

INSTRUCTIONS FOR FILING A MUNICIPAL OR COUNTY COURT CRIMINAL APPEAL (FOR DEFENDANT/APPELLANT ONLY)

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ The district attorney may appeal a question of law and the defendant may appeal a judgment of the County Court to the District court of that county under the simplified procedure.
- ◆ These instructions are for use when the Defendant who was found guilty is appealing an issue to the District Court.
- ◆ An appeal is not a new trial, but an opportunity to request a higher court to review the findings/judgment of a lower court.
- ◆ The Defendant/Appellant has 35 days after the date of entry of judgment or the denial of post trial motions, whichever is later, to file the notice of appeal in the County Court, pay advance costs for the preparation of the record, and serve a copy of the Notice of Appeal and Designation of Record on the District Attorney.
- ◆ The Appellant must also file the Notice of Appeal and Designation of Record in the District Court within the 35 days.
- ◆ Municipal Appeals
 - Filed in the district court where the municipal court is located IF A COURT OF RECORD.
COURT OF RECORD-Keeps a record of hearings using a recorder or a transcriber AND the judge has a license to practice law in Colorado.
 - Filed in the county court where the municipal court is located IF NOT A COURT OF RECORD.
NOT A COURT OF RECORD-Doesn't keep a record of hearings OR the judge may not have a license to practice law in Colorado.
 - TIMELINE TO FILE APPEAL WITH THE COURT
 - COURT OF RECORD-35 days after the municipal court issues an order
 - NOT A COURT OF RECORD-14 days after the municipal court issues an order
- ◆ If the Municipal Court is not a qualified court of record, there will be a new trial in the appellate court.
- ◆ For additional information, please review Colorado Rules of Criminal Procedure - Rule 37 – Appeals from County Court and/or Colorado Municipal Court Rules of Procedure-Rule 237 – Appeals, §13.10-116, C.R.S., and §16-2-114, C.R.S.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
<http://www.courts.state.co.us/chs/court/ada/coordinators.htm>

COMMON TERMS

- ☒ Appellee: The person or entity responding to the appeal in a criminal case, usually the State of Colorado.
- ☒ Appellant: The person or entity filing the appeal, usually the Defendant in a Criminal Case.
- ☒ *De novo*: New trial, as though not heard before.
- ☒ Brief: A written statement summarizing the facts of the case, the applicable laws, and arguments of how the law applies to the facts supporting your position.
- ☒ Stay of Execution: An order stopping a judicial proceeding or execution of a judgment.
- ☒ Service of Process: The official means by which a party is notified that an appeal has been filed.
- ☒ May: In legal terms, “may” is defined as “optional” or “can.”
- ☒ Shall: In legal terms, “shall” is defined as “required.”

If you do not understand this information, please contact an attorney.

FEES

The filing fee is \$70.00. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows:

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| <input type="checkbox"/> Appeal Bond | Varies |
| <input type="checkbox"/> Certification Fee | \$20.00 |
| <input type="checkbox"/> Copies of Documents (Documents on File)
sided | \$.75 per page or \$1.50 if double- |
| <input type="checkbox"/> Copies of Documents (Documents not on File) | \$.25 per page or \$.50 if double –sided |
| <input type="checkbox"/> If fines and costs have been imposed, a deposit of the total amount may be required by the County Court. | |

FORMS

To access a form online go to www.courts.state.co.us and click on the “Self-Help Center”. The packet/forms are available in PDF or WORD by selecting “**Appeals - County Court Criminal Appeal**”. You may complete a form online or you may print them and type or print legibly in black ink.

- JDF 222 Notice of Appeal and Designation of Record - Criminal

STEPS TO FILING YOUR APPEAL

Step 1: Complete the Notice of Appeal and Designation of Record (JDF 222)

- Complete all sections of the Notice.
- A stay of execution on the Judgment/Sentence can only be granted by the County Court upon request. As a condition of a stay of execution, you may be required to post a bond or deposit fines and costs assessed.
Municipal appeal: you may have to file an appeal bond with the municipal court.
- Prepare two originals: one for the County Court to be placed in the original case file; and one for the District Court to open a new District Civil (CV) case.
Municipal appeal court of record: one original to the municipal court to be placed in their case file; and one for the District Court to open a new District Civil (CV) case.
Municipal appeal court **not** of record: one original to the municipal court to be placed in their case file; and one for the County Court to open a new County case.
- Make two copies: one to provide to the District Attorney; and one for your records.
Municipal appeal: make two copies, one copy to the city attorney; and one for your records,

Step 2: File the Notice of Record and Designation of Record

- Many courts are combined, so you can provide the Combined Court with both originals of the Notice of Appeal and Designation of Record form **or** provide the County Court and the District Court each with an original Notice of Appeal and Designation of Record.
- Pay the filing fee of \$70.00.
- Pay the Appeal Bond, if required by the Court.
- Check with the Court to determine what their procedure is for ordering the transcripts. You may need to talk directly with the County Court judicial assistant assigned to the courtroom where your case was heard.
Municipal appeal from a court of record: check with the municipal court about ordering transcripts.
Municipal appeal from a court not of record: there will be no transcripts.
- Provide the Combined/District Court with a self-addressed stamped envelope to receive the written ruling from the District Court.

Step 3: Provide the District Attorney's Office with a copy of the Notice of Appeal/Designation of Record
Municipal appeal: provide a copy of the forms that you complete to the municipal court; provide a copy to the city attorney.

AFTER YOU FILE YOUR NOTICE

- The County Court will prepare the court record per the Designation of the Record and provide the information to the District Court within 42 days or within such additional time as may be granted by the County Court.
Municipal appeal: the municipal court will prepare the record within 42 days.
- Municipal appeal not a court of record: there will be a new trial in county court. The record will be sent to the county court in this case. There will be no transcripts.
- Prepare a Written Opening Brief:
 - Once the District Court receives the record from County Court, you will have 21 days to file a written brief.
 - The written brief should outline any issues constituting errors and outline any arguments to support your issues.
 - You must also provide a copy of your written brief to the District Attorney.
Municipal appeal court of record: provide a copy of your written brief to the city attorney.
Municipal appeal court not of record: there are no briefs since there is a new trial.
 - The District Attorney (or city attorney in the case of a municipal appeal) may file an answering brief within 21 after you provide them a copy of the written opening brief. If you should receive an answering brief, you may file a reply brief within 14 days after you receive a copy of the answering brief.
- Once the timeframes have passed for filing briefs, answering, etc, the District Court will review the case file and transcript. There is no hearing in District Court for you to present your issues regarding your appeal.
 - The District Court will enter a written ruling.
 - You and the District Attorney will receive a copy of the written ruling.
- Municipal appeal, not a court of record
 - A new trial is held in county court.
 - The County Court will enter a written ruling.
 - You and the municipal court or county attorney will receive a copy of the written ruling. Depending on the ruling you may still need to pay municipal court fines and may still be subject to jail time and penalties to be imposed by the municipal court.