

Sunday 1/29/2012

TITLE: TRIAL PROCESS

Let me share a couple of tips that could help you if you have a family member, or veteran, now in jail and they never were before.

At least these are some of the things I've learned in the Illinois system.

Speedy Trial - In most States you have a right to a "speedy trial". In Illinois this is 120 days. A defendant must waive their right to a speedy trial. Here's the catch that really upsets me.

What I witnessed in Illinois many times, and it happened to me, is the Public Defender (your trial counsel) will "waive" the defendant's (you) right to a speedy trial sometime early in the first 2 or 3 Court hearings. It's done with a hand wave, and some mumbo-jumbo like, "We're doing a 482 pass". You don't even know what just happened.

In Illinois, when the defendant waives their speedy trial right, the clock stops. Now you sit in the jail for 2, 3, 4 or even 5 years while month after month your P.D. and the Prosecutor make excuse after excuse

② To delay proceedings (called continuances). I've known men who had to "yell out" to the Judge, "I'm not waiving my speedy trial rights, your Honor!" During these "interruptions" the P.D., and even the Judge will tell a defendant to "shut up". But the fact is now "documented" by the Court-Reporter. If your trial is delayed you have documented proof.

In Illinois at least, the Prosecutor can delay proceedings but it doesn't stop the clock. And they must present a valid reason for the delay. Such as, "Your Honor, the State needs 60 days to obtain copies of the insurance claim forms required to verify transfer amounts", or something like that. Then the 120 day clock begins again at the point of the delay.

Public Defender - While we have a great American right in the Constitution for legal representation, the P.D. system has evolved a few flaws. Many times you obtain a top notch lawyer who wants to do the right thing. Mostly though, you have a Counsel who is visibly tired, worn out, from getting 100 cases a week dumped on them. Many have become callous from dealing with hundreds of disrespectful criminal minded ~~liars (?)~~ ^(?) lawyers (?) liars (prison has a way of dumbing you down).

- (3) But the important things to remember are:
- a) The P.D. is an employee, or more correctly, "paid" by the state with career aspirations within the state. Do you think they will stick their neck out for you?
 - b) Very often you see the State Prosecutor and your P.D. "hanging out", laughing, telling jokes in the court room. Observed over years, within dull hours spent sitting in the court room during breaks and between sessions.

Common knowledge heard from multiple sources. Not inmates, but lawyers, Court Officers and read in legal reports.

1) P.D.'s & Prosecutors "trade off" cases. "I'll let this guy slide lightly, but I want these two put away for over 5 years at least."

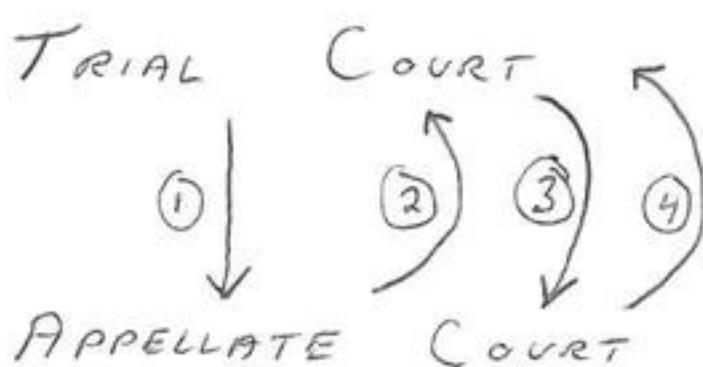
So your future is being determined by some start-up law hucky's personal politics and prejudice, not by law and a skilled judge.

2) P.D.'s & Prosecutors are often drinking buddies after work at the local pubs.

Court options - Here is a glimpse of what I have learned about the Illinois court system over the past 5 years. It may not be the same in other states, but it gives you an idea of what you're facing.

(4) In studying hundreds of cases I've noticed a pattern that is discomforting to me. In many severe, wicked, evil crimes I can see why this is done, but it is commonly used as a method only for the "run around".

