



Office of the Ohio Public Defender

Elizabeth R. Miller, State Public Defender

Pro Se Packet

Filing an Appeal in the Tenth District Court of Appeals Franklin County, Ohio

To properly file a timely appeal to the Tenth 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 Tenth 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 Tenth 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 located in your legal orientation handouts. Or you can contact the library or prison legal services for 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: your sentencing entry does NOT need to be attached to your notice of appeal. In some other counties, the judgment entry must be attached.
 - Fill in the blanks on the forms. Write neatly in pen.
 - Fill in the “C.P. Case No. _____” with your trial court number. That number is located on the bottom of the second page of the legal packet that you received at orientation. If you have more than one case number, include each, but only if the cases are from the same county. If you have cases in different counties, you must file an appeal in each county.
- **Affidavit of Indigency**
 - You must fill in the blanks on the affidavit and sign it in the presence of a notary public. Legal services can provide notary service. If legal services staff is unavailable, ask your unit staff how to access a notary.

- **Motion for Appointment of Counsel**
 - Fill in the blanks with as much information as you know. Write neatly in pen. File this in the Franklin County Court of Appeals.
 - Fill out the top part only of the Journal Entry. Do not sign. This is only for the Judge to sign.

- **Motion for Preparation of Complete Transcript of Proceedings at State Expense**
 - Fill in the blanks with as much information as you know. Write neatly in pen. File this in the Franklin County Court of Appeals.
 - Fill out the top part only of the Journal Entry. Do not sign. This is only for the Judge to sign.

- **Statement, Praecipe and Notice to the Court Reporter**
 - Fill in the blanks with as much information as you know. Write neatly in pen. File this in the Franklin County Court of Common Pleas.

- **Request to File Transcript**
 - Fill in the blanks with as much information as you know. Write neatly in pen. File this in the Franklin County Court of Appeals

- **Docketing Statement**
 - Fill in the blanks with as much information as you know. Depending on your case, fill out the top part and questions 1 - 7 if this is a Criminal case. Fill out questions 1 - 10 if this is a Civil case. 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 proper Clerk of Courts (i.e., certain motions are filed with the Court of Common Pleas and others in the Franklin County Court of Appeals.)

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 Franklin County Prosecuting Attorney. 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.

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

NOTICE OF APPEAL

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

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 NOTICE OF APPEAL has been sent by regular U.S. mail to the Office of the Franklin County Prosecutor, 373 S. High Street, 14th Floor, Columbus, Ohio 43215, this ___ day of _____, 20__.

DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : C.P. 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 APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. _____
 :
 vs. : C.P. Case No. _____
 :
 _____, :
 :
 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 Franklin County Prosecutor, 373 S. High Street, 14th Floor, Columbus, Ohio 43215, this ____ day of _____, 20__.

DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

STATE OF OHIO,

:

Plaintiff-Appellee,

:

Case No. _____

vs.

:

C.P. Case No. _____

_____,

:

Defendant-Appellant.

:

JOURNAL ENTRY

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

DATE

JUDGE

IN THE COURT OF APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

STATE OF OHIO, :

Plaintiff-Appellee, : Case No. _____

vs. : C.P. Case No. _____

_____ , :

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, 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 mail to the Office of the Franklin County Prosecutor, 373 S. High Street, 14th Floor, Columbus, Ohio 43215, this ___ day of _____, 20__.

DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

STATE OF OHIO, :

Plaintiff-Appellee, : Case No. _____

vs. : C.P. Case No. _____

_____, :

Defendant-Appellant. :

JOURNAL ENTRY

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

The Court 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
FRANKLIN COUNTY, OHIO

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

STATEMENT, PRAECIPE AND NOTICE TO THE 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 THE COURT REPORTER has been sent by regular U.S. mail to the Office of the Franklin County Prosecutor, 373 S. High Street, 14th Floor, Columbus, Ohio 43215, this ___ day of _____, 20__.

DEFENDANT-APPELLANT, PRO SE

IN THE COURT OF APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

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

REQUEST TO FILE TRANSCRIPT

To: _____
 REPORTER

Please prepare and file the transcript of proceedings in this case with the Clerk of Courts of Common Pleas. Notice of Appeal was/will be filed on _____, 20___. Therefore, the transcript must be filed on or before _____, 20__.

