



# Office of the Ohio Public Defender

Timothy Young, State Public Defender

## Pro Se Packet

### ***Filing an Appeal in the Eleventh District Court of Appeals Ashtabula, Geauga, Lake, Portage and Trumbull Counties***

To properly file a timely appeal to the Eleventh District Court of Appeals, you must file the following documents in the court of common pleas of the county where you were convicted, within THIRTY DAYS of the date that your sentencing entry was time-stamped. If that date has passed, you must file a Motion for Leave to File a Delayed Appeal in the Eleventh District Court of Appeals, at the same time that you file the following documents in the Court of Common Pleas. Each of these documents is included in this packet. Parts of the local appellate rules are also included at the end of the packet.

- **Notice of appeal**

- Note: a time-stamped copy of your sentencing entry and docketing statement **MUST** be attached to your notice of appeal. You may write to the clerk of courts, enclose a self-addressed, postage-paid envelope, and ask that the clerk send you a copy of the entry, or you may contact a family member or friend to obtain a copy from the clerk's office in your county. If you are close to your 30-day deadline, legal services staff *may* agree to call the county and request that the entry be faxed to the legal services office.
- Fill in the blanks on the forms. Write neatly in pen.
- Fill in the "C.P. No. \_\_\_\_\_" with your trial court number. That number is located on the bottom of the second page of the legal packet that you received at orientation. If you have more than one case number, include each, but only if the cases are from the same county. If you have cases in different counties, you must file an appeal in each county.

- **Financial Disclosure and Affidavit of Indigency**

- You must fill in the blanks on the affidavit and the disclosure, and sign them in the presence of a notary public. Legal services will provide notary service. If legal services staff is unavailable, ask your unit staff how to access a notary. Attach copy of the Financial Disclosure Affidavit to the Motion for Appointment of Counsel and Motion for Transcript at State Expense.

- **Motion for Appointment of Counsel**
  - Fill in the blanks with as much information as you know. Attach copy of Financial Disclosure Affidavit to motion for appointment of counsel. Fill out the top part only of the Journal Entry. Do not sign. This is only for the Judge to sign. Write neatly in pen.
  
- **Motion for Transcript at State Expense**
  - Fill in the blanks with as much information as you know. Attach copy of Financial Disclosure Affidavit to motion for transcript at state expense. Fill out the top part only of the Journal Entry. Do not sign. This is only for the Judge to sign. Write neatly in pen.
  
- **Statement, Praecept, and Notice to Court Reporter**
  - Fill in the blanks with as much information as you know. Write neatly in pen.
  
- **Docketing Statement**
  - Fill in the blanks with as much information as you know. Attach copy of this document to your Notice of Appeal. Depending on your case, fill out the Criminal or the Civil section of this document. If Civil, you need to attach a copy of your sentencing entry. Write neatly in pen.

Once each of these documents and their corresponding certificates of service are completed and signed, your unit staff will make copies for you. You must send the original document, plus four copies, to the Clerk of Courts in the county where you were convicted. Include a postage-paid envelope addressed to you, and the clerk will send a time-stamped copy to you.

**If for whatever reason you are unable to obtain the required number of copies, file what you have. It may be possible to correct this deficiency later. It is the timely filing of the notice of appeal that is a jurisdictional prerequisite to the appellate court's authority, not the contents of that notice. Indeed, a reviewing court is free to take whatever action it believes is appropriate, including dismissal of the appeal when a notice of appeal is defective under App.R. 3. When it does so, however, it is not because of any jurisdictional impediment, but as an exercise of its discretion under this rule. *Cook v. Smith*, Tenth District No. No. 12AP-489, 2012 Ohio 4951.**

You MUST send a copy of every document to the Office of the Prosecuting Attorney in the county where you were convicted. There is a "Certificate of Service" page after each document, which confirms that you sent a copy of the document to the prosecutor. On the Certificate of Service page, fill in the date that you mail the document.

The Clerk of Courts' and the Prosecuting Attorney's addresses are both located on the bottom of the first page of your legal orientation handouts. If you no longer have that document, you will find legal directories in the Law Library, where you can look up the addresses.

394075

Revised: 5/13

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 : C.P. No. \_\_\_\_\_  
 vs. :  
 : JUDGE \_\_\_\_\_  
 \_\_\_\_\_, :  
 :  
 Defendant-Appellant. :

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**NOTICE OF APPEAL**

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Notice is hereby given that Defendant-Appellant, \_\_\_\_\_, appeals to the Eleventh District Court of Appeals from the trial court Judgment Entry time-stamped \_\_\_\_\_ (describe it and attach a copy of each Judgment Entry being appealed) \_\_\_\_\_

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\_\_\_\_\_ Check here if court appointed and attach copy of appointment and Financial Disclosure/Affidavit of Indigency.

\_\_\_\_\_ Check here if any co-counsel for Appellant and attach a separate sheet indicating name, address, telephone no. and fax no.