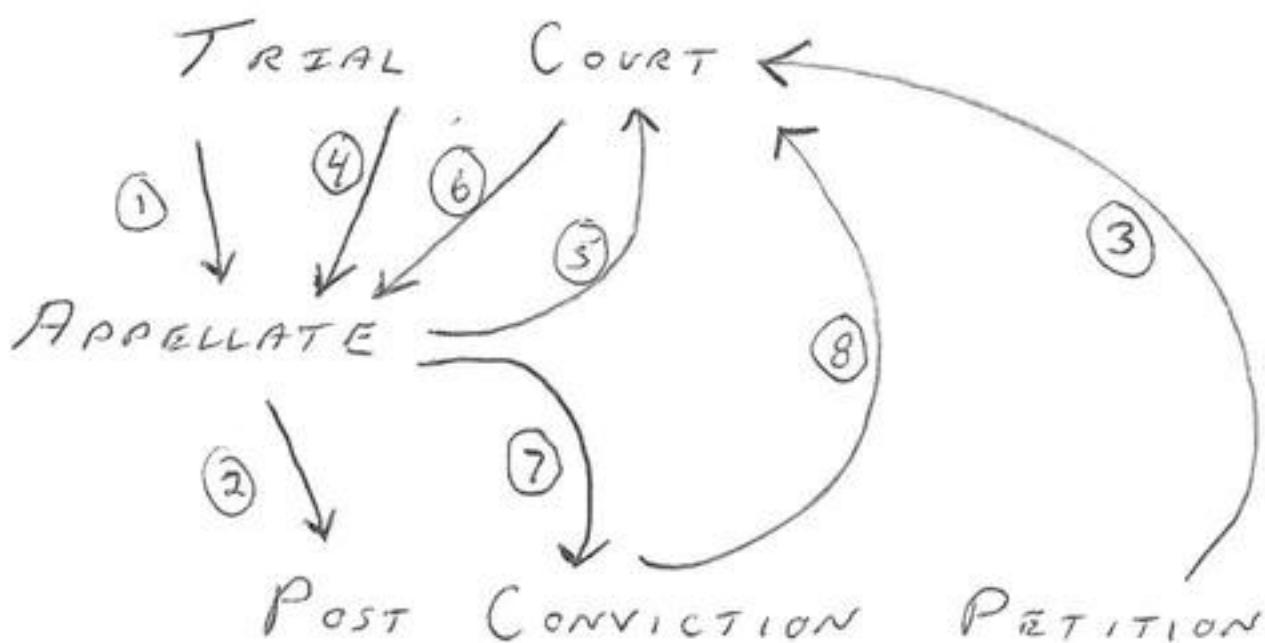
A)



On paper the above bounce "back and forth" may look simple, but it represents a 4-7 year process of stress, aggravation and moving around.

No trial court wants to admit to making a mistake.