DEFENDANT-APPELLANT, PRO SE

Inmate Number/Institution

Address

City, State, and Zip Code

Date

**TENTH DISTRICT COURT OF APPEALS
DOCKETING STATEMENT**

v. _____

Case No. _____

1. This appeal should be assigned to the regular calendar or the accelerated calendar.
2. This appeal should be assigned to the accelerated calendar because (please check all that apply):
- No transcript is required.
 - The transcript consists of 50 or fewer pages or is of such length that its preparation will not be a source of delay.
 - An agreed statement will be submitted within 20 days.
 - An administrative hearing record was filed with the trial court.
 - All parties to appeal agree to an assignment to the accelerated calendar.
3. Although the appeal meets one or more of the reasons for being assigned to the accelerated calendar, it should *not* be assigned to the accelerated calendar because:
- A brief in excess of 30 pages is necessary.
 - Other: _____
4. Has a copy of the order for transcript been provided to the court reporter? Yes No N/A
5. Is a copy of the order for the transcript being filed? Yes No N/A
6. Will the court reporter complete and file the transcript within 40 days (or 20 days for accelerated calendar)?
 Yes No N/A
7. If this appeal is taken from consolidated cases, have notices of appeal been filed in each case?
 Yes No N/A

(The following apply ONLY to civil and administrative appeals)

8. How would you characterize the extent of your settlement discussions?
 None Moderate Extensive
9. Have settlement discussions taken place since the judgement or order appealed from was entered?
 Yes No
10. Would a mediation settlement conference be of assistance to resolve this matter?
 Yes No Possibly

Appellant or Attorney for Appellant

Attorney Registration Number

Selected Local Rules of the Tenth District Court of Appeals

Annotations current through July 1, 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. ELECTRONIC FILING (“EFILING”)

(A) Mandatory e-Filing

Except as specifically provided elsewhere in these rules, by other rule or statute, or where expressly authorized by an entry of this court, all documents submitted for filing shall be electronically filed using the Franklin County Clerk of Court's e-filing system.

(B) Pleadings for Which Untimely Filing May Deprive the Court of Jurisdiction

Complaints, notices of appeal, and motions to certify a conflict filed pursuant to App.R. 25 may be efiled or filed in paper form.

(C) Pro Se Filers

Parties not represented by counsel are not required to utilize the e-filing system and may file documents in paper form.

(D) Leave to File in Paper Form

An attorney wishing to file a specific document or all documents in a given case in paper form may file a motion requesting leave to so file. Such motion may itself be filed in paper form and shall set forth the exceptional circumstances justifying the request.

(E) Paper Form Documents

Documents filed in paper form shall be scanned and uploaded to the e-Filing System by the Franklin County Clerk of Courts. In such case, the uploaded electronic version of the document shall constitute the original document.

(F) Signatures

(1) Attorney's/Filing Party's Signature

Documents filed electronically with the clerk that require an attorney's or a filing party's signature may be signed: (1) in longhand and a scan of the signed document efiled, (2) with a digital or e-signature as available in document management programs, or (3) with a conformed signature of “/s/ (name).”

Any of the above signature forms on an electronically filed document is deemed to constitute a legal signature of the attorney or party on the document for purposes of the signature requirements imposed by the Ohio Rules of Superintendence, Rules of Appellate Procedure, Rules of Civil Procedure, Rules of Criminal Procedure and/or any other law.

(2) Multiple Signatures

When a stipulation or other document requires two or more signatures:

(a) The filing party or attorney shall first 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 other counsel and/or parties at the appropriate place in the document, usually on the signature line.

(b) The filing party or attorney shall then efile the document electronically, identifying all of the signatories, e.g., /s/ Jane Doe, /s/ John Smith, etc.

(3) Third-Party Signatures

Documents containing signatures of third parties (i.e., affidavits, stipulations, etc.) shall be electronically filed only as scanned-in images.

