RAP RULE 16.18
POST-SENTENCE PETITIONS

(a) Generally. The Department of Corrections may petition the Court of Appeals for review of a sentence committing an offender to the custody or jurisdiction of the Department of Corrections. The review shall be limited to errors of law.

(b) Filing. The petition should be filed no later than 90 days after the Department of Corrections has received the documents containing the terms of the sentence. The petition should be filed in the division that includes the superior court entering the decision under review.

(c) Parties. When the Department files the petition, it should serve copies on the prosecuting attorney and on the offender whose sentence is in question. The appellate court clerk will serve the offender with a statement of the right to counsel and the right to proceed at public expense if indigent. If the offender was found indigent at trial and has been incarcerated since trial, continued indigency is presumed. In other cases where the offender claims indigency, the Court of Appeals may make a determination of indigency or may remand to the sentencing court for such a determination. The Court of Appeals may appoint counsel for indigent offenders and waive costs as provided in RAP 16.15(g) or may remand to the sentencing court for such appointment. All parties should file a written response to the petition within 45 days after the appellate court clerk notifies the offender of the right to counsel and the right to proceed at public expense. The Department has 20 days after service of the last response to file a reply.

(d) Petition. The petition should contain:
(1) The county and superior court cause number below;
(2) The crime for which the offender was convicted;
(3) The date the Department of Corrections received the documents containing the terms of the sentence;
(4) The address of the offender;
(5) The error of law at issue;
(6) A statement by the Department of Corrections of all efforts that have been made to resolve the dispute at the superior court level, and the results thereof;
(7) Argument;
(8) The relief requested;
(9) A conclusion; and
(10) An appendix. The appendix should contain a copy of the judgment and sentence, the warrant of commitment, and any response of the superior court regarding the Departments administrative efforts to resolve the issue.

(e) Consideration of Petition.

(1) Generally. The Chief Judge will consider the petition promptly after the time has expired for filing of the Departments reply. The Chief Judge determines at the initial consideration if the petition will be retained by the appellate court for determination on the merits.

(2) Determination by Appellate Court. The Chief Judge determines at the initial consideration of the petition the steps necessary to properly decide on the merits the issues raised by the petition. If the issues presented are frivolous, the Chief Judge will dismiss the petition. If the petition is not frivolous, the Chief Judge will refer the petition to a panel of judges for a determination on the merits. The Chief Judge may enter other orders necessary to obtain a prompt determination of the petition on the merits.

(3) Oral Argument. Decisions of the Chief Judge will be made without oral argument. If a petition is to be decided on the merits by a panel of judges, the appellate court clerk will set the petition for consideration by the panel of judges, with or without oral argument. If oral argument is directed, the clerk will notify the parties of the date set for oral argument.

(f) Disposition. The Court of Appeals will dispose of the matter in such manner as the ends of justice require.

(g) Review of Court of Appeals Decision. If the petition is dismissed by the Chief Judge or decided by the Court of Appeals on the merits, the decision is subject to review by the Supreme Court by a motion for discretionary review on the terms and in the manner provided in rule 13.5A.

[Amended effective September 1, 2006.]