**MOTION FOR APPOINTMENT OF COUNSEL PENDING**

**TRANSCRIPT INFORMATION - App.R. 9(B)**

- \_\_\_\_\_ I have ordered a complete transcript from the court reporter.  
Estimated completion date: \_\_\_\_\_ Estimated number of pages: \_\_\_\_\_
- \_\_\_\_\_ I have ordered a partial transcript from the court reporter.  
Estimated completion date: \_\_\_\_\_ Estimated number of pages: \_\_\_\_\_
- \_\_\_\_\_ A statement pursuant to App.R. 9(C) or (D) is to be prepared in lieu of transcript.  
Videotapes to be filed. See App.R. 9(A) or (B).
- \_\_\_\_\_ No transcript or statement pursuant to either App. R. 9(C) or (D) is necessary.
- \_\_\_\_\_ Transcript has been completed and already made part of the record.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Attorney or Appellant Pro Se

\_\_\_\_\_  
Inmate Number/Institution

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, and Zip Code

**CERTIFICATE OF SERVICE**

I certify a copy of the foregoing NOTICE OF APPEAL has been sent by regular U.S. mail to the office of the \_\_\_\_\_ County Prosecutor, \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
DEFENDANT-APPELLANT, PRO SE

**FINANCIAL DISCLOSURE / AFFIDAVIT OF INDIGENCY**  
 (\$25.00 application fee may be assessed—see notice on reverse side)

**I. PERSONAL INFORMATION**

Applicant's Name	D.O.B.	Person Represented's Name <i>(if juvenile)</i>	D.O.B.
Mailing Address	City	State	Zip Code
Case No.	Phone ( )	Cell Phone ( )	

**II. OTHER PERSONS LIVING IN HOUSEHOLD**

Name 1)	D.O.B.	Relationship	Name 3)	D.O.B.	Relationship
2)			4)		

**III. PRESUMPTIVE ELIGIBILITY**

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: \_\_\_ SSI: \_\_\_ SSD: \_\_\_ Medicaid: \_\_\_ Poverty Related Veterans' Benefits: \_\_\_ Food Stamps: \_\_\_

Refugee Settlement Benefits: \_\_\_ Incarcerated in state penitentiary: \_\_\_ Committed to a Public Mental Health Facility: \_\_\_

Other (please describe): \_\_\_\_\_ Juvenile: \_\_\_ *(if juvenile, please continue at Section VIII)*

**IV. INCOME AND EMPLOYER**

	Applicant	Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small>	Total Income
Gross Monthly Employment Income			
Unemployment, Worker's Compensation, Child Support, Other Types of Income			
<b>TOTAL INCOME</b>			<b>\$</b>

Employer's Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Employer's Address: \_\_\_\_\_

**V. LIQUID ASSETS**

Type of Asset	Estimated Value
Checking, Savings, Money Market Accounts	\$
Stocks, Bonds, CDs	\$
Other Liquid Assets or Cash on Hand	\$
<b>Total Liquid Assets</b>	<b>\$</b>

**VI. MONTHLY EXPENSES**

Type of Expense	Amount	Type of Expense	Amount
Child Support Paid Out		Telephone	
Child Care (if working only)		Transportation / Fuel	
Insurance (medical, dental, auto, etc.)		Taxes Withheld or Owed	
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member		Credit Card, Other Loans	
Rent / Mortgage		Utilities (Gas, Electric, Water / Sewer, Trash)	
Food		Other (Specify)	
<b>EXPENSES</b>	<b>\$</b>	<b>EXPENSES</b>	<b>\$</b>

**VII. DETERMINATION OF INDIGENCY**

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.  
 For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.  
 If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.  
 If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

VII. MONTHLY LIABILITIES/OTHER EXPENSES		VIII. GRAND TOTALS	
Type of Liability	Amount		
Rent / Mortgage		Total Monthly Income	Grand Total C <input type="text"/>
Food			
Electric		Total Assets	Grand Total D <input type="text"/>
Gas			
Fuel			
Telephone			
Cable			
Water / Sewer / Trash		Total Monthly Liabilities and Other Expenses	Grand Total E <input type="text"/>
Credit Cards			
Loans			
Taxes Owed			
Other			
GRAND TOTAL E			

**IX. AFFIDAVIT OF INDIGENCY**

I, \_\_\_\_\_ being duly sworn, say:

- I am financially unable to retain private counsel without substantial hardship to me or my family.
- I understand that I must inform my attorney if my financial situation should change before the Disposition of my case.
- I understand that if it is determined by the county, or by the Court, that legal representation was provided to for me to which I was not entitled, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
- I understand that I am subject to criminal charges for providing false financial information in connection with the above application for legal representation pursuant to Ohio Revised Code Sections 120.05 and 2921.13(A)(4), (A)(6).
- I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

\_\_\_\_\_  
Client's Signature

\_\_\_\_\_  
Date

Notary Public:

Subscribed and duly sworn before me according to law, by the above named applicant this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_.

\_\_\_\_\_  
Notary's Signature

**X. JUDGE CERTIFICATION**

I hereby certify that above-noted client is unable to fill out and/or sign this financial disclosure/ affidavit for the following reason: \_\_\_\_\_.