(4) Judge/Judicial Officer Signature

Electronic documents may be signed by a judge, magistrate, or court administrator by means of an e-signature. An e-signature shall consist of a digitized image of the signer's longhand signature superimposed over the Court's official seal. Such e-signature may be affixed to a document only through the signer's secure e-filing account. All decisions, orders, decrees, judgments and other documents signed by means of an electronic signature shall have the same force and effect as if the signer had affixed his or her signature to a paper copy of the document.

(G) Time of Filing

All time referenced herein refers to the time applied by the clerk's time stamping system. Documents may be submitted 24 hours a day, seven days a week. The date and time reflected in the confirmation notice from the e-filing system informing the e-filer that the document submitted for filing has been received shall serve as the date and time of filing, if the filing is later accepted by the clerk. Documents submitted to the e-filing system on or before 11:59 p.m., and subsequently accepted by the clerk, are deemed filed on the day submitted. Documents submitted to the e-filing system at 12:00 midnight, and subsequently accepted by the clerk, are deemed filed on the day submitted. This rule shall be read in conjunction with Civ.R. 6, which provides that a filing deadline that falls on a Saturday, a Sunday, or a legal holiday is extended to the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

For purposes of proceedings before this court, documents submitted to the e-filing system by the court of appeals or any lower court or tribunal after 4:59 p.m. on a business day or on a Saturday,

a Sunday, or a legal holiday shall be deemed to have been filed on the next business day irrespective of the time stamp applied to the document.

(H) Filing Fees

The clerk of this court shall under no circumstances reject a filing due to the inability of the filer to pay a filing fee at the time of filing. The court at a later time may dismiss a case for non-payment of the applicable filing fee.

RULE 2. APPLICABLE RULES

(A) Appeals

The Ohio Rules of Appellate Procedure, as supplemented hereby, shall govern procedure in appeals to this court.

(B) Original Actions

The Ohio Rules of Civil Procedure, as supplemented hereby, shall govern procedure in original actions filed in this court.

(C) Appeals from the Environmental Review Appeals Commission

Appellate Rules 11(A), 11(B), 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 26, 27, 28, 29 and 30, as supplemented hereby, shall apply to and govern procedure in appeals to this court from the Environmental Review Appeals Commission pursuant to R.C. 3745.06, except as may be otherwise provided by law.

(D) Form of Filings

All pleadings, briefs, and other papers filed or presented to the court for consideration in appeals and original actions shall be in writing. Writing for purposes of efiled documents means that said documents when printed must produce a clear black image in at least 16-point type, and otherwise comply with App.R. 19. To compensate for the large typeface, any page limit for a pleading set forth in the Ohio Rules of Appellate Procedure, which is not otherwise specifically addressed herein, shall be doubled in length. The clerk shall forthwith call to the attention of the court administrator any document filed that does not comply with these rules or is filed out of rule.

(E) Service

Pursuant to App.R. 13(C), copies of all documents filed by any party and not required to be served by the clerk shall, at or before the time of filing, be served on all other parties to the case. The email notice of filing generated by the efileing System does not constitute service in the Tenth District Court of Appeals. Service may be made by personal service, by mail, or, where the opposing party is an efileing account holder, by attaching a copy of the pleading being served to an e-mail sent to an e-mail address registered in the efileing system. Service on a party represented by counsel shall be made on counsel. Proof of service, indicating how service was made, shall be attached to every filing. With respect to response time, the additional three days discussed in

App.R. 14(C) shall only be added when service is made by mail and shall not apply where service is made on the responding party by personal service or email.

RULE 4. NOTICE OF APPEAL

(A) Premature Notice of Appeal

Pursuant to App.R. 4, a notice of appeal prematurely filed before actual entry of the judgment or order appealed from shall be treated as filed after such entry and on the day thereof.

(B) Notice of Appeal in Consolidated Cases

Where an appeal is taken from a matter consolidated below, a separate notice of appeal shall be filed for each case determined below, whether by separate or joint judgment entries. The clerk of this court shall separately file, docket, and assign a number for each case regardless of whether a separate or joint notice of appeal has been filed.

