

[CAPTION]

PRAECIPE FOR A DETERMINATION
WHETHER A RULING HAS BEEN DELAYED BEYOND
THE TIME LIMITATION SET FORTH UNDER TRIAL RULE 53.2

The Petitioner, by counsel, pursuant to Ind. Trial Rules 53.1(E) and 53.2(A), respectfully files his Praecipe For A Determination Whether A Ruling Has Been Delayed Beyond the Time Limitation Set Forth Under Trial Rule 53.2, as follows:

1. Ind. Trial Rule 53.1(E) states: “Upon the filing by an interested party of a praecipe specifically designating the motion or decision delayed, the Clerk of the court shall enter the date and time of the filing in the Clerk’s praecipe book, record the filing in the Chronological Case Summary under the cause, and promptly forward the praecipe and a copy of the Chronological Case Summary to the Executive Director of the Division of State Court Administration (Executive Director).”

2. To specifically designate the motion or ruling delayed, it is the ruling on the Petition for Post-Conviction Relief, which was heard by [insert trial court] on [insert date].

3. [Insert Petitioner’s name] is an interested party because he is a party in the case, i.e., he is the Petitioner.

4. Ind. Trial Rule 53.2(A) states: “Whenever a cause (including ... a Petition for Post-Conviction Relief) has been tried to the court and taken under advisement by the judge, and the judge fails to determine any issue of law or fact within ninety (90) days, the submission of all the pending issues and the cause may be withdrawn from the trial judge and transferred to the Supreme Court for the appointment of a special judge.”

5. On [insert date], this cause was taken under advisement. Therefore, the judge has failed to determine any issue of law or fact for more than ninety days.

6. None of the exceptions set out in Ind. Trial Rule 53.2(B) are applicable because there has been no stipulation or agreement by the parties on the record that the time limit set forth in Ind. Trial Rule 53.2(A) shall not apply, and the time limitation has not been extended by the Supreme Court.

7. Ind. Trial Rule 53.1(E)(2) states: “If the Executive Director determines that a ruling or decision has been delayed beyond the time limitation set forth under Trial Rule 53.1 or 53.2, the Executive Director shall give written notice to the judge of the cause, the Clerk of the trial court, and the Clerk of the Supreme Court of Indiana that the submission of the case has been withdrawn from the judge. The withdrawal is effective as of the time of the filing of the praecipe. The Clerk of the trial court shall record this determination in the Chronological Case Summary under the cause and provide notice to all parties in the case. The Executive Director shall submit the case to the Supreme Court of Indiana for appointment of a special judge or such other action deemed appropriate by the Supreme Court.

WHEREFORE, the Petitioner, by counsel, pursuant to Ind. Trial Rules 53.1(E) and 53.2(A), respectfully files his Praecipe For A Determination Whether A Ruling Has Been Delayed Beyond the Time Limitation Set Forth Under Trial Rule 53.2.


(Signature)

REFERENCES

CASEBANK B.7.a

Criminal Rule 15 (The time limitation for ruling and decision set forth under Trial Rules 53.1, 53.2 and 53.3 shall apply in criminal proceedings.)

CASE LAW

Williams v. State, [716 N.E.2d 897](#)  (Ind. 1999) (proper remedy for challenging denial of "lazy judge" motion under this rule is to seek writ of mandate from Indiana Supreme Court to compel clerk to give notice and disqualify judge; here, the Defendant was estopped from claiming that post-conviction court lost jurisdiction to rule on his petition because the Defendant waited until unfavorable judgment instead of seeking a writ of mandate after clerk failed to withdraw case from the trial court).