I have determined that the applicant meets the criteria for receiving court appointed counsel.

\_\_\_\_\_  
Judge's Signature

\_\_\_\_\_  
Date

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 vs. : C.P. No. \_\_\_\_\_  
 : JUDGE \_\_\_\_\_  
 \_\_\_\_\_, :  
 Defendant-Appellant. :

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**MOTION FOR APPOINTMENT OF COUNSEL**

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Defendant-Appellant, \_\_\_\_\_, moves this Court to appoint appellate counsel in the above-captioned case. When a state has undertaken to provide a process of appellate review, that state must comply with due process and equal protection requirements when it implements that procedure. *Griffin v. Illinois*, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed.2d 891 (1956). The Ohio Constitution does not specifically provide for a “right” to appeal. However, Section Three, Article IV provides for the establishment of an appellate court system with jurisdiction “in any cause on review as may be necessary to its complete determination.”

Ohio has established a statutory right to appeal. Revised Code Section 2505.03 states that “every final order, judgment or decree of a court . . . may be reviewed . . . unless otherwise provided by law.” In conjunction, R.C. 2953.02 provides: “In a criminal case . . . the judgment or final order of a court of record inferior to the court of appeals may be reviewed by the court of appeals.” Having so established a framework and

statutory right to appeal a criminal conviction, the Ohio General Assembly has rendered the state subject to the constitutional requirements of *Griffin v. Illinois*.

Due process and equal protection require a state to provide an indigent defendant with court-appointed counsel on a direct appeal of right. *Douglas v. California*, 372 U.S. 353, 83 S.Ct. 814, 9 L.Ed.2d 811 (1963). Defendant-Appellant, as attested by the accompanying Affidavit of Indigency, is unable to retain counsel and thus requests the services of counsel at state expense.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT-APPELLANT, PRO SE

\_\_\_\_\_  
Inmate Number/Institution

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, and Zip Code

### CERTIFICATE OF SERVICE

I certify a copy of the foregoing MOTION FOR APPOINTMENT OF COUNSEL has been sent by regular U.S. mail to the \_\_\_\_\_ County Prosecutor, \_\_\_\_\_ this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT-APPELLANT, PRO SE



IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 vs. : C.P. No. \_\_\_\_\_  
 : JUDGE \_\_\_\_\_  
 \_\_\_\_\_, :  
 Defendant-Appellant. :

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**JOURNAL ENTRY**

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On motion of the Defendant-Appellant and for good cause shown, it is hereby ORDERED that the motion for appointment of counsel is granted and \_\_\_\_\_ is hereby appointed for purposes of appeal.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 :  
 vs. : C.P. No. \_\_\_\_\_  
 : JUDGE \_\_\_\_\_  
 \_\_\_\_\_, :  
 :  
 Defendant-Appellant. :

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**MOTION FOR PREPARATION OF COMPLETE TRANSCRIPT  
OF PROCEEDINGS AT STATE EXPENSE**

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Defendant-Appellant, \_\_\_\_\_, hereby applies to this Court for an order directing the official court reporter, at state expense, to prepare and file a complete transcript of the proceedings in the above-styled case and to furnish a copy thereof to counsel. The transcript shall include: all plea and pretrial proceedings; all trial proceedings, including voir dire, opening statements, bench conferences, jury instructions, and closing arguments; and all post-trial and sentencing proceedings.

This transcript is necessary to the effective pursuit of Defendant-Appellant's appeal as of right to the court of appeals. Defendant-Appellant is indigent and lacks the means to pay the cost of preparing such transcript from his own resources. Therefore, he is entitled to a complete transcript of proceedings at state expense. *Griffin v. Illinois*, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed.2d 891 (1956).

Indigent defendants in the State of Ohio are constitutionally entitled to adequate and effective appellate review. *Griffin v. Illinois*, 351 U.S. at 19; *Mayer v. Chicago*, 404

U.S. 189, 194, 92 S.Ct. 410, 30 L.Ed.2d 372 (1971). This review is “impossible without a trial transcript or adequate substitute.” *Bounds v. Smith*, 430 U.S. 817, 822, 97 S.Ct. 1491, 52 L.Ed.2d 72 (1977). Thus, “there can be no doubt that the state must provide an indigent defendant with a transcript of prior proceedings when that transcript is needed for an effective defense or appeal.” *Britt v. North Carolina*, 404 U.S. 226, 227, 92 S.Ct. 431, 30 L.Ed.2d 400 (1971). Accord, *State v. Arrington*, 42 Ohio St.2d 114, 326 N.E.2d 667 (1975), at paragraph one of the syllabus. In addition, the Ohio Supreme Court has determined that Section 16, Article I of the Ohio Constitution ensures a criminal defendant-appellant the availability of an unabridged transcript of proceedings. *State ex rel. Spirko v. Court of Appeals*, 27 Ohio St.3d 13, 17, 501 N.E.2d 625 (1986).

