanating from the execution chamber. It is now also known that Ward will not be able to see his witnesses because the window between the chamber and his witnesses is one-way glass. The lack of sound from the chamber violates the First Amendment right of access to governmental proceedings (See *First Amendment Coalition of Arizona, Inc. v. Ryan*, 938 F.3d 1069, 1075 (9th Cir. 2019)(“ . . . First Amendment right of access to governmental proceedings encompasses a right to hear the sounds of executions in their entirety.”)). Depriving Ward of his ability to see his witnesses violates his due process rights under the Fourteenth Amendment and Article One, Section 12 of the Indiana Constitution because Ward will have no way of knowing whether the State has complied with his request to have witnesses present at his execution. Additionally, depriving him of the opportunity to see his witnesses is cruel and unusual punishment under the Eighth Amendment and Article One, Section 16 of the Indiana Constitution because it deprives him of having the comfort of his witnesses in the final moments of his life.

Consideration of these claims is now warranted because at the time of his first petition, his proposed claims were not ripe since no execution date had been set and the substances and method of execution, and current characteristics of the execution chamber were not known. See *Isom v. State*, 170 N.E.3d 623, 653 - 54 (Ind. 2021)(recognizing the

State's objection to providing discovery concerning the lethal injection protocol based on its argument the claim was not ripe since no execution date was set and it "did not know which substance or method would be used to execute him," and upholding the post-conviction court's dismissal of Isom's lethal injection challenge on the alternate ground Isom failed to articulate a cogent legal theory in support of his lethal-injection claim).

Although the State has not publicly announced it intends to use Method 2 to execute Ward, in the two most recent executions, that of Joseph Corcoran and Benjamin Ritchie, post-mortem blood toxicology results revealed the presence of high levels of pentobarbital. This indicates that the State used Method 2, the one-drug protocol, to execute Corcoran and Ritchie. Thus, given the State's request to set an execution date comes on the heels of the Corcoran and Ritchie executions, there is reason to believe the State will also use Method 2 to execute Ward. The constitutional issues surrounding how Indiana carries out the death penalty are too important to not be addressed in a court of law.


Signature of Petitioner

I affirm, under the penalties for perjury, that the foregoing representation(s) is (are) true.


Signature of Petitioner

Respectfully submitted,

AMY E. KAROZOS
Public Defender of Indiana
Attorney No. 14429-49

By: /s/ Joanna Green
Joanna Green
Deputy Public Defender
Attorney No. 16724-53

By: /s/ Laura L. Volk
Laura L. Volk
Deputy Public Defender
Attorney No. 18934-49

Certificate of Service

I certify that on July 30, 2025, the foregoing **Form for Successive Post-Conviction Relief Rule 1 Petitions** was served upon the Tyler Banks, Supervising Deputy Attorney General, via the e-filing system with the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court.

/s/ Laura L. Volk
Laura L. Volk
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