



# Office of the Ohio Public Defender

Timothy Young, State Public Defender

## Memorandum in Support of Jurisdiction (MISJ) Pro Se Packet

*What should I do if I lost my appeal and want to continue pursuing my case?*

This is only a guide to filing an appeal to the Ohio Supreme Court. It is not a substitute for reading the court's rules. This guide includes only select rules of the court. You should also review the guide to filing in the Supreme Court of Ohio available at the court's website. <http://www.supremecourt.ohio.gov/Publications/filingGuide.pdf>

### Should I file?

You should file if you want to continue pursuing your appeal and think your case presents a “substantial constitutional question” or “an issue of public or great general interest.” This is a very difficult test to meet. The primary concern of the Supreme Court is not to correct errors in lower court decisions, but to decide cases presenting issues of importance that will apply to cases and issues in the future.

You *must* file with the Ohio Supreme Court if you want to pursue your claims in federal court. Federal habeas actions are limited to the federal constitutional claims that were presented in your direct appeal and later appeal to the Ohio Supreme Court. You must include references to U.S. Supreme Court cases and the U.S. Constitution in your argument if you want to be able to continue arguing your issues in federal court. If the Ohio Supreme Court does not accept your case, that will not reflect poorly on you in federal court.

### Jurisdictional Appeals

There are several types of appeals in the Ohio Supreme Court. A criminal case will typically involve one or more of the following: (1) an appeal of right; (2) a jurisdictional appeal; or (3) a certified conflict. The vast majority of criminal cases filed with the Supreme Court are “jurisdictional appeals.” If your case originated in a court of common pleas, and you then appealed to the court of appeals, and you are now appealing to the Supreme Court, then you will probably be filing a jurisdictional appeal. This packet is for jurisdictional appeals. A jurisdictional appeal is a “discretionary” appeal. This means the Supreme Court decides whether to hear the appeal or not. The court grants very few discretionary appeals.

## **When should I file?**

You have 45 days from the date when the court of appeals' judgment entry is filed to file with the Clerk of Ohio Supreme Court. Ohio S. Ct. Prac. R 7.01(A)(1)(a)(i). If this deadline has passed you will need to file a delayed appeal. Ohio S. Ct. Prac. R 7.01(A)(4). The Ohio Public Defender provides a separate delayed appeal packet.

If either a timely application for reconsideration or a timely application for en banc consideration is filed in the court of appeals under App.R. 26(A), the time for filing your appeal in the Ohio Supreme Court is tolled while that application is pending in the court of appeals. If the court of appeals denies the application, you will have 45 days from the date on which the court of appeals files its decision denying the application for reconsideration or application for en banc consideration. **Do not confuse an Application for Reconsideration under App.R. 26(A) with an Application for Reopening under App.R.26(B). An Application for Reopening does not toll the 45 day period.**

Please note that your documents are not considered filed until the Clerk *actually receives* them. The mailbox rule does not apply. Leave plenty of time for your documents to be processed through the mail and received by the Clerk.

## **What information do I need?**

Most of the information you need can be found on your copy of your appeal brief or the court of appeals' opinion.

## **Where should I file?**

You need to file with the Clerk of Ohio Supreme Court. The address is:

Office of the Clerk  
Supreme Court of Ohio  
65 South Front Street, 8th Floor  
Columbus, Ohio 43215-3431

You also need to send the prosecuting attorney a copy of all pleadings filed. You can find the name and address of the prosecuting attorney in your prison orientation packet.

## **What documents should I include?**

All of the items listed below have sample forms at the back of this packet:

1. The Notice of Appeal;
2. The Memorandum in Support of Jurisdiction with attached time-stamped copy of the court of appeals' opinion signed by the judges and a time-stamped copy of the judgment entry affirming your conviction; and
3. \$100 filing fee or Affidavit of Indigence.

You must mail all three of these documents together to have your documents filed by the clerk. These documents must reach the Ohio Supreme Court Clerk's office within the 45-day deadline. If they do not, the clerk will not accept your case and your documents will be returned without filing. Since the deadline is so strict, it is good practice to make sure you get a receipt when you put the documents in the mail, so that if they do not arrive in time, you can provide proof to the Ohio Supreme Court that you tried to get them in on time. If your documents are not accepted because the clerk does not receive them in time, you need to file a motion for a delayed appeal.

Your memorandum in support of jurisdiction can only be 15 pages. The page limit does not include the Cover Page, the Table of Contents, or the Certificate of Service.