As an indigent, Defendant-Appellant is without means and is unable to pay the cost of preparing a transcript from his own resources. For these reasons Defendant-Appellant is entitled to the preparation of a complete transcript at state expense. Defendant-Appellant further moves this Court for an order directing the court reporter to provide a copy of that transcript to appellate counsel, at state expense.

Respectfully submitted,

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DEFENDANT-APPELLANT, PRO SE

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Inmate Number/Institution

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Address

---

City, State, and Zip Code

**CERTIFICATE OF SERVICE**

I certify a copy of the foregoing MOTION FOR PREPARATION OF COMPLETE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE has been sent by regular U.S. mail to \_\_\_\_\_ County Prosecutor, \_\_\_\_\_ this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 vs. : C.P. No. \_\_\_\_\_  
 : JUDGE \_\_\_\_\_  
 \_\_\_\_\_, :  
 Defendant-Appellant. :

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**JOURNAL ENTRY**

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On motion of the Defendant-Appellant and for good cause shown, it is hereby ordered that the motion for preparation of complete transcript of proceedings at state expense is granted.

The Court hereby orders the court reporter to prepare, at state expense, the transcript of the above-captioned case, and to provide a copy to appointed counsel at state expense, within 40 days of the date on which the notice of appeal was filed. The original should be filed with the clerk and a copy forwarded to appointed counsel.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 : C.P. No. \_\_\_\_\_  
 vs. :  
 : JUDGE \_\_\_\_\_  
 \_\_\_\_\_ :  
 :  
 Defendant-Appellant. :

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**STATEMENT, PRAECIPE AND  
NOTICE TO COURT REPORTER**

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**TO THE APPELLEE:**

The Defendant-Appellant hereby states that he intends to include in the record a complete transcript of the trial proceedings, including opening statements, evidence, and final arguments, including voir dire.

**TO THE CLERK:**

Immediately prepare and assemble the original papers and exhibits thereto filed in the court and a certified copy of the docket and journal entries. As a complete transcript of proceedings will be included by the Defendant-Appellant as part of the record to portray the assignment of error, do not transmit these documents to the clerk of the court of appeals of this county for filing in that court until the complete transcript of proceedings has been delivered to you by the undersigned or his counsel. At that time you will transmit the documents prepared and assembled by you and the complete transcript of proceedings delivered to you by the undersigned to the clerk of the court of appeals for filing as the record on appeal. In the event that the undersigned does not furnish you with

the complete transcript of proceedings within forty days after the filing of the notice of appeal, or within any proper extension of the time for transmission of the record, as prescribed by the Appellate Rules or the Local Appellate Rules, then upon such fortieth day or upon the last day of any proper extension of the time for transmission of the record, you shall transmit the documents prepared and assembled by you to the clerk of the court of appeals, without such transcript of proceedings, for filing as the record on appeal.

**TO THE COURT REPORTER:**

Please prepare a transcript of the proceedings that were heard on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by JUDGE \_\_\_\_\_ in this case. **Also, in the event there are prior or subsequent hearings related to the above listed hearings, please prepare a transcript of those proceedings as well.** Notify appellate counsel when completed.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT-APPELLANT, PRO SE

**CERTIFICATE OF SERVICE**

I certify a copy of the foregoing STATEMENT, PRAECIPE AND NOTICE TO COURT REPORTER has been sent by regular U.S. mail the office of the \_\_\_\_\_ County Prosecutor, \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 vs. : C.P. No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, : JUDGE \_\_\_\_\_  
 :  
 Defendant-Appellant. :

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**AFFIDAVIT OF INDIGENCY**

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I, \_\_\_\_\_, do hereby solemnly swear that I have presently this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, no means of financial support and no assets of any value and, therefore, cannot secure costs to pay for any legal services, fees or costs in the above-styled case.

\_\_\_\_\_  
Defendant-Appellant

Sworn to and subscribed in my presence this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC



ELEVENTH DISTRICT COURT OF APPEALS  
DOCKETING STATEMENT  
(To be attached to and filed with Notice of Appeal)

\_\_\_\_\_  
\_\_\_\_\_  
Plaintiff-Appell \_\_\_\_\_

vs.

\_\_\_\_\_  
\_\_\_\_\_  
Defendant-Appell \_\_\_\_\_

Name of Trial Court \_\_\_\_\_

Trial Court Case No. \_\_\_\_\_

Court of Appeals Case No. \_\_\_\_\_

**REGULAR CALENDAR**

\_\_\_ Case should be assigned to the Regular Calendar with full briefing.

**ACCELERATED CALENDAR - (Check if this applies)**

\_\_\_ I have read Loc.App.R. 11. This appeal meets those requirements, and I request that it be briefed and decided on the Accelerated Calendar.

**EXPEDITED APPEAL**

\_\_\_ This case should be heard as an expedited appeal as defined under App.R. 11.2 because: (State provision of App.R. 11.2 or applicable statute): \_\_\_\_\_

**ORAL ARGUMENT**

\_\_\_ To expedite oral argument, I am willing to travel to whichever adjoining county in which the Eleventh District has the first available date.

\_\_\_ I want oral argument in this appeal set in the county in which the appeal originates.

