



Delayed Appeal in Criminal Felony Case Pro Se Packet

A timely appeal in the Eighth District Court of Appeals must be filed no later than 30 days from the date on which your sentence was journalized. This date can be located on your sentencing entry. **If you missed the 30-day filing deadline you can file a delayed appeal.**

Your Delayed Notice of Appeal must contain the following documents

1. Your Journal Entry from the sentence you are appealing
 - a. This can be obtained from the Clerk of Courts in the Justice Center.
2. Notice of Appeal
3. Praecipe/Docketing Statement
4. Motion for Delayed Appeal
5. Filing fee \$175 or Notarized Affidavit of Indigency

How many copies do I need?

You will need the original (Notice of Appeal, Journal Entry, Praecipe and Docketing Statement, Motion for Delayed Appeal)

- 1-Copy (the original) for the Court of Appeals
- 1-Copy served on the Cuyahoga County Prosecutor.
- 1-Copy for your records

Where should I file?

Your Notice of Appeal packet is filed with the Eighth District Court of Appeals:

EIGHTH DISTRICT COURT OF APPEALS

Clerk of Courts

1 W. Lakeside Avenue

Cleveland, Ohio 44113

216-443-7937

How do I serve the prosecutor?

For a felony criminal case in Cuyahoga County you can mail a copy to:

The Cuyahoga County Prosecutor's Office

1200 Ontario Street, 9th Floor

Cleveland OH 44113

What if I cannot afford an attorney?

You can file a motion with the Eighth District Court of Appeals requesting an attorney be assigned to the appeal of your criminal case. This motion should be filed at the same time as you file your Delayed Notice of Appeal.

How do I get the record filed for my appeal?

You can file a motion to get the transcript prepared at State's expense if you are indigent and filed an affidavit with your Delayed Notice of Appeal. The motion should be filed at the same time as your Delayed Notice of Appeal.

You must notify the court reporter's office that an appeal has been filed. They can be reached at 216-443-8500. The *transcript is not your property*, it is prepared for the court to review on appeal. Once it is prepared it is filed with the court, your attorney will review it for possible issues to be raised on appeal.

If you do not have an attorney and are representing yourself on appeal, you can contact the Court of Appeals Clerks' Office (216-443-7937) to review the transcript.

How do I fill out the praecipe and docketing statement?

The praecipe and docketing statement contains 5 sections – some of which do not need to be completed in an appeal from a criminal case. Instructions for each section follow:

Praecipe: Requesting the Record: In this section, you are telling the trial court how to prepare the record for the Court of Appeals. If no court hearing occurred in your case, you will select box 1 as no transcript is necessary. If there was a court hearing (e.g. plea, trial, and/or sentencing), you will select box 2 and box a.

- a. Calendar: You should select the regular calendar.
- b. General information: Skip this section.
- c. Criminal Case: Answer yes to question 1, list co-defendants (if any) in question 2, and select "Defendant's Appeal as of Right" for question 3.
- d. Civil Case: Skip this section

Then sign it and fill out the certificate of service.

When will I find out if the Court of Appeals accepts my delayed appeal?

The court will issue a ruling in 2-4 weeks. You will receive a mailing from the court of appeals. If you have not heard from the court in 4 weeks contact the clerk of courts at 216-443-7937.

CUYAHOGA COUNTY, OHIO

Plaintiff

vs.

Case No. _____

NOTICE OF APPEAL

Defendant

The appellant, _____, hereby gives notice of appeal to the Eighth
(PARTY NAME)

District Court of Appeals from the final judgment entry of the _____
(NAME OF TRIAL COURT)

entered on _____.
(DATE)

(Signature)

(Address)

(Phone Number **and** Email)

CERTIFICATE OF SERVICE

I certify that a copy of this notice of appeal was served upon
_____ on ____ / ____ / 20____ in the following
manner: _____.

(Signature)

**EIGHTH DISTRICT COURT OF APPEALS
LOCAL APPELLATE RULE 9
Praecept and Docketing Statement**

Name of Trial Court: _____

Case Caption: _____

Plaintiff,

vs.