### **What should I include in the Memorandum in Support of Jurisdiction?**

1. **Explanation of why the case involves either a substantial constitutional question or an issue of public or great general interest:** This section is very important. The court wants to know why it should review in your case. You must explain to the court why the issues in your case are so important that review should be granted. For example, does the issue in your case impact a lot of other defendants? Explain how the issues in your case will affect other cases. This section frequently is more than one page.
2. **Statement of the Case and Facts:** The statement of the facts is basically a summary of the facts that support your legal issues. All of those facts must appear in the records of the trial and appellate courts. The statement of the case is the procedural history of the proceedings in the trial court and the appellate court. These sections can be combined.
3. **Proposition(s) of Law:** Assignments of error in the court of appeals are presented in the Supreme Court as "propositions of law." The proposition of law is the legal conclusion the Supreme Court of Ohio must make in order to rule in your favor. You can only argue issues that were raised in your original appeal. If you have a copy of the merit brief your appellate attorney filed on your behalf, that should show you the issues you can raise. Below are two examples of propositions of law:

*In order to impose consecutive terms of imprisonment, a trial court is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry, but it has no obligation to state reasons to support its findings.*

*Evid.R. 403 provides that relevant evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice.*

4. **Argument in Support of Proposition of Law:** The argument must explain why the court should rule in your favor. You can rewrite the reasons raised in your appellate brief. You must cite to statutes, court rules, court decisions, law review articles, or other legal authorities to explain why the court should rule in your favor. You need to convince the Supreme Court that the lower court was wrong.

### **What are my chances of success?**

The Ohio Supreme Court rarely grants discretionary review in criminal cases. However, even if your case is not accepted, that doesn't mean the Ohio Supreme Court disagrees with you or you are wrong. It only means that your case didn't present the kind of issue the Court wanted to hear. A denial of jurisdiction by the Ohio Supreme Court is not a merits decision and has no meaning in federal court, should you decide to continue pursuing your case in federal court. The federal courts simply require that you gave the Ohio Supreme Court the opportunity to hear your case.

### **When should I expect a decision?**

The Ohio Supreme Court usually decides whether to accept cases within 2-3 months. They will send you notice either way as soon as they decide.

### **What should I do if the Supreme Court accepts my case?**

If the Ohio Supreme Court agrees to hear your case, they will send a notice saying review has been granted. The Court will appoint you counsel to file the merit brief in your case. If your case is accepted and you do not get a notice of counsel being appointed, contact the Office of the Ohio Public Defender **immediately**.

### **What should I do if the Supreme Court denies my case?**

If the Supreme Court denies your case, they will send you a one-page denial entry. If you want to continue pursuing your case in federal court, you can then proceed to federal court.

REV. 5/3/22

## INSTRUCTIONS

*Please note that these instructions are just suggestions as to how you could present your argument to the Ohio Supreme Court. The Ohio Supreme Court has not approved the enclosed forms. They have been prepared so you can better comply with the rules.*

*Following this page is a sample of what should be included with sections explaining what needs to be included. After these samples are blank pages for you to fill out using the forms as a guide and to file with Ohio Supreme Court.*

1. If you are typing, use Times New Roman, Cambria, Calibri, Arial, or Palatino Linotype, 12-point styled font. Rule 3.09(B)(1)(b).
2. If you don't have access to a computer or typewriter, please make sure to print as legibly as possible so the court can read your writing. You may write on only one side of the page.
3. In order to prepare the cover page of your memorandum and notice of appeal, you will need to get certain information. Most of the information can be found on your appeal brief or the court of appeals' opinion.
4. When you are finished preparing the documents, make sure you sign all of the documents (you need to sign a total of 5 times). See sample form.
5. Send it to the clerk's office with 1 copy of the Notice of Appeal, 8 copies of the Memorandum and 1 copy of the Affidavit of Indigence. If you want to get proof from the clerk that it was filed, you must provide the clerk with an extra copy of the documents and a self-addressed, postage-paid envelope.
- The supreme court's pro se guide, which is available on the court's website, includes the following "NOTE," in its discussion of the filing of a Memorandum in Support of Jurisdiction:

"If your affidavit of indigence is accepted by the Supreme Court Office of the Clerk, you can file the original memorandum only. You do not have to file the copies required by Rule 3.10."

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO,	:	Case No. <u>Leave Blank</u>
	:	
Plaintiff-Appellee,	:	
	:	On Appeal from the <u>County</u>
v.	:	County Court of Appeals,
	:	<u>Dist. #</u> Appellate District
<u>YOUR NAME</u> ,	:	
	:	C.A. Case No. <u>Court of Appeals case #</u>
Defendant-Appellant.	:	

---

**NOTICE OF APPEAL OF APPELLANT YOUR NAME**

---

County County Prosecutor's Office

Prosecutor Name and Bar Number

Prosecuting Attorney

Street Address

City, State, and Zip Code

Phone Number

Your Name

Your inmate number

Institution Name

Institution Street Address

Institution City, State and Zip Code

PLAINTIFF-APPELLEE, STATE OF OHIO

DEFENDANT-APPELLANT, PRO SE

*This information can be found on the front cover of your appeal brief, or in your prison intake packet.*

**NOTICE OF APPEAL OF APPELLANT YOUR NAME**

Appellant YOUR NAME hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the NAME OF THE COUNTY WHERE YOU WERE CONVICTED County Court of Appeals, THE NAME OF THE APPELLATE COURT (IT WILL BE FIRST, SECOND, ETC.) Appellate District, entered in Court of Appeals Case No. CASE NUMBER OF YOUR COURT OF APPEALS CASE on THE DAY, MONTH AND YEAR THAT YOUR APPEAL WAS DENIED. THIS DATE CAN USUALLY BE FOUND ON THE COURT OF APPEALS' JUDGMENT ENTRY, EITHER STAMPED ON THE FRONT PAGE OR ON THE BACK PAGE.

