



Office of the Ohio Public Defender

Elizabeth R. Miller, 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 certain documents in the court of common pleas of the county where you were convicted, within **30 DAYS** of the date that your sentencing entry was time-stamped. This means **the court must receive the documents within 30 days**. Those documents are listed on pages 2-3 below.

If you are past the 30-day deadline, 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 documents listed on pages 2-3 below in the Court of Common Pleas.

Each of the documents required for a timely appeal is included in this packet. If you need to file a delayed appeal, we have a separate pro se packet that contains the necessary documents for that filing. You should fill in the forms neatly, and in pen. Each appellate court also has its own rules called Local Rules. Parts of the local appellate rules for the Eleventh District are also included at the end of the packet.

What is an appeal?

An appeal is a request for review made to a higher court. Appeals are filed by a party that lost in the trial court on one or more issues. To make such a request is “to appeal” or “to take an appeal.” The person who requests the appeal is called the “appellant;” the person responding to the appeal is the “appellee.” Both the prosecutor and the defendant can appeal, although the prosecutor’s ability to appeal is limited to specific circumstances. Appeals can be made for a variety of reasons including the use of improper procedure or a court incorrectly interpreting the law. An “appellate attorney” is an attorney who works entirely, or almost entirely, on appeals.

Appeals are handled by a completely different court from the trial court that originally heard your case. While you file the paperwork to start an appeal in the trial court, this is only because the Clerk of Courts for the trial court acts as the Clerk for the appellate court as well. Your appeal will be heard by different judges in a different court – NOT your trial judge.

Can I appeal my conviction?

If you are within 30 days of the date stamped on your sentencing entry, then you may appeal “as of right.” This means that the appellate court must accept your appeal, review your issues, and write out a decision in your case. If you are past the 30-day mark, you may still be able to appeal your conviction. However, you will need to file all the necessary documents for a regular appeal *in addition to* extra documents needed to file a “delayed appeal.” A delayed appeal is more difficult than a regular, or “timely,” appeal because the appellate court is not required to accept your appeal. This means your issues might not get reviewed on appeal.

How do I file an appeal?

Below you will find a list of documents. You must complete each and every one of these documents and send all of them in one package to the Clerk of Courts for the Court of Common Pleas in the county where you were convicted. Your filing package should include the original and four copies. If you cannot make the required number of copies, *send in what you have*. The 30-day deadline is more important than the number of copies requested by the appellate court. If you are able to include a postage-paid envelope addressed to you, the clerk will send a time-stamped copy of your Notice of Appeal back to you.

What is a Certificate of Service?

There is a “Certificate of Service” page for almost all of the included documents. These certificates are proof to the court that you sent a copy of your documents to the prosecutor. You should send a copy of every document in your completed appeal packet to the Office of the Prosecuting Attorney in the county where you were convicted. If you cannot afford the copies and postage to send the prosecutor a copy of your notice of appeal, **DO NOT** fill out the certificates of service.

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

The NOTICE OF APPEAL is the most important document to file within your 30-day deadline. If you are unable to obtain the required number of copies, or complete some of the documents, file the notice of appeal and what you have. It may be possible to correct those problems later.

On all the forms, you must write NEATLY and IN PEN.

If you can’t fill in some of the blanks on the forms, fill out as much as you are able.

- **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 the county you were convicted in. 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 “Case No. _____” with your trial court case 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 you were convicted in.

- **Financial Disclosure Form and Affidavit of Indigency**
 - You must fill in the blanks on the disclosure form and affidavit. Note: the affidavit must be signed 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 Form 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 a copy of the Financial Disclosure Form to the 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 Preparation of Complete Transcript of Proceedings at State Expense**
 - Fill in the blanks with as much information as you know. Attach a copy of the Financial Disclosure Form to the 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, Praeceptum 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, you will need to make copies. You must send the original documents, plus four copies of each, to the Clerk of Courts in the county where you were convicted. If you include a postage-paid envelope addressed to you, the clerk will return time-stamped copies of each document back to you.

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 in your legal orientation handouts. Or you can contact the library or prison legal services for the addresses.