**CASE TYPE**

\_\_\_ **A. Criminal.**

Specify nature of offense(s) (e.g., assault, burglary, rape): \_\_\_\_\_

(1) Is the defendant presently in jail? \_\_\_ Yes \_\_\_ No. If the answer is "Yes," give date of incarceration \_\_\_\_\_. When is he/she due to be released (if you know)? \_\_\_\_\_

(2) Has a stay been filed in the trial court? \_\_\_ Yes \_\_\_ No. If granted, what are the terms? \_\_\_\_\_

(3) Does the judgment entry comply with Crim.R. 32(C) by including the plea, verdict or findings, and a sentence? \_\_\_ Yes \_\_\_ No. If the answer is "No," this is not a final appealable order.

\_\_\_ **B. Post-Conviction Relief.** Date of conviction: \_\_\_\_\_

\_\_\_ **C. Civil**

Specify cause(s) of action: \_\_\_\_\_

\_\_\_ **D. App.R. 11.2 (Abortion, Adoption, or Termination of Parental Rights Appeal).**

PROBABLE ISSUE FOR REVIEW: \_\_\_\_\_  
\_\_\_\_\_

**THE FOLLOWING QUESTIONS APPLY TO ALL CIVIL AND ADMINISTRATIVE APPEALS**

1. **FINAL APPEALABLE ORDER**

- (a) Has the trial court disposed of all claims by and against all parties?  
\_\_\_\_\_ Yes (**Attach copies of all judgments and orders indicating that all claims against all parties have been concluded.**)  
\_\_\_\_\_ No
- (b) If the answer to (a) is "No," has the trial court made an express determination that there is "no just reason for delay," pursuant to Civ.R. 54(B), with respect to the judgment or order from which the appeal is taken?  
\_\_\_\_\_ Yes (Attach a copy of that order.)  
\_\_\_\_\_ No
- (c) Is the judgment or order subject to immediate appeal under R.C. 2505.02? If so, set forth the specific provision(s) that authorize this appeal: \_\_\_\_\_
- (d) Does the right to an immediate appeal arise from a provision of a statute other than R.C. 2505.02? If so, identify the statute: \_\_\_\_\_

2. **MEDIATION**

- (a) Would a pre-hearing conference or mediation assist in the resolution of this matter?  
\_\_\_\_\_ Yes    \_\_\_\_\_ No    \_\_\_\_\_ Maybe  
Please explain (optional) \_\_\_\_\_  
\_\_\_\_\_

CERTIFICATE OF SERVICE: I certify that I have mailed or otherwise delivered a copy of this Docketing Statement to all counsel of record, or to the parties if unrepresented. The following is a listing of the name, address and telephone number of all counsel and the parties they represent and any parties not represented by counsel: (attach extra sheet if necessary)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

DATE: \_\_\_\_\_

SIGNATURE \_\_\_\_\_

Revised 4/26/2011

## ***Selected Local Rules of the Eleventh District Court of Appeals***

### **RULE 1. APPLICABLE RULES**

**(A) Appeals.** The Ohio Rules of Appellate Procedure, as supplemented herein, shall govern procedure in appeals to this Court.

**(B) Original Actions.** The Ohio Rules of Civil Procedure, as supplemented herein, shall govern procedure in original actions filed in this Court.

### **RULE 3. FILING OF DOCUMENTS; COSTS; MULTIPLE APPEALS; COUNSEL; NOTICE OF APPEAL**

**(A) Filing Documents.** The Clerks of the Courts of Common Pleas of the counties of Ashtabula, Geauga, Lake, Portage, and Trumbull serve as the Clerk of this Court of Appeals in their respective counties. All documents required to be filed in this court shall be filed with the Clerk of the Court of Appeals of the county in which the appeal or original action originated. Documents submitted directly to this court at its headquarters in Warren will not be considered filed, either when mailed or when received.

#### **(B) Costs Deposits; Costs; Multiple Appeals.**

**(1) Costs Deposits.** The deposit as security for the payment of costs due on the filing of any notice of appeal or original action (mandamus, prohibition, procedendo, quo warranto, and habeas corpus) is hereby set at the sum of \$150. Failure to make the required deposit shall be grounds for dismissal of the appeal. Subpoenas will not be issued in an original action unless a security deposit in the amount of \$20 per witness is deposited with the clerk.

If the party bringing the appeal or original action, or the party seeking the attendance of witnesses, files with the clerk a sworn affidavit of inability to secure costs by prepayment, the clerk shall receive and file the appeal or the complaint or subpoena of witnesses without security deposits. The court reserves the right to require further verification of the party's indigent status.

**(2) Costs.** Except as otherwise provided by law, if an appeal is dismissed, costs shall be taxed against the appellant unless otherwise agreed by the parties or ordered by the court; if a judgment is affirmed, costs shall be taxed against appellant, unless otherwise ordered; if a judgment is reversed, costs shall be taxed against the appellee, unless otherwise ordered; if a judgment is reversed in part and affirmed in part, costs

shall be equally divided between the appellant's side and the appellee's side, unless otherwise ordered by the court.