This case raises a substantial constitutional question, involves a felony, and raises an issue of public or great general interest.

Respectfully submitted,

Sign your name  
DEFENDANT-APPELLANT, PRO SE

Print your name and inmate number  
Name and Inmate Number

Name of the institution where you are incarcerated  
Name of Institution

Address of the institution where you are incarcerated  
Address

City, State Zip of the institution where you are incarcerated  
City, State and Zip Code

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **NOTICE OF APPEAL** was forwarded by regular U.S. Mail to the office of the Name of the county where you were convicted County Prosecutor this date day of month, 20year.

Mailed to:

Name: Name of the prosecuting attorney

Street Address: Address of the prosecuting attorney

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Sign your name  
DEFENDANT-APPELLANT, PRO SE

SAMPLE

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO, :  
Plaintiff-Appellee, :  
v. : Case No. Leave Blank  
YOUR NAME, :  
Defendant-Appellant. :

**AFFIDAVIT OF INDIGENCE**

I, YOUR NAME, do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons:

I am currently incarcerated at the NAME OF THE INSTITUTION WHERE YOU ARE INCARCERATED and I have been incarcerated since THE DATE YOU WERE SENT TO PRISON. My current account balance is \_\_\_\_\_. Pursuant to Rule 3.06(A), of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

*Do not sign this until you are in a notary's presence*

*Sign your name*  
\_\_\_\_\_  
Affiant

*Have this signed by a notary public*

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

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

[Note: This affidavit must be executed not more than six months prior to being filed in the Supreme Court in order to comply with S.Ct.Prac.R. 3.06.]

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO, : Case No. Leave Blank  
 :  
 Plaintiff-Appellee, :  
 :  
 v. : On Appeal from the County  
 : County Court of Appeals,  
 : Dist. # Appellate District  
 YOUR NAME, :  
 :  
 Defendant-Appellant. : C.A. Case No. Court of Appeals case #

---

**MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT YOUR NAME**

---

County County Prosecutor's Office

Prosecutor Name and Bar Number

Your Name

Prosecuting Attorney

Your inmate number

Street Address

Institution Name

City, State, and Zip Code

Institution Street Address

Phone Number

Institution City, State, and Zip Code

PLAINTIFF-APPELLEE, STATE OF OHIO

DEFENDANT-APPELLANT, PRO SE

*This information can be found on the front cover of your appeal brief, or in your prison intake packet.*

**TABLE OF CONTENTS**

**Page No.**

EXPLANATION OF WHY THIS IS A CASE OF PUBLIC OR GREAT  
GENERAL INTEREST AND INVOLVES A SUBSTANTIAL  
CONSTITUTIONAL QUESTION .....1

STATEMENT OF THE CASE AND FACTS .....2

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW .....3

PROPOSITION OF LAW: .....3

*Insert your proposition of law here. You can have more than one.*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CONCLUSION.....4

CERTIFICATE OF SERVICE .....5

APPENDIX:

Judgment Entry and Opinion, Court of Appeals, County County,  
Case No. \_\_\_\_\_ (Date \_\_\_\_\_ ) ..... A-1

*This date can be found on the court of appeals' judgment entry either stamped on the front page or on the back page. Be sure to include a copy of the court of appeals' judgment entry in the appendix.*

You need to number your pages starting with number 1 on the bottom of the first page of your EXPLANATION OF WHY THIS IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION. After you are done numbering all of your pages, return to the TABLE OF CONTENTS and fill in the appropriate page numbers.





**ARGUMENT IN SUPPORT OF PROPOSITION OF LAW**  
**PROPOSITION OF LAW**

---

---

---

---

ASSIGNMENTS OF ERROR IN THE COURT OF APPEALS ARE PRESENTED IN THE SUPREME COURT AS “PROPOSITIONS OF LAW.” THE PROPOSITION OF LAW IS THE STATEMENT OF LAW THE SUPREME COURT OF OHIO MUST MAKE IN ORDER TO RULE IN YOUR FAVOR. IF YOU HAVE MORE THAN ONE ISSUE, MAKE SURE TO SEPARATE EACH “PROPOSITION OF LAW” AND NUMBER THEM.

EACH PROPOSITION OF LAW SHOULD HAVE ITS OWN LEGAL SUPPORT AND ARGUMENT. YOU CAN ONLY ARGUE THE ISSUES THAT WERE RAISED IN YOUR ORIGINAL APPEAL. IF YOU HAVE A COPY OF THE MERIT BRIEF THAT YOUR APPELLATE ATTORNEY FILED ON YOUR BEHALF, THAT SHOULD SHOW YOU WHICH ISSUES YOU CAN RAISE.

THE ARGUMENT MUST EXPLAIN WHY THE COURT SHOULD RULE IN YOUR FAVOR. YOU CAN REWRITE THE REASONS RAISED IN YOUR APPELLATE BRIEF. YOU MUST CITE TO STATUTES, COURT RULES, COURT DECISIONS, LAW REVIEW ARTICLES, OR OTHER LEGAL AUTHORITIES TO EXPLAIN WHY THE COURT SHOULD RULE IN YOUR FAVOR. YOU NEED TO CONVINCING THE COURT THAT THE LOWER COURT WAS WRONG.