(C) Notice of Appeal in Bindover Cases

When a notice of appeal is filed in a criminal case that originated in juvenile court, but was transferred for criminal prosecution, the notice of appeal shall be filed in the criminal case number, but shall include both the criminal and juvenile case numbers to aid the clerk of this court in transmission of the record.

(D) Deposit for Costs

At the time of filing the notice of appeal, the party filing the appeal or cross-appeal shall deposit with the clerk of the trial court the sum of \$75 in payment of the filing fee and as security for the payment of costs which deposit shall be forwarded by the clerk of the trial court to the clerk of this court with the copy of the notice of appeal. Failure to make the required deposit shall be grounds for dismissal of the appeal unless leave to make late payment is granted. If the party filing the appeal, by affidavit, shows inability by reason of indigency to pay or secure costs, no deposit shall be required.

RULE 6. ACCELERATED CALENDAR

Pursuant to App.R. 11.1, this court hereby adopts an accelerated calendar, which shall operate as follows:

(A) Each appellant and cross-appellant shall file a docketing statement with the clerk of the trial court at the same time as the filing of the notice of appeal. The purpose of the docketing statement is to determine whether an appeal will be assigned to the accelerated or regular calendar. The clerk will provide docketing statement forms as prescribed by the court. The clerk of the trial court shall transmit a copy of the docketing statement with the notice of appeal to the clerk of the court of appeals and to the appellee with a copy of the notice of appeal.

(B) If all appellants or cross-appellants fail to file a docketing statement with the notice of appeal, the appeal shall be placed upon the accelerated calendar unless, within seven days after the filing of the notice of appeal, the appellee files a docketing statement with the clerk of the court of appeals requesting assignment of the appeal to the regular calendar.

(C) If the appellee objects to the assignment of the appeal requested by the appellant on the docketing statement, appellee may, within seven days after the notice of appeal is filed, move the court for a procedural order pursuant to App.R. 15(B) and Loc.R. 7(B) to assign the appeal to the calendar not requested by appellant.

(D) The court may assign an appeal to the accelerated or regular calendar at any stage of the proceeding.

(E) An appeal may be assigned to the accelerated calendar if any of the following apply:

- (1) No transcript is required (*e.g.*, summary judgment or judgment on the pleadings).
- (2) The transcript consists of 50 or fewer pages, or is of such length that its preparation time will not be a source of delay.
- (3) An agreed statement is submitted in lieu of the record.
- (4) The record was made in an administrative hearing and was filed with the trial court.
- (5) All parties to the appeal agree to an assignment to the accelerated calendar, which will be assumed if no docketing statement is filed.

(F) Unless otherwise ordered by the court, an appeal shall not be assigned to the accelerated calendar if any of the following apply:

- (1) A brief in excess of 30 pages (see Loc.R. 8) is necessary to set forth adequately the facts and argue the issues in the case.
- (2) The appeal concerns a unique issue of law of substantial precedential value in the determination of similar cases.

(G) In its discretion, the court may issue a memorandum decision or a full opinion, and may forward either to the Supreme Court Reporter for inclusion in the official reports. Issuance of a full opinion does not remove an appeal from the accelerated calendar.

RULE 7. MOTIONS

(A) General Requirements

Pursuant to App.R. 15(A), all motions must be in writing, served upon opposing counsel, and filed (with proof of service) with the clerk of the court of appeals, who shall note the filing and cause the motion to be filed and docketed. Every motion must set forth in detail both the relief requested and the reasons justifying the granting of such relief. All motions, other than motions for

procedural orders under App.R. 9(E), App.R. 10(C), App.R. 14(B), App.R. 17, and Loc. R. 7 and 8(A) , must be accompanied by a memorandum setting forth the reasons and authorities in support of the motion. Except with respect to such procedural motions, any party may file a response in opposition to a motion within 10 days after service of the motion, and any party may file a reply in further support of a motion within 7 days after service of the opposition, after which time, the motion shall be submitted to the court for determination whether or not a response has been filed, except that with respect to motions authorized by App.R. 7, App.R. 8, or App.R. 27, or R.C. 3745.06, responses shall be filed within 2 days after service of the motion, and replies shall be filed within 2 days after service of a response. No oral hearing shall be held upon any motions, except that the court may, if it deems it desirable, conduct a hearing or an informal conference with respect to motions authorized by App.R. 7, App.R. 8, App.R. 27, or R.C. 3745. 06.

