

(C) EFFECT OF JUDICIAL DECISION THAT CONSTITUTION IMPOSES NEW STANDARD.

(1) THIS SUBSECTION APPLIES AFTER A DECISION ON THE MERITS OF AN ALLEGATION OF ERROR OR AFTER A PROCEEDING IN WHICH AN ALLEGATION OF ERROR MAY HAVE BEEN WAIVED.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, AN ALLEGATION OF ERROR MAY NOT BE CONSIDERED TO HAVE BEEN FINALLY LITIGATED OR WAIVED UNDER THIS TITLE IF A COURT WHOSE DECISIONS ARE BINDING ON THE LOWER COURTS OF THE STATE HOLDS THAT:

(I) THE CONSTITUTION OF THE UNITED STATES OR THE MARYLAND CONSTITUTION IMPOSES ON STATE CRIMINAL PROCEEDINGS A PROCEDURAL OR SUBSTANTIVE STANDARD NOT PREVIOUSLY RECOGNIZED; AND

(II) THE STANDARD IS INTENDED TO BE APPLIED RETROSPECTIVELY AND WOULD THEREBY AFFECT THE VALIDITY OF THE PETITIONER'S CONVICTION OR SENTENCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 645A(b), (c), and (d).

Throughout this section, the former references to an appeal, proceeding, or allegation of error having "actually" or "in fact" been made are deleted as surplusage.

In subsections (b)(1)(i) and (c)(2) of this section, the former phrase "[f]or the purposes of this subtitle" is deleted as unnecessary.

In subsection (b)(1)(i)5 and 7 of this section, the references to "began" are substituted for the former references to "instituted" to conform to the terminology used throughout this title.

7-107. EFFECT OF POSTCONVICTION REMEDY ON TRIAL PROCEEDINGS AND APPEALS.

(A) TRIAL PROCEEDINGS.

THE REMEDY PROVIDED UNDER THIS TITLE IS NOT A SUBSTITUTE FOR AND DOES NOT AFFECT ANY REMEDY THAT IS INCIDENT TO THE PROCEEDINGS IN THE TRIAL COURT OR ANY REMEDY OF DIRECT REVIEW OF THE SENTENCE OR CONVICTION.

(B) APPEALS.

(1) IN A CASE IN WHICH A PERSON CHALLENGES THE VALIDITY OF CONFINEMENT UNDER A SENTENCE OF DEATH OR IMPRISONMENT BY SEEKING THE WRIT OF HABEAS CORPUS OR THE WRIT OF CORAM NOBIS OR BY INVOKING A COMMON LAW OR STATUTORY REMEDY OTHER THAN THIS TITLE, A PERSON MAY NOT APPEAL TO THE COURT OF APPEALS OR THE COURT OF SPECIAL APPEALS.