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **MEMORANDUM IN SUPPORT OF JURISDICTION** was forwarded by regular U.S. Mail to Name of the county where you were convicted County Prosecutor this date day of month, 20year.

Mailed to:

Name: Name of the prosecuting attorney

Street Address: Address of the prosecuting attorney

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Sign your name  
DEFENDANT-APPELLANT, PRO SE

SAMPLE

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, : Case No. Leave Blank  
 :  
 Plaintiff-Appellee, :  
 :  
 v. : On Appeal from the County  
 : County Court of Appeals,  
 : Dist. # Appellate District  
 YOUR NAME, :  
 :  
 Defendant-Appellant. : C.A. Case No. Court of Appeals case #

---

APPENDIX TO  
MEMORANDUM IN SUPPORT OF JURISDICTION OF  
APPELLANT YOUR NAME

---

**ATTACH THE COPY OF THE COURT OF APPEALS' OPINION  
AND JUDGMENT ENTRY BEHIND THIS PAGE.**

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO,	:	Case No. _____
	:	
Plaintiff-Appellee,	:	
	:	On Appeal from the _____
v.	:	County Court of Appeals
	:	_____ Appellate District
_____ ,	:	
	:	C.A. Case No. _____
Defendant-Appellant.	:	

---

**NOTICE OF APPEAL OF APPELLANT \_\_\_\_\_**

---

\_\_\_\_\_ County Prosecutor's Office

---

Prosecuting Attorney

---

# \_\_\_\_\_

---

---

---

PLAINTIFF-APPELLEE, STATE OF  
OHIO

DEFENDANT-APPELLANT, PRO SE

**NOTICE OF APPEAL OF APPELLANT \_\_\_\_\_**

Appellant \_\_\_\_\_ hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the \_\_\_\_\_ County Court of Appeals, \_\_\_\_\_ Appellate District, entered in Court of Appeals Case No. \_\_\_\_\_ on \_\_\_\_\_.

This case raises a substantial constitutional question, involves a felony, and raises an issue of public or great general interest.

Respectfully submitted,

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

\_\_\_\_\_  
Name and Inmate Number

\_\_\_\_\_  
Name of Institution

\_\_\_\_\_  
Address

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

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **NOTICE OF APPEAL** was forwarded 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 SUPREME COURT OF OHIO**

STATE OF OHIO, :  
Plaintiff-Appellee, :  
vs. : Case No. \_\_\_\_\_  
\_\_\_\_\_, :  
Defendant-Appellant. :

**AFFIDAVIT OF INDIGENCE**

I, \_\_\_\_\_, do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons: I am currently incarcerated at the \_\_\_\_\_ and I have been incarcerated since \_\_\_\_\_. My current account balance is \_\_\_\_\_. Pursuant to Rule 3.06(A), of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

\_\_\_\_\_  
Affiant

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

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

[Note: This affidavit must be executed not more than six months prior to being filed in the Supreme Court in order to comply with S.Ct.Prac.R. 3.06.]

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO,	:	Case No. _____
	:	
Plaintiff-Appellee,	:	
	:	On Appeal from the _____
v.	:	County Court of Appeals
	:	_____ Appellate District
_____,	:	
	:	C.A. Case No. _____
Defendant-Appellant.	:	

---

**MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT \_\_\_\_\_**

---

\_\_\_\_\_ County Prosecutor's Office

---

Prosecuting Attorney

---

#

---

---

---

---

PLAINTIFF-APPELLEE, STATE OF  
OHIO

DEFENDANT-APPELLANT, PRO SE

**TABLE OF CONTENTS**

**Page No.**

EXPLANATION OF WHY THIS IS A CASE OF PUBLIC OR GREAT  
GENERAL INTEREST AND INVOLVES A SUBSTANTIAL  
CONSTITUTIONAL QUESTION .....\_\_

STATEMENT OF THE CASE AND FACTS .....\_\_

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW .....\_\_

PROPOSITION OF LAW NO. I: .....\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROPOSITION OF LAW NO. II: .....\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROPOSITION OF LAW NO. III: .....\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