(B) Motions for Procedural Orders

Pursuant to App.R. 15, a motion for a procedural order authorized by Civ.R. 6(B), App.R. 3(F), App.R. 9(E), App.R. 10(C), App.R. 14(B), App.R. 17, and Loc.R. 1, 5, 6, 8, 9, and 11, and any other motion for a similar procedural order, shall forthwith upon filing, without waiting for a response thereto, be referred to the court administrator, who shall immediately review the same and recommend the action to be taken thereon to the Duty Judge, who shall dispose of the motion in accordance with App.R. 15(C), and Loc. R. 19, except that the court administrator may approve requests for extension of time not to exceed 90 days for filing the record on appeal and not to exceed 20 days for the filing of the brief of any party provided the court administrator determines that there is a reasonable basis for such extension.

RULE 9. RECORD

(A) Motions for Extension of Time to Transmit Record

(1) All motions for extension of time to transmit the record on appeal, pursuant to App.R. 10(C), shall be made to this court, rather than to the trial court. No entry of the trial court attempting to extend time for transmitting the record will be recognized by this court, and it remains the duty of the appellant to cause timely transmission of the record or to seek an extension of time from this court if good cause therefor exists.

(2) Applications for extension of time to transmit the record shall be made by written motion setting forth good cause therefor. If the extension request is necessitated by the inability of the court reporter to timely transcribe the transcript of the proceedings below, the application for extension of time shall be accompanied by an affidavit of the court reporter so stating.

(B) When Clerk to Transmit Record

The record shall be transmitted by the clerk of the trial court at the time specified by App.R. 10(B) and this rule, unless this court has granted an extension of time and certified a copy thereof to the clerk of the trial court.

If at least one of the designations required to be filed by App.R. 9(B) is not made with an appellant's notice of appeal (that is, appellant files a notice of appeal and nothing additional), the clerk of the

trial court shall transmit the record on appeal ten days after the filing of the notice of appeal, unless within that time another party also files a notice of appeal and complies with App.R. 9(B).

(C) Return of Record to the Trial Court by Order of this Court

If the record or any part thereof is required by the trial court for use following the transmittal thereof to the clerk of this court, the trial court, or any party to the appeal, may request, in writing filed with the clerk of the appellate court, that the record or a portion thereof, not retained pursuant to App.R. 10(D), be returned to the clerk of the trial court for temporary use by that court. If this court grants the request, the clerk of this court shall forthwith forward the record to the clerk of the trial court. The clerk of the trial court shall return the record to the clerk of this court not later than the time specified in the order.

RULE 10. DISMISSALS FOR FAILURE TO PROSECUTE APPEAL

Unless the appellant demonstrates that no undue delay and no prejudice to appellee has been caused by the failure to comply with the rules, the following shall be deemed good cause for dismissal of an appeal pursuant to App.R. 3(A), 11(C), or 18(C):

- (A) Failure to file with the notice of appeal the appropriate filing in accordance with App.R. 9(B).
- (B) Failure to cause the record on appeal to be timely transmitted to the clerk of this court.
- (C) Failure to timely file the brief and assignment of error.
- (D) Any other noncompliance with the Appellate Rules or the rules of this court.

RULE 20. APPOINTED COUNSEL

(A) Selection of Counsel

The court shall maintain a list of qualified attorneys who have notified the court of their interest in serving as appointed counsel in cases before this court. The list generally shall be arranged in order based upon when counsel notified the court of his or her interest in serving as appointed counsel. Counsel shall be selected from the list in a continual rotation, except that the court may consider the experience and expertise of counsel in making an appointment.

RULE 24. EFFECTIVE DATE AND APPLICABILITY

These amended rules shall take effect July 1, 2023. They shall govern all proceedings in actions brought after the effective date, and also to all further proceedings in actions then pending, except as otherwise set forth herein or to the extent that, in the opinion of the court, the application in a particular action pending when these amended rules take effect would not be feasible or would work injustice.