**(3) Multiple Appeals.**

**(a) Notice of Appeal.** A separate Notice of Appeal shall be filed in the trial court for each case appealed whether or not the case was consolidated in the trial court for hearing with one or more other cases.

**(b) Consolidation of Appeals for Hearing.** In the event that two or more cases were heard together in the trial court but not consolidated therein as one case and such cases have been appealed to this court, on application to and with leave of this court, a single transcript of proceedings and a single set of briefs may be filed and used in all cases appealed, provided that the assignments of error and arguments pertaining thereto are sufficiently defined as to which case, or cases, they pertain.

**(c) Costs.** Separate Notices of Appeal filed for separate judgment entries that are subdivisions of the same trial court case number require only a single cost deposit pursuant to Loc.R. 3(B)(1) of the Eleventh District Court of Appeals.

**(C) Counsel.**

**(1) Designation of Counsel.** Every Notice of Appeal, pleading, motion and brief shall have typed or printed thereon the name, address, telephone number, fax number, email address, if available, and registration number of counsel filing the appeal (or the party, if not represented by counsel); when counsel is a firm, whether partnership or corporate, a particular attorney within the firm having primary responsibility for the case shall also be indicated.

Counsel or the party shall alert the court to any change in address or telephone number by adding the phrase "New Address" or "New Telephone Number" to indicate the change. This shall be done under the first designation of counsel.

In an appeal when there are multiple parties in the underlying action in the trial court, and when the appeal is taken as to less than all of those parties in the underlying action, counsel for appellant shall designate in the Notice of Appeal which of those parties are to be served as appellees.

When the appeal is taken as to all adverse parties in the underlying action, appellant shall include the names and addresses of all such parties or their counsel to be served with a copy of the Notice of Appeal pursuant to Ohio Civ.R. 5.

Pursuant to Ohio Civ.R. 5 and Ohio App.R. 3(E), service shall be made by the Clerk of Courts on all parties or their counsel.

**(2) Appointment of Counsel for Indigent Parties.** A copy of the Financial Disclosure/Affidavit of Indigency of the client shall be attached to all motions for appointment of counsel and for transcripts of proceedings at state's expense.

**(3) Notice of Appearance/Substitution of Counsel/Co-Counsel.**

(a) Any new attorney representing a party on appeal, or substituting for another attorney on appeal, shall file a notice of appearance as counsel with this court.

(b) Any additional counsel shall file a notice of appearance as co-counsel with this court.

**(4) Withdrawal of Counsel.**

(a) If counsel desires to withdraw from any action before this court, counsel shall submit a motion to withdraw showing: (1) good cause; (2) proof of service of the motion upon the client and opposing counsel; and (3) the name, address, and telephone number of substitute counsel or, if none, that of the client.

(b) If court-appointed counsel desires to withdraw from any action before this court, counsel shall submit a motion to withdraw and shall attach to the motion an affidavit executed by either counsel or the client citing the *specific reason(s)* for the withdrawal.

**(5) Selection of Counsel/List of Attorneys.**

The court shall maintain a list of qualified attorneys who have notified the court of their desire to be placed on the Court-Appointed List.

In selecting an attorney from this list for an individual case, the court may consider the skill, expertise, and/or geographical location of the attorney.

Appointments will be reviewed annually to ensure an equitable distribution. Attorneys on the list may be added or removed at the court's discretion.

**(6) Application for Appointed Counsel Fees.** Applications for appointed counsel fees on appeal shall be completed on the form prescribed by the Ohio Public Defender Commission. Such applications shall have appended a copy of the Financial Disclosure/Affidavit of Indigency of the client and a time-stamped copy of the entry of appointment of counsel. Such applications shall be filed with the Clerk of Courts no earlier than the date this court's decision has been journalized nor later than 30 days thereafter.

**(7) County Fee Schedule.** The rate of compensation for appointed counsel shall be set by the county commissioners in each of the individual counties in the Eleventh District. The fee schedule for the five counties in the district will be displayed on the court's website at [www.11thcourt.co.trumbull.oh.us](http://www.11thcourt.co.trumbull.oh.us).

**(8) Admission Pro Hac Vice.**

**(a)** This court may permit any out of state attorney who is admitted to practice in the highest court of a state, commonwealth, territory, or possession of the United States or the District of Columbia, or who is admitted to practice in the courts of a foreign state and is in good standing, to appear pro hac vice and file pleadings, memoranda, briefs, or other documents or participate in oral argument before the court.

**(b)** An attorney is eligible to be granted permission to appear pro hac vice upon motion filed with the court only after compliance with the requirements of Gov. Bar R. XII. The motion shall be filed immediately after the filing of a Notice of Appeal. The court may withdraw admission pro hac vice at any stage of the proceedings.

**(D) Notice of Appeal.**

**(1) Transcript Information.** At the time of filing the Notice of Appeal, the appellant shall designate on the Notice of Appeal whether a complete or a partial transcript of the trial proceedings has been ordered, or whether appellant intends to file a statement pursuant to Ohio App.R. 9(C) or (D) in lieu of a transcript, or whether no transcript or statement pursuant to either Ohio App.R. 9(C) or (D) will be filed.