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. _____
 :
 vs. :
 :
 _____, : JUDGE _____
 :
 Defendant-Appellant. :

NOTICE OF APPEAL

_____ hereby gives notice of an appeal to the Eleventh District Court of Appeals, _____ County, Ohio, from the judgment entry of conviction, entered in this court on the ___ day of _____, 20__.

_____ 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)

Counsel or Appellant is responsible for obtaining required information from Court Reporter at the time of filing of the Notice of Appeal if a transcript will be ordered.

- _____ 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.

Respectfully submitted,

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____.

Mailed to:

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

DEFENDANT-APPELLANT, PRO SE

FINANCIAL DISCLOSURE FORM

(\$25.00 application fee may be assessed—see notice on reverse side)

I. PERSONAL INFORMATION

Applicant's Legal Name		Applicant's Preferred Name and Pronoun			D.O.B.
Mailing Address				City	
State	Zip Code	Case No.	Phone	Cell Phone	
SSN Last 4	Gender	Race (double-click to de-select)			
		<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Pacific Islander <input type="checkbox"/> Spanish or Latino <input type="checkbox"/> White <input type="checkbox"/> Other			

II. OTHER PERSONS LIVING IN HOUSEHOLD

Name	D.O.B.	Relationship	Name	D.O.B.	Relationship
1)			3)		
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	\$	\$	\$
TOTAL INCOME			\$

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	\$
Total Liquid Assets	\$

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)	\$
EXPENSES	\$	EXPENSES	\$

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.

VIII. \$25.00 APPLICATION FEE NOTICE

By submitting this Financial Disclosure Form, you will be assessed a non-refundable \$25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within 7 days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

IX. APPLICANT CERTIFICATION

I, _____ (applicant or alleged delinquent child) state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, 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.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

Signature

Date

X. JUDGE CERTIFICATION

I hereby certify that the above-noted applicant is unable to fill out and/or sign this financial disclosure for the following reason: _____. I have determined that the party represented meets the criteria for receiving court-appointed counsel.

Judge's Signature

Date

XI. NOTICE OF RECOUPMENT

ORC §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for **part** of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

XII. JUVENILE'S PARENTS' INCOME* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL

	Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim)	Total
Employment Income (Gross)	\$ _____	\$ _____
Unemployment, Workers Compensation, Child Support, Other Types of Income	\$ _____	\$ _____
	TOTAL INCOME	\$ _____

*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. _____
 :
 vs. :
 :
 _____, : JUDGE _____
 :
 Defendant-Appellant. :

AFFIDAVIT OF INDIGENCY

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, PRO SE

Sworn to and subscribed in my presence this ____ day of _____, 20__.

NOTARY PUBLIC

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. _____
 :
 vs. :
 :
 _____, : JUDGE _____
 :
 Defendant-Appellant. :

MOTION FOR APPOINTMENT OF COUNSEL

_____ moves this court to appoint appellate counsel in the above-captioned case. The Federal Constitution does not obligate states to provide an opportunity to appeal in criminal cases. *McKane v. Durston*, 153 U.S. 684, 687, 14 S.Ct. 913, 914-915, 38 L.Ed. 867 (1894). If a state chooses to create such a right to review, however, it must employ procedures that satisfy due process and equal protection. *Evitts v. Lucey*, 469 U.S. 387, 393, 105 S.Ct. 830, 834, 83 L.Ed.2d 821 (1985). If the state provides the right to appellate review, it may not “bolt the door to equal justice.” *Halbert v. Michigan*, 545 U.S. 605, 610, 125 S.Ct. 2582, **, 162 L.Ed.2d 552 (2005) quoting *Griffin v. Illinois*, 351 U.S. 12, 24, 76 S.Ct. 585, 100 L.Ed. 891 (1956) (Frankfurter, J., concurring in judgment). When a state provides a first appeal as of right, it must also provide counsel. *Douglas v. California*, 372 U.S. 353, 83 S.Ct. 814, 9 L.Ed.2d 811 (1963).

Ohio has undertaken to provide a process of appellate review through its constitution, statutes, and rules. Although the Ohio Constitution does not expressly provide for a “right” to appeal, Ohio Constitution, Article IV, Section 3(B)(1)(f) provides for the establishment of an appellate court system with jurisdiction “[i]n any cause on review as may be necessary to its complete determination.” Moreover, Section (3)(B)(2) provides that “[c]ourts of appeals shall have

such jurisdiction as may be provided by law to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the court of appeals...”