Defendant

Trial Court Case Number: _____

Trial Court Judge: _____

Date of judgment appealed: _____

The notice of appeal was filed in compliance with:

- [App.R. 4\(A\)](#) (within 30 days); or
- [App.R. 4\(B\)](#) (time extended); or
- [App.R. 5](#) (delayed appeal)

A. PRAECEPT: REQUESTING THE RECORD

TO THE CLERK OF THE TRIAL COURT:

1. By checking this box, appellant requests that the clerk of the trial court immediately prepare and assemble the original papers and exhibits filed in the trial court and a certified copy of docket and journal entries under App.R. 9(A). **(If appellant only selects this box, appellant acknowledges that no transcript is required to be prepared.)**
2. Check this box if you seek the record in this appeal to include one of the following listed below that is necessary for the resolution of the appeal. **(Please select only one of the following below.)**
 - a. Complete transcript under [App.R. 9\(B\)](#). (Note: the appellant must instruct the court reporter to prepare the transcript.)
 - b. Partial transcript under [App.R. 9\(B\)](#). (Note: the appellant must instruct the court reporter to prepare the transcript.)
 - c. Statement of evidence or proceedings under [App.R. 9\(C\)](#).
 - d. Agreed statement under [App.R. 9\(D\)](#).

B. CALENDAR

Choose the appropriate calendar designation for this case. **Check only one of the following:**

Regular Calendar

This is the appropriate selection if **any** of the following apply:

- Transcript and all other evidentiary materials are more than one hundred pages;
- A brief in excess of 15 pages is necessary to argue the issues adequately;
- Appeal concerns unique issues of law that will be of substantial precedential value in determining similar cases;
- Appeal concerns multiple or complex issues; or
- Do not want accelerated calendar.

Accelerated Calendar (See [LocApp.R. 11.1](#))

An appeal may be assigned to the accelerated calendar if (1) no transcript is required, or (2) the transcript and all other evidentiary materials consist of 100 or fewer pages. If any of the criteria listed above for regular calendar applies, the appeal will not be assigned to the accelerated calendar.

Expedited Calendar (See [App.R. 11.2](#))

This is the appropriate selection if any of the following apply. Please designate the specific category below:

- Abortion-related appeal from juvenile court
- Adoption or parental rights appeal (includes award of temporary custody to the agency)
- Dependent, abused, neglected, unruly or delinquent child appeal
- Prosecutorial appeal from suppression order
- Denial of a bail bond as provided in R.C. 2937.222(D)
- Election contests as provided in R.C. 3515.08

C. GENERAL INFORMATION

1. Was a stay requested in the trial court? Yes No (See [App.R. 7](#) and [App.R. 8](#))
If a stay was requested, how did the trial court rule?
 Granted Denied Pending

2. If this case has previously been before this Court, list prior appellate case number(s):

3. List case names and numbers of cases pending in this court that involve the same transaction or controversy involved in this appeal: _____

4. Probable issues for appeal (if known): _____

5. Have you attached a time-stamped copy of the final judgment being appealed as required under [Loc.App.R. 3\(B\)](#)? Yes

6. Have you been declared a vexatious litigator? Yes No
If yes, did you comply with R.C. 2323.52(F)(2) and seek leave to file?
 Yes No

D. CRIMINAL CASE

(If this is an appeal from a civil case, skip ahead to SECTION E. If a criminal case, complete this section and then skip to the signature block.)

1. Does the sentencing order contain the following **four requirements**:
 - fact of conviction for **each** count;
 - separate sentence for **each** convicted count;
 - signature of trial court judge; and
 - file stamp of the clerk of court? Yes No

2. If a co-defendant(s) was indicted and convicted under the same complaint, list the name(s) of co-defendant(s):

3. Type of Appeal (**Select only one of the following**):

- Defendant's Appeal as of Right State's Appeal as of Right
 Defendant's Delayed Appeal by Leave of Court (See [App.R. 5\(A\)](#))
 State's Appeal by Leave of Court (See [App.R. 5\(B\)](#))

E. CIVIL CASE

1. Specify the type of action in the trial court (e.g. administrative appeal; contract; declaratory judgment; domestic relations; juvenile; medical malpractice; personal injury; probate; etc.):

2. Is the order appealed from a final appealable order:

- a. Did the judgment dispose of all claims by and against all parties?

Yes No

- b. If not, is there a determination that there is "no just reason for delay" per Civ.R. 54(B)?