**(2) Ohio Civ.R. 58(B) Compliance.** In the filing of a Notice of Appeal in civil cases in which the trial court clerk has not complied with Ohio Civ.R. 58(B) *and the Notice of Appeal is deemed to be filed out of rule*, appellant shall attach an affidavit from the trial court clerk stating that service was not perfected pursuant to Ohio App.R. 4(A).

The clerk shall then perfect service and furnish this court with a copy of the appearance docket in which date of service has been noted. Lack of compliance shall result in the sua sponte dismissal of the appeal under Ohio App.R. 4(A).

**(3) Judgment Entries Being Appealed.** The appellant shall attach to the Notice of Appeal, a copy of the judgment entry or entries being appealed. Appellant's failure to attach a copy of the judgment entry or entries may result in the dismissal of the appeal sua sponte and without notice.

**(4) Amending the Notice of Appeal.** A motion for leave to file an Amended Notice of Appeal shall accompany any Amended Notice of Appeal filed pursuant to Ohio App.R. 3(F).

A sample Notice of Appeal form containing the above required information in accordance with this rule is set forth in Appendix A.

**(E) Judgment Entries.**

The Court of Appeals may transmit by fax, e-mail, or other electronic format to the Court of Appeals clerk any decision, judgment entry, or order which will be accepted as the original and the signatures of the judges shall be accepted as originals consistent with Ohio Civ.R. 5(E).

**RULE 9. THE RECORD ON APPEAL**

**Form of Transcript of Proceedings.** Any transcript of proceedings submitted to this court as part of the record on appeal pursuant to Ohio App.R. 9 shall be in the form set forth in Ohio App.R. 9(B)(1) through (6). Failure to comply may result in the transcript being stricken from the record on appeal. The transcript of proceedings shall be filed in hard copy. An electronic version of the transcript of proceedings, where available, shall be emailed directly to the court's Case Coordinator by the reporter/transcriber. The electronic format will be in a format compatible with Microsoft Word or PDF format and contain an electronic index with an attached disk or other electronic format.

**RULE 10. EXTENSIONS FOR TRANSMITTING THE RECORD**

**(A) By the Trial Court.** With the exception of Ohio App.R. 11.2 appeals, the trial court shall limit its extension of time for transmitting the record on appeal to the

Clerk for the Court of Appeals pursuant to Ohio App.R. 10 to a total extension of time of no more than 30 days so that the time as extended will in no event extend beyond the 70th day after the filing of the Notice of Appeal. The trial court shall set forth in any entry extending the time for transmitting the record on appeal the factual findings constituting good cause for such extension. No extension by the trial court beyond the seventieth day after filing the Notice of Appeal or any entry which does not set forth such factual findings will be recognized by this court and will be considered as a failure by appellant to cause timely transmission of the record. Extensions for transmission of the record in Ohio App.R. 11.2 appeals shall be granted only by this court.

**(B) By the Court of Appeals.** Motions for an extension of the time for transmitting the record on appeal to this court shall be accompanied by an affidavit setting forth facts showing good cause for the extension. When the motion for an extension is based upon the court reporter not completing the transcript of proceedings, the court reporter shall prepare an affidavit listing all Court of Appeals transcripts currently being worked on, when ordered, number of pages, and estimate as to completion to be attached to the motion.

When extensions are requested, the request should be made for an extension to file the record, not for the transcript of proceedings only.

**(C) Responsibility for Filing Transcript of Proceedings.** Counsel or the appellant, and not the court reporter, has the sole responsibility for filing the transcript of proceedings and/or requesting timely extensions for the record.

**(D) Extension of Time for Briefs.** No request for an extension of time to file briefs due to the fact that the court reporter has not completed the transcript of proceedings will be granted by this court unless accompanied by the court reporter's affidavit stating an estimate as to completion, listing all Court of Appeals transcripts currently being worked on, when ordered, the number of pages, and estimate as to completion for each.

## **RULE 11. RETURN OF PAPERS TO THE COURT**

When a Notice of Appeal has been filed in a particular case, the entire trial court record, including the transcript of proceedings, becomes subject to the exclusive direction and control of the Court of Appeals. With a filing of the notice, any existing authority to allow removal of the transcript of the proceedings from the Clerk of Courts' office is automatically superseded by the authority of the Court of Appeals. Permission for removal of the transcript may be granted upon application on a form provided and approved by the judges of this court. Any removal permitted shall be conditioned upon the return of the transcript within 14 days from the date of removal or 14 days before the date set for oral argument, whichever is earlier. *Copying and disassembling of a transcript filed with the Court of Appeals is prohibited.* Failure to comply with this rule may result in the issuance of a citation for contempt of court.



The Court of Appeals reserves the right to limit or restrict access to all items of record in its possession in order to preserve the proper chain of custody and maintain the evidential integrity of the record and its contents.