Ohio has also established a statutory right to appeal. R.C. 2505.03 provides that every final order, judgment, or decree of a court and, when provided by law, the final order of any administrative officer, agency, board, department, tribunal, commission, or other instrumentality, may be reviewed unless otherwise provided by law. R.C. 2953.02 authorizes appellate courts to review, in criminal cases, the “judgment or final order” of an inferior court.

Finally, R.C. 2953.08 provides that “[i]n addition to any other right to appeal[,]” a person who is convicted of or pleads guilty to a felony may appeal as a matter of right the sentence imposed under listed circumstances.

App.R. 3(A) makes every litigant entitled to an appeal as of right by filing a notice of appeal within the time allowed by App.R. 4. Crim.R. 32 specifically provides the court must notify a person convicted of an offense of the right to appeal (1) a conviction after imposition of sentence in a serious offense that has gone to trial or, (2) the sentence imposed, under certain circumstances, and in both instances the right to counsel and transcript at state expense. And in conjunction, Crim.R. 44 provides for the appointment of counsel on an appeal of right unless waived.

Having so established a framework establishing the right to appeal a criminal conviction, Ohio is subject to the constitutional requirements of *Griffin* and its progeny, including the right to counsel set forth in *Douglas*. As attested by the accompanying Affidavit of Indigency, I am unable to retain counsel and request 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 office of the _____ County Prosecutor this _____ day of _____, 20____.

Mailed to:

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. _____
 :
 vs. :
 :
 _____, : JUDGE _____
 :
 Defendant-Appellant. :

JOURNAL ENTRY

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, : Case No. _____
 :
 vs. :
 :
 _____, : JUDGE _____
 :
 Defendant-Appellant. :

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

_____ moves 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 this appeal as of right to the court of appeals. I am indigent and lack the resources to pay the cost of preparing the transcript, and therefore am 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 Supreme Court of Ohio has determined that Article I, Section 16 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).

I am without resources and am unable to pay the cost of preparing a transcript and am entitled to the preparation of a complete transcript at state expense. I move this court for an order directing the court reporter to provide a copy of that transcript to appointed 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 PREPARATION OF COMPLETE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE has been sent by regular U.S. mail to the office of the _____ County Prosecutor this ____ day of _____, 20____.

Mailed to:

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. _____
 :
 vs. :
 :
 _____, : JUDGE _____
 :
 Defendant-Appellant. :

JOURNAL ENTRY

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, : Case No. _____
 :
 vs. :
 :
 _____, : JUDGE _____
 :
 Defendant-Appellant. :

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

TO THE APPELLEE:

_____ hereby states an intention 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 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 court reporter. 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

Inmate Number/Institution

Address

City, State, and Zip Code

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 to the office of the _____ County Prosecutor this ____ day of _____, 20____.

Mailed to:

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

DEFENDANT-APPELLANT, PRO SE

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 _____

Selected Local Rules of the Eleventh District Court of Appeals

Annotations current through July 3, 2023

The Ohio Rules of Appellate Procedure (available in the library) govern the process of a direct appeal from a trial court entry to the court of appeals. In addition to those rules, the following are a selection of *local rules specific to your appellate district.*

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; JUDGMENT ENTRIES/ORDERS

(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.

An e-mail to the clerk of courts shall not be considered a proper motion, brief, or other pleading to this court for filing. If e-mail is an accepted form of delivery to the clerk, any motions, briefs, or other pleading that is emailed to the clerk for filing shall be in the form of a separate attachment to that e-mail.

(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) 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) 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.

(3) Docketing Statement. 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 for the Court of Appeals and to appellee. The purpose of the Docketing Statement is to determine whether an appeal will be assigned to the accelerated calendar or the regular calendar.

(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).

(D) Judgment Entries/Orders.

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. The Court of Appeals clerk shall accept the document as the original, and the signatures of the judges shall be accepted as originals.

