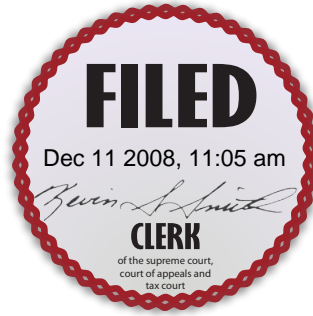


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

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Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

MARK ROGGENKAMP,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 79A05-0807-PC-403

APPEAL FROM THE TIPPECANOE CIRCUIT COURT
The Honorable Donald L. Daniel, Judge
Cause No. 79C01-0205-FA-3

December 11, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

On May 5, 2008, while incarcerated after pleading guilty to conspiracy to commit dealing in methamphetamine, Mark Roggenkamp filed a petition for post-conviction relief, requested Public Defender representation, and attached an affidavit of indigency. The State moved for summary disposition, which was granted by the post-conviction court. On appeal, Roggenkamp contends, and the State agrees, that the post-conviction court erred when it failed to refer his petition to the State Public Defender's office.

Under Indiana Post-Conviction Rule 1(2) provides:

If an affidavit of indigency is attached to the petition, the clerk shall call this to the attention of the court. If the court finds that the petitioner is indigent, it shall allow petitioner to proceed in forma pauperis. If the court finds the indigent petitioner is incarcerated in the Department of Correction, and has requested representation, it shall order a copy of the petition sent to the Public Defender's office.

Here, Roggenkamp specifically requested representation by the Public Defender and attached an affidavit of indigency to his post-conviction petition. He had previously been determined to be indigent when he was given court-appointed counsel on two prior occasions. Pursuant to the above rule, if an indigent petitioner is incarcerated and has requested representation, then a copy of the petition is required to be sent to the Public Defender's office. Therefore, the post-conviction court erred when it did not send a copy of Roggenkamp's petition. We reverse the summary denial of Roggenkamp's petition and remand with instructions to refer his petition to the State Public Defender's office.

Reversed and remanded.

VAIDIK, J., and CRONE, J., concur.