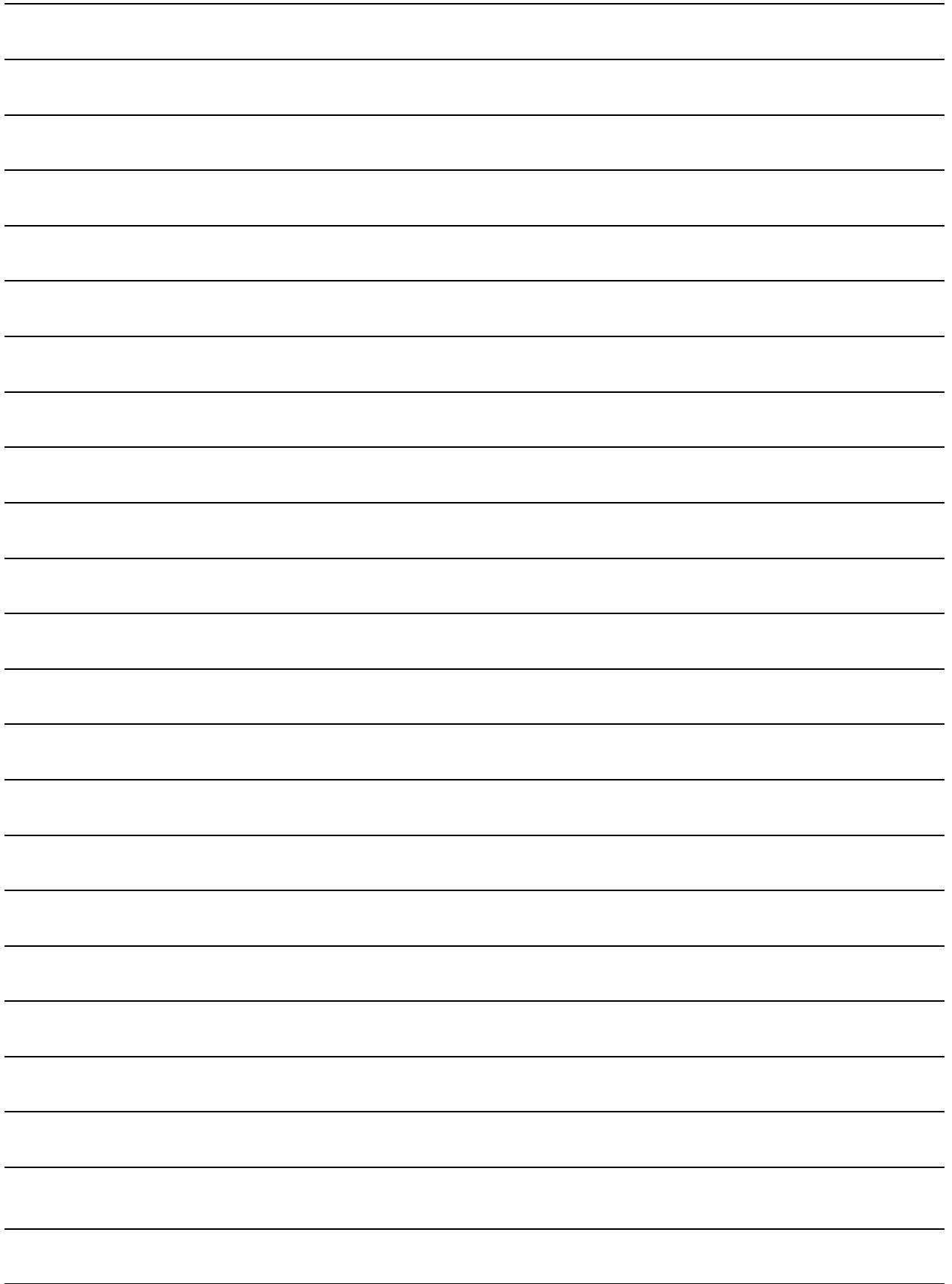
CONCLUSION.....\_\_

CERTIFICATE OF SERVICE .....\_\_

APPENDIX:

Judgment Entry and Opinion, Court of Appeals, \_\_\_\_\_ County,  
Case No. \_\_\_\_\_ (\_\_\_\_\_) ..... A-1













**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **MEMORANDUM IN SUPPORT OF JURISDICTION** was forwarded 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 SUPREME COURT OF OHIO**

STATE OF OHIO,	:	Case No. _____
	:	
Plaintiff-Appellee,	:	
	:	On Appeal from the _____
v.	:	County Court of Appeals
	:	_____Appellate District
_____,	:	
	:	C. A. Case No. _____
Defendant-Appellant.	:	

---

**APPENDIX TO**

**MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT \_\_\_\_\_**

---

## **Selective Rules of the Ohio Supreme Court**

### **S.Ct.Prac.R. 3.09 Mechanical requirements**

(A) Applicability to paper and electronic documents. The requirements of this rule apply to both paper documents and electronic documents submitted through the E-Filing Portal or by e-mail, unless a provision is clearly inapplicable to electronically filed documents.

(B) General.

(1) Typeface.

(a) Every original document filed with the Supreme Court shall be single-sided, shall be typewritten or prepared by, computer, word processor or other standard typographic process, and shall comply with the requirements of this rule.

(b) The text of all documents shall be at least 12-point type and in one of the following typefaces:

- (i) Times New Roman;
- (ii) Cambria;
- (iii) Calibri;
- (iv) Arial Standard (i.e., not Black, Rounded, Unicode, or Narrow);
- (v) Palatino Linotype.

(c) If one of the typefaces specified by division (B)(1)(b) of this rule is not available, the filing party shall use a typeface that is substantially equivalent to the typefaces listed in that division and that has no more than eighty characters to a line of text.

(d) Italic type may be used only for case citations and emphasis.

(e) The Clerk of the Supreme Court may accept a handwritten document for filing only in an emergency, provided the document is legible.

(f) The text of all documents must be sufficiently dark to be legible when scanned.

(2) Paper.

(a) All documents shall be on opaque, unglazed, 20 to 22-pound weight white paper, 8 1/2 by 11 inches in size.