(1) All court documents signed by means of an electronic signature, whether transmitted to the Clerk of Courts electronically or via paper, shall have the same force and effect as if the signer had affixed his or her signature to a paper copy of the document.

(2) The signature of any judge and/or magistrate on any document may be executed manually or by means of any device or machine including electronic signature.

RULE 4. SIGNATURES OF PARTIES OR COUNSEL

(A) The original of every pleading, memorandum, brief, or other document filed with this court shall be signed by an attorney representing the party on whose behalf the document is filed. A party who is not represented by an attorney shall sign the document being filed. If more than one party who is not represented by an attorney is participating in an appeal, each party shall provide individual signatures on all documents. Failure to comply may result in the document being stricken from the record on appeal.

(B) The signature of an attorney or a party on a document that is filed electronically shall be represented with a conformed signature of “/s/ [name].” The conformed signature on an electronically filed document is a legal signature for purposes of the signature requirements of the civil and criminal rules of procedure, the rules of superintendence, and any other law, and will be considered the signature of the person it purports to be for all purposes. See App.R. 13(A)(1).

(C) **Multiple Signatures.** When a stipulation or other document requires two or more signatures, the filing party or attorney will confirm in writing that the contents of the document are acceptable to all persons required to sign the document. The filer will indicate the agreement of all necessary parties at the appropriate place in the document, usually the signature line(s). If it is established that the documents were transmitted without authority, this Court shall order the filing stricken.

RULE 5. ELECTRONIC FILING

(A) The clerk of courts of each county within the jurisdiction of the Eleventh District Court of Appeals is authorized to prepare and maintain operating procedures and instructions for electronic court filing (“e-filing”).

(B) For purposes of this rule, e-filing refers to the automated transmission of legal documents from litigants to a court via the internet, and does not include fax (facsimile) filings or e-mail filings.

(C) Upon successful transmission, receipt and acceptance processing by the Clerk of Courts, a document filed electronically will be electronically file-stamped. This stamp will include the date and time that the receiving device of the Clerk of Courts received the entire transmission, as well as the confirmation number of the filing. A document filed electronically that is not successfully processed by the Clerk of Courts will not receive an electronic file stamp, but the filer will receive a rejection e-mail.

(D) **Service:** Service of documents filed electronically shall be accomplished in the manner prescribed by the appellate rules. See App.R. 3 and 13.

(E) Time to Respond or Act: Whenever a time period is measured from the date after a document is filed, the time will be measured from the date the electronically filed document is deemed to have been filed.

RULE 6. COUNSEL

(A) Designation of Counsel. Every Notice of Appeal, pleading, motion and brief shall have typed or printed thereon the name, address, telephone number, fax number, e-mail 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 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.

(B) 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 in those cases where applicable.

(C) Notice of Appearance/Substitution of Counsel/Co-Counsel.

(1) 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.

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

(D) Withdrawal of Counsel.

(1) 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.

(2) 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.

(E) Selection of Counsel/List of Attorneys.

(1) 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.

(2) 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.

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 etranscripts@11thappealohio.us 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. 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. The court reporter's affidavit listing all Court of Appeals transcripts currently being worked on, when ordered, number of pages, and estimate as to completion shall be attached to motions for extension of the time for transmitting the record on appeal.

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. A 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 not 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 11.1 ACCELERATED CALENDAR

(A) Accelerated Calendar Adopted. Pursuant to Ohio App.R. 11.1, this court adopts an accelerated calendar.

(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 an Accelerated Calendar 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.

(C) Removal from the Accelerated Calendar. Counsel for the appellant or appellee may, within seven days from the time-stamped date of the notice placing the case on the accelerated calendar, 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 included on the cover page of the parties' initial briefs 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 properly 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.

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:

(A) Failure to cause the record on appeal to be timely transmitted to the clerk of this court. App.R. 11(C);

(B) Failure to timely file a brief with assignments of error and issues presented for review; App.R. 18(C);

(C) Any other noncompliance with the appellate rules or the rules of this court.

RULE 106. EFFECTIVE DATE AND APPLICABILITY

These rules shall take effect January 1, 1978. All 2023 additions and amendments are approved and adopted 24 as of May 1, 2023, and effective July 3, 2023.