Yes No

- c. If you are appealing an interlocutory order, specify what authority (e.g. specific provision under R.C. 2505.02, other statute, or case law) that gives this court jurisdiction to hear the appeal: _____

3. Settlement discussions:

a. How would you characterize the extent of your settlement discussions before judgment?

- None Minimal
 Moderate Extensive

b. Have settlement discussions taken place since the judgment or order appealed from was entered? Yes No

c. Would a mediation conference assist in the resolution of this matter?

- Yes No
 Maybe

I certify that the above information is accurate to the best of my knowledge. I also acknowledge that I must file the Notice of Appeal along with this Praecipe and Docketing Statement in the trial court.

Appellant or Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that a copy of this Praecipe and Docketing Statement was served upon

_____ on ____ / ____ / 20____ in the following

manner: _____.

(Signature)

CUYAHOGA COUNTY, OHIO

CASE NO. _____

Plaintiff

vs.

AFFIDAVIT OF INDIGENCY

Defendant

_____, the undersigned, being first duly sworn,
does depose and states:

1. That I am a party in the above styled case;
2. That I am indigent and unable to pay the costs and charges involved in the within matter;
3. I submit the following information in support of my assertion of indigency:
PLACE OF EMPLOYMENT: _____
LENGTH OF EMPLOYMENT: _____ TO _____
GROSS WEEKLY INCOME: _____
TOTAL GROSS INCOME (FROM ALL SOURCES) IN LAST 26 WEEKS: _____
TOTAL ASSETS: _____
REAL ESTATE: _____ MARKET VALUE: _____
MORTGAGES: _____
4. The information set forth above is true and complete to the best of my knowledge and belief.

Appellant - Indigent

SWORN TO AND SUBSCRIBED BEFORE ME, A NOTARY PUBLIC IN AND FOR
THE COUNTY AND STATE THIS _____ DAY OF _____, _____.

NOTARY PUBLIC

**IN THE COURT OF APPEALS
EIGHTH APPELLATE DISTRICT OF OHIO
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO

APPEAL NO. _____

TRIAL NO. _____

vs.

MOTION FOR DELAYED APPEAL

Appellant

The appellant respectfully moves this court for an order allowing the filing of the notice of appeal in this case, out of time.

The reason(s) that the notice of appeal is being filed later than 30 days after the judgment is:

Accordingly, appellant requests this court for an order permitting the filing of this delayed appeal.

(Signature)

CERTIFICATE OF SERVICE

I certify that a copy of this motion for delayed appeal was served upon

_____ on ____ / ____ / 20____ in

the following manner: _____.

(Signature)

**IN THE COURT OF APPEALS
EIGHTH APPELLATE DISTRICT OF OHIO
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO

APPEAL NO. _____

TRIAL NO. _____

vs.

MOTION TO APPOINT COUNSEL

Appellant

Now comes the appellant and requests the appointment of counsel. The appellant states that he/she is indigent as evidenced by the attached affidavit of indigency and unable to employ counsel. Further, the appellant states that he/she has a right to the appointment of counsel because:

_____.

CERTIFICATE OF SERVICE

I certify that a copy of this motion to appoint counsel was served upon _____ on ____ / ____ / 20____ in the following manner: _____.

(Signature)

**IN THE COURT OF APPEALS
EIGHTH APPELLATE DISTRICT OF OHIO
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO

APPEAL NO. _____

vs.

TRIAL NO. _____

**MOTION TO PREPARE
TRANSCRIPT OF PROCEEDINGS
AT STATE'S EXPENSE**

Appellant

Defendant-appellant, _____, respectfully moves this court for an order directing the state to pay the costs of a complete transcript of all the proceedings had in the trial court in the underlying case. Appellant acknowledges that **appellant is responsible for contacting and requesting the official court reporter to prepare a complete transcript** necessary for purposes of this appeal.

Defendant-appellant is indigent (as evidenced in affidavit of indigency filed with notice of appeal or as determined by the trial court) and unable to pay the costs of the preparation of the transcript.

(Signature)

CERTIFICATE OF SERVICE

I certify that a copy of this motion was served upon _____ on ____ / ____ / 20____ in the following manner: _____.

(Signature)