(b) The original shall not be stapled or otherwise bound and shall not contain dividers or tabs.

(c) All margins shall be at least one inch, and the left margin shall be justified.

(d) Documents shall not be enclosed in notebooks or binders and shall not have plastic cover pages.

(3) Spacing and footnotes. The text of all documents shall be double-spaced. Footnotes and quotations may be single-spaced; however, they shall also be in 12-point type.

(C) Copy of an opinion or decision.

(1) When these rules require that a copy of a court or agency opinion or decision be attached to a document filed with the Supreme Court, the copy shall be either of the following:

(a) A photocopy of the opinion or decision issued directly by the court or agency;

(b) An electronically generated copy that meets the requirements of division (B)(3) of this rule, except that an electronically generated copy of an opinion may be single-spaced.

(2) Unless otherwise required by these rules or the Supreme Court Rules for the Reporting of Opinions, parties are discouraged from attaching to briefs any legal decision generally accessible through online legal-research databases.

(D) Supplements to briefs. Any supplement to the briefs filed pursuant to S.Ct.Prac.R. 16.09 may be prepared and reproduced by photocopying the relevant documents in the record, even if those documents do not comply with the mechanical requirements of division (B) of this rule, provided that the requirements as to paper size and paper type are met and each page of the supplement is clearly legible. Both sides of the paper may be used in preparing a supplement.

(E) Volumes.

(1) Paper documents. Any paper document filed with the Supreme Court that exceeds two inches in thickness shall be bound and numbered in two or more parts, with each part containing a cover page and a certificate of service.

(2) Electronic documents. Any electronic document filed with the Supreme Court that exceeds three-hundred pages shall be submitted as two or more Portable Document Format ("PDF") files, with each PDF file containing a cover page and a certificate of service.

(3) Cover Page. When a document is submitted in multiple volumes, all volumes shall contain a cover page as required by S.Ct.Prac.R. 3.07.

(F) Failure to comply. Documents that fail to comply with the requirements of this rule may be stricken by the Supreme Court.

### **S.Ct.Prac.R. 3.10 Number and form of copies**

(A) Applicability to filing through the E-Filing Portal. Generally, this rule does not apply to documents submitted through the E-Filing Portal or by e-mail. If, however, the Clerk deems it necessary, the Clerk may request that the filing party provide copies of documents filed through the E-Filing Portal. The copies shall be identical to the filed version and shall comply with the provisions of this rule.

(B) Number of copies. The original of a document filed in the Supreme Court shall be accompanied by an appropriate number of copies as follows, unless otherwise provided by S.Ct.Prac.R. 3.02(A)(3)(b) or 3.02(A)(4)(c):

(C) Date-stamped copy. Any party wishing to receive a date-stamped copy of a document submitted for filing with the Clerk of the Supreme Court shall provide the Clerk with an extra copy of the document and an appropriately sized, self-addressed, postage-paid envelope.

(D) Form of copies.

(1) Copies of documents shall be on opaque, unglazed, 20- to 22-pound weight white paper, 8 1/2 by 11 inches in size.

(2) Copies shall be secured firmly by a single staple in the upper-left hand corner of the document or shall be spiral bound.

(3) With the exception of jurisdictional memoranda and merit briefs, which shall be single-sided, both sides of the paper may be used as long as the document is clearly legible.

(4) Copies shall not be enclosed in notebooks or binders and shall not have plastic cover pages.

**S.Ct.Prac.R. 7.01. Institution of Jurisdictional Appeal.**

(A) Perfection of appeal

(1) Time to file and documents required

(a) (i) To perfect a jurisdictional appeal from a court of appeals to the Supreme Court as defined by S.Ct.Prac.R. 5.02(A), the appellant shall file a notice of appeal in the Supreme Court within forty-five days from the entry of the judgment being appealed. The date the court of appeals filed its judgment entry for journalization with its clerk, in accordance with App.R. 22, shall be considered the date of entry of the judgment being appealed.

(ii) Except as provided by S.Ct.Prac.R. 7.01(A)(3), the appellant shall also file a memorandum in support of jurisdiction, in accordance with S.Ct.Prac.R. 7.02, at the time the notice of appeal is filed.

(b) Except as provided in divisions (A)(2), (3), (4), (5), and (6) of this rule, the time period designated in this rule for filing a notice of appeal and memorandum in support of jurisdiction is mandatory, and the appellant's failure to file within this time period shall divest the Supreme Court of jurisdiction to hear the appeal. The Clerk of the Supreme Court shall refuse to file a notice of appeal or a memorandum in support of jurisdiction that is received for filing after this time period has passed.

(2) Subsequent notices of appeal and cross-appeal

(c) If a party timely files a notice of appeal in the Supreme Court, any other party may file a notice of appeal or cross-appeal in the Supreme Court within the time prescribed by division (A)(1) of this rule or ten days after the first notice of appeal was filed, whichever is later.

(d) A notice of appeal shall be designated and treated as a notice of cross-appeal if both of the following requirements are met:

(i) It is filed after the original notice of appeal was filed in the case;

(ii) It is filed by a party against whom the original notice of appeal was filed.