## **RULE 11.1 ACCELERATED CALENDAR**

Pursuant to Ohio App.R. 11.1, this court adopts an accelerated calendar, which shall be administered in the following manner:

**(A) Docketing Statement.** Each appellant and cross-appellant shall file a Docketing Statement (see Eleventh District Local Rules, Docketing Statement form) at the same time as the filing of the Notice of Appeal (see Eleventh District Local Rules, Notice of Appeal form). The purpose of the Docketing Statement is to determine whether an appeal will be assigned to the accelerated or the regular calendar. The Clerk of Courts will provide Docketing Statement forms as prescribed by this court. The clerk of the trial court shall transmit a copy of the Docketing Statement with the Notice of Appeal to the Clerk of the Court of Appeals and to the appellee.

**(B) Assignment to the Accelerated Calendar.** Based upon a review of the Docketing Statement and pursuant to Ohio App.R. 3(G), this court may issue a scheduling notice accelerating the appeal. An unexcused failure of the appellant to meet the schedule as set forth in Ohio App.R. 11.1 may result in a dismissal of the appeal sua sponte and without notice. If the appellee fails to file his brief within the time provided by Ohio App.R. 11.1, appellee will not be heard at oral argument except by permission of the court upon a showing of good cause submitted in writing prior to argument. The court may assign an appeal to the accelerated or regular calendar at any stage of the proceedings.

A case may be assigned to the accelerated calendar if any of the following apply (see Ohio App.R. 3[G]):

- (1) No transcript of proceedings is required;
- (2) Length of transcript is such that its preparation time will not be a source of delay;
- (3) Agreed or narrative statement is submitted pursuant to Ohio App.R. 9 (C or D);
- (4) Record was made in administrative hearing and filed with trial court;
- (5) All parties to the case approve assignment to the accelerated calendar;
- (6) Criminal cases involving:
  - a) Crim.R. 11 challenges;
  - b) Postconviction appeals alleging ineffective assistance of counsel;
  - c) Challenges to sentencing, to revocation of probation, or to

- failure to grant probation;
- d) Crim.R. 29 or weight of evidence challenges, especially with lesser crimes;
- e) Routine DUI cases and other minor traffic offenses;
- f) Expungement cases.

(7) Civil cases involving:

- a) Routine administrative appeals;
- b) Actions on account;
- c) Slip and fall;
- d) Civ.R. 60(B) motions;
- e) Simple contract cases;
- f) Minor negligence actions;
- g) Property division in divorce cases or post-decree support motions.

**(C) Removal from the Accelerated Calendar.** Counsel for the appellant or appellee may within ten days after journalization of the scheduling notice file a motion requesting that the appeal be removed from the accelerated calendar. This motion shall set forth good cause for removal and shall be granted if good cause is shown.

**(D) Accelerated Calendar Briefs.** All briefs filed in a case that has been accelerated shall conform to local rules of this court as to form and content, and shall not exceed 15 pages, excluding Table of Contents, Assignments of Error, Certificate of Service, and appendices, if any. Appellant's Brief shall be served and filed within 15 days after the date on which the record is filed. Appellee's Brief shall be served and filed within 15 days after the date that Appellant's Brief is filed. Reply Briefs shall not be filed unless ordered by the court.

**(E) Oral Argument.** If either party requests oral argument, oral argument shall be scheduled and the parties or their attorneys shall be notified in accordance with these rules. The request for oral argument shall be made in writing at the time of filing the parties' initial briefs. The request shall be contained on the cover page of the brief pursuant to Ohio App.R. 21(A). If there is no request designated, the party will be deemed to have waived oral argument, unless oral argument is requested by another party. The court may sua sponte schedule any case for oral argument. See Loc.R. 21(A).

**(F) Accelerated Decisions.** In its discretion, the court may issue a memorandum decision or a full opinion and pursuant to Ohio App.R. 11.1(E), may state the reason for its ruling on each assignment of error in brief and conclusionary form. The decision may be by judgment entry.

This court's Docketing Statement in accordance with this Rule is set forth in Appendix B.

## **RULE 103. FAILURE TO PROSECUTE**

Unless it is demonstrated that no undue delay and no prejudice has been caused to the opposing party by the failure to comply with these rules or the Rules of Appellate Procedure, the following shall be deemed good cause for dismissal of an appeal pursuant to Ohio App.R. 3(A), 11(C), or 18(C):

- (A)** Failure to file a Docketing Statement as required by Loc.R. 11;
- (B)** Failure to file with the Notice of Appeal the appropriate filings required by Ohio App. R. 9(B), and Loc.R. 3;
- (C)** Failure to timely order in writing from the court reporter any necessary transcript of proceedings, or to timely file any necessary statement of evidence pursuant to Ohio App.R. 9(C) or (D), or a notice that no transcript or narrative statement will be filed as required by Loc.R. 3;
- (D)** Failure to cause the record on appeal to be timely transmitted to the clerk of this court;
- (E)** Failure to timely file a brief with assignments of error and issues presented for review;
- (F)** Any other non-compliance with the appellate rules or the rules of this court.