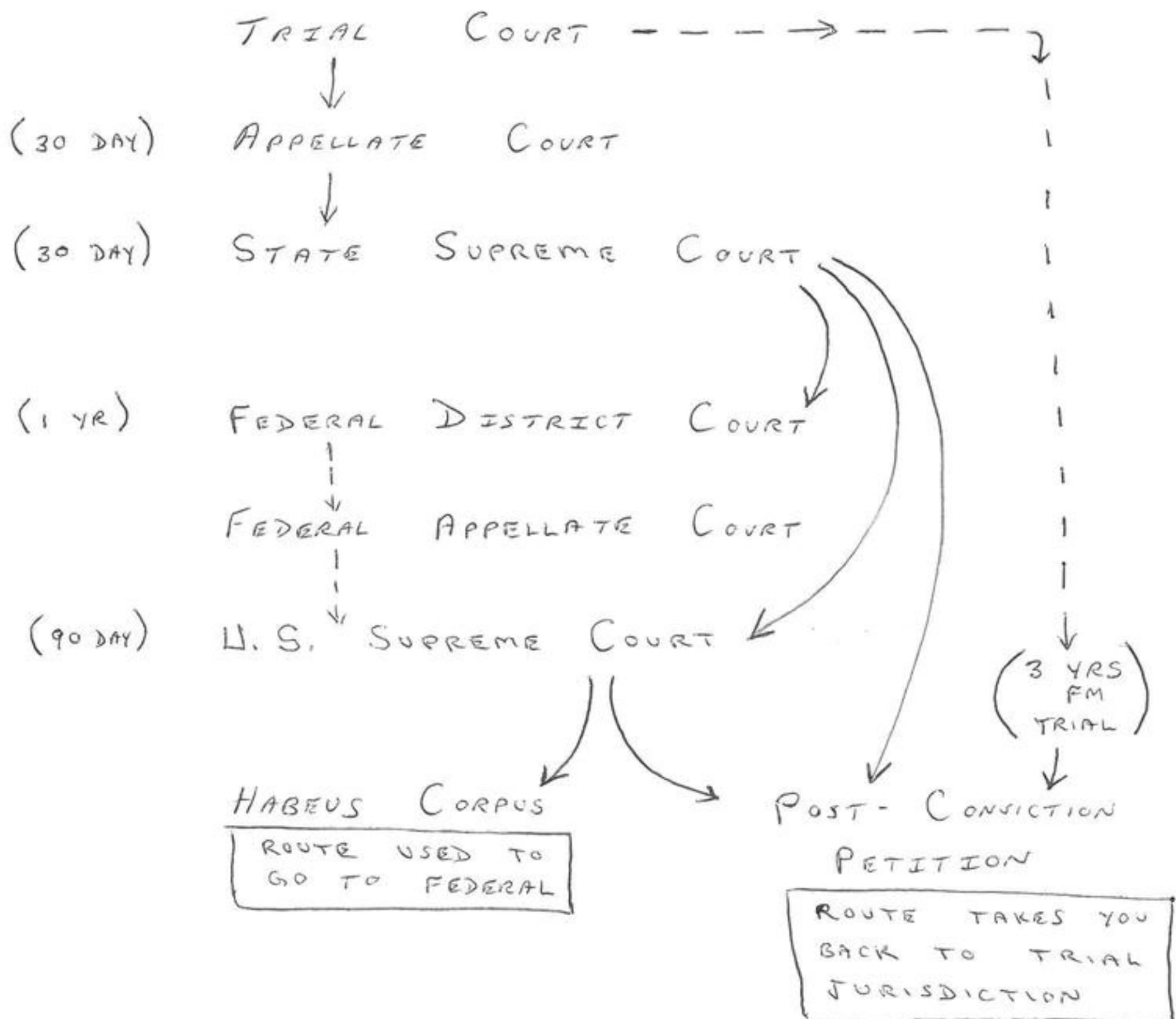
If there is any chance of you filing a law-suit the court will fight that much harder to prove you wrong. Or...



This process represents a 10-16 year ~~p~~ court fight to achieve nothing.

(5) A Post Conviction Petition has a purpose, but it loops directly back to the same Jurisdiction you were tried in. I've seen Post Convictions sit in limbo for 2-3 years just to be heard.

Here is a snapshot of a few possible routes in the Court system. I'm thankful we have options... God bless America!



It's important to research your options. This information is not going to be handed

(6) to you when you arrive in the County Jail. So if there is an "Idiots Guide" out there, you may want to send a copy to your loved one in jail.

Lastly, if you have a tough fight ahead a source for books and useful information designed for a common (normal) reader to understand can be found:

Prison Legal News

P.O. Box 2420

WEST BRATTLEBORO, VT. 05303

www.prisonlegalnews.org

(802) 257-1342

They publish a monthly newspaper with new laws and significant cases.

If I had known 5 years ago, this legal fight would be so tough I would have started a subscription back then and read it thoroughly.

Some County jails do not permit hard cover books so check that first before you spend the money or mail it to your friend.

Hope this helps some one.

David