(e) If a notice of cross-appeal is filed, a combined memorandum both in response to appellant/cross-appellee's memorandum and in support of jurisdiction for the cross-appeal shall be filed by the deadline imposed in S.Ct.Prac.R. 7.05.

(2) Motion for stay in advance of filing a memorandum in support of jurisdiction

(a) In a jurisdictional appeal, if the appellant seeks from the Supreme Court an immediate stay of the court of appeals' judgment that is being appealed, the appellant may file a notice of appeal in the Supreme Court without an accompanying memorandum in support of jurisdiction, provided both of the following conditions are satisfied:

(i) A motion for stay of the court of appeals' judgment is filed with the notice of appeal;

(ii) A copy of the court of appeals' opinion and judgment entry being appealed is attached to the motion for stay.

(b) If pursuant to S.Ct.Prac.R. 7.01(A)(3)(a) a memorandum in support of jurisdiction is not filed with the notice of appeal, then a memorandum in support of jurisdiction shall be filed no later than forty-five days from the date of the entry of the court of appeals' judgment being appealed. The Supreme Court will dismiss the appeal if the memorandum in support of jurisdiction is not timely filed pursuant to this provision.

(3) Motion for a delayed appeal in felony cases

(a) In a felony case, when the time has expired for filing a notice of appeal in the Supreme Court, the appellant may file a delayed appeal by filing a notice of appeal and a motion for delayed appeal that complies with the following requirements:

(i) The motion shall state the date of entry of the judgment being appealed and the reasons for the delay;

(ii) Facts supporting the motion shall be set forth in an affidavit;

(iii) A copy of the court of appeals' opinion and the judgment entry being appealed shall be attached to the motion.

(b) A memorandum in support of jurisdiction shall not be filed at the time a motion for delayed appeal is filed. If the Supreme Court grants a motion for delayed appeal, the appellant shall file a memorandum in support of jurisdiction within thirty days after the motion for delayed appeal is granted. If a memorandum in support of jurisdiction is not timely filed after a motion for delayed appeal has been granted, the Supreme Court will dismiss the appeal.

(c) The provision for delayed appeal does not apply to appeals involving postconviction relief or appeals brought pursuant to App.R. 26(B). The Clerk shall refuse to file motions for delayed appeal involving postconviction relief or App.R. 26(B).

(4) Effect of a timely filed application for reconsideration with court of appeals

(a) When a party timely files an application for reconsideration in the court of appeals pursuant to App.R. 26(A)(1), the time for filing a notice of appeal from the court of appeals' entry of judgment shall be tolled.

(b) If a timely application for reconsideration is filed in the court of appeals, and the appellant seeks to appeal from the court of appeals' entry of judgment, the appellant shall file a notice of appeal within forty-five days of the court of appeals' decision denying the application for reconsideration, or if reconsideration is granted, from the subsequent entry of judgment.

(c) To file an appeal from the court of appeals' opinion and judgment entry after the court of appeals has ruled on an application for reconsideration, the appellant shall comply with the time frame imposed by S.Ct.Prac.R. 7.01(A)(5)(b) and shall include both of the following:

(i) A notice of appeal that complies with the requirements of S.Ct.Prac.R. 7.01(B) and that indicates the date of the filing of the application for reconsideration, the date of the court of appeals' decision on the application for reconsideration, and the date of the court of appeals' opinion and judgment entry that is being appealed;

(ii) A memorandum in support of jurisdiction that complies with the requirements of S.Ct.Prac.R. 7.02 and that also has attached a date-stamped copy of the court of appeals' decision denying the application for reconsideration, or if reconsideration is granted, the subsequent entry of judgment.

(5) Effect of en banc consideration by the court of appeals

(a) When a party timely files an application for en banc consideration in the court of appeals pursuant to App.R. 26(A)(2), the time for filing a notice of appeal from the court of appeals' entry of judgment shall be tolled.

(b) If a timely application for en banc consideration is filed in the court of appeals and the appellant seeks to appeal from the court of appeals' entry of judgment, the appellant shall file a notice of appeal within forty-five days of the court of appeals' decision denying the application for en banc consideration, or if en banc consideration is granted, the subsequent entry of judgment.

(c) To file an appeal from the court of appeals' opinion and judgment entry after the court of appeals has ruled on an application for en banc consideration, the appellant shall comply with the time frame imposed by S.Ct.Prac.R. 7.01(A)(6)(b) and shall include both of the following:

(i) A notice of appeal that complies with the requirements of S.Ct.Prac.R. 7.01(B), and that indicates the date of the filing of the application for en banc consideration, the date of the court of appeals' decision on the application for en banc consideration, and the date of the court of appeals' opinion and judgment entry that is being appealed;

(ii) A memorandum in support of jurisdiction that complies with the requirements of S.Ct.Prac.R. 7.02, and that also has attached a date-stamped copy of the court of appeals' decision denying the application for en banc consideration, or if en banc consideration is granted, the subsequent entry of judgment.

(d) If a timely sua sponte en banc consideration is initiated by the court of appeals but an appeal to the Supreme Court has not been perfected, the appellant may file a notice of appeal within forty-five days of the court of appeals' final en banc decision.

(e) To file an appeal from the court of appeals' opinion and judgment entry after the court of appeals completes the sua sponte en banc consideration process, the appellant shall comply with the time frame imposed by S.Ct.Prac.R. 7.01(A)(6)(d) and shall include both of the following:

(i) A notice of appeal that complies with the requirements of S.Ct.Prac.R. 7.01(B) and that indicates the date of the decision of the court of appeals initiating the sua sponte en banc consideration, the date of the court of appeals' final decision on the sua sponte en banc consideration, and the date of the court of appeals' opinion and judgment entry that is being appealed;

(ii) A memorandum in support of jurisdiction that complies with the requirements of S.Ct.Prac.R. 7.02 and that also has attached a date-stamped copy of the court of appeals' decision initiating the sua sponte en banc consideration process and a date stamped copy of the court of appeals' final en banc consideration decision.

(f) If a party perfected a jurisdictional appeal with the Supreme Court in accordance with S.Ct.Prac.R. 7.01(A), and the court of appeals subsequently initiates timely sua sponte en banc consideration, the party shall file a notice with the Supreme Court that an en banc decision is forthcoming from the court of appeals. The Supreme Court will stay consideration of the jurisdictional memoranda until after the court of appeals' en banc decision.

(B) Contents of notice of appeal

*[See Appendix C for a sample notice of appeal from a court of appeals.]*

(1) The notice of appeal for a jurisdictional appeal shall contain all of the following:

(a) The name of the court of appeals whose judgment is being appealed;

(b) The case name and number assigned to the case by the court of appeals;

(c) The date of the entry of the judgment being appealed;

(d) A statement that one or more of the following are applicable:

(i) The case raises a substantial constitutional question;

(ii) The case involves a felony;

(iii) The case is one of public or great general interest;

- (iv) The case involves termination of parental rights or adoption of a minor child, or both;
- (v) The case is an appeal of a court of appeals' determination under App.R. 26(B);
- (vi) The case involves death-penalty postconviction proceedings.

(2) In a jurisdictional appeal, if a party has timely moved the court of appeals to certify a conflict under App.R. 25, the notice of appeal shall be accompanied by a notice of pending motion to certify a conflict, in accordance with S.Ct.Prac.R. 7.07(A), stating that a motion to certify a conflict is pending with the court of appeals.

(C) Notice to the court of appeals

The Clerk of the Supreme Court shall send a copy of any notice of appeal or cross-appeal to the clerk of the court of appeals whose judgment is being appealed.

(D) Jurisdiction of court of appeals after appeal to Supreme Court is perfected

(1) After an appeal is perfected from a court of appeals to the Supreme Court, the court of appeals is divested of jurisdiction, except to take action in aid of the appeal, to rule on an application timely filed with the court of appeals pursuant to App.R. 26, or to rule on a motion to certify a conflict pursuant to Article IV, Section 3(B)(4) of the Ohio Constitution.

(2) In all appeals from a court of appeals, the court of appeals retains jurisdiction to appoint counsel to represent indigent parties before the Supreme Court when a judgment of the court of appeals is being defended by a defendant or when the Supreme Court has ordered that counsel be appointed in a particular case.

**S.Ct.Prac.R. 7.02. Memorandum in support of jurisdiction**

(A) Filing. In a jurisdictional appeal, unless otherwise provided in S.Ct.Prac.R. 7.01, the appellant shall file a memorandum in support of jurisdiction with the notice of appeal.

(B) Page limitation.

(1) Except in postconviction death-penalty cases, a memorandum in support of jurisdiction shall not exceed fifteen numbered pages, exclusive of the table of contents and the certificate of service.

(2) In a postconviction death-penalty case there is no page limit for the memorandum in support of jurisdiction.

(C) Parts of the memorandum. A memorandum in support of jurisdiction shall contain all of the following:

(1) A table of contents, which shall include numbered propositions of law arranged in order;

(2) A thorough explanation of why a substantial constitutional question is involved, why the case is of public or great general interest, or, in a felony case, why leave to appeal should be granted;

(3) A statement of the case and facts;

(4) A brief and concise argument in support of each proposition of law.

(D) Required Attachments.

(1) A date-stamped copy of the court of appeals' opinion and judgment entry being appealed shall accompany the memorandum in support of jurisdiction. If a delayed appeal was granted, a date-stamped copy of the court of appeals' opinion and judgment entry is not required to accompany the memorandum in support of jurisdiction. For purposes of this rule, a date-stamped copy of the court of appeals' judgment entry shall mean a copy bearing the file stamp of the clerk of the court of appeals and reflecting the date on which the court of appeals filed its judgment entry for journalization with its clerk under App.R. 22.

(2) In postconviction death-penalty cases, the appellant shall also attach the findings of fact and conclusions of law issued by the trial court or a notice that no findings of fact or conclusions of law were issued by the trial court.

(3) The appellant may also attach any other judgment entries or opinions issued in the case, if relevant to the appeal. The memorandum shall not include any other attachments.

(E) Refusal to file. Except as otherwise provided in S.Ct.Prac.R. 7.01(A), if the appellant does not tender a memorandum in support of jurisdiction for timely filing along with the notice of appeal, the Clerk of the Supreme Court shall refuse to file the notice of appeal.