

CRIMINAL APPEAL REFERRAL

This form should be used for adult criminal cases only: appeals from criminal conviction after a trial; appeals from a finding of a violation of probation after a contested hearing; or request of counsel after a petition to proceed with an interlocutory appeal has been allowed.

IMPORTANT: PLEASE DOWNLOAD THE FORM BEFORE FILLING OUT, SUBMIT BUTTON WILL NOT WORK FROM THE WEBSITE

DEFENDANT'S NAME _____ D.O.B. _____

ATTORNEY MAKING REFERRAL _____

DOES DEFENDANT SPEAK ENGLISH? Yes No IF NOT, WHAT LANGUAGE?

LAST KNOWN ADDRESS/ PHONE#/ INSTITUTION (include ID number if possible)

DEFENDANT'S AGE AT TIME OF ALLEGED OFFENSE(S) _____

WAS TRIAL COUNSEL: AN APPOINTED PDD STAFF ATTORNEY AN APPOINTED BAR ADVOCATE OR PRIVATELY RETAINED ?

(If trial counsel was privately retained, we cannot assign an appellate attorney unless the court has found the client indigent, either by allowing a motion to be found indigent or allowing a motion for appointment of appellate counsel. Please submit the allowed motion with this form)

IS THIS AN INTERLOCUTORY APPEAL? (YES/NO) IF SO PLEASE LIST THE APPELLATE COURT DOCKET NUMBER AND DATE ON WHICH THE SINGLE JUSTICE ALLOWED THE PETITION:

(An appellate attorney will be assigned only after the Single Justice has allowed a petition to proceed with an interlocutory appeal)

TRIAL/PROBATION VIOLATION HEARING/ MOTION INFORMATION

COURT _____ JUDGE _____

HELD DATE: _____ D.A. (or P.O. for VOP hrg.) _____

INDICTMENT/
COMPLAINT NUMBER

CHARGE

DISPOSITION AND SENTENCE

ISSUES FOR APPEAL/COMMENTS:

STAY OF EXECUTION PENDING APPEAL? ALLOWED DENIED NOT SOUGHT

IN YOUR OPINION, IS THIS APPEAL OF STRATEGIC IMPORTANCE (e.g., issue of first impression; unsettled area of the law; good opportunity to argue for a change in the law)? Yes No

IF YES, PLEASE EXPLAIN WHY:

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POST-TRIAL ATTORNEY ACTION:

DATE OF SENTENCING: _____(date)

NOTICE OF APPEAL FILED: _____(date)

The Notice of Appeal (NOA) should be filed within 30 days of sentencing (not the date of verdict). Please refile the NOA after sentencing if it was filed prior to sentencing. The trial court retains jurisdiction to allow a motion to file a late NOA within 60 days of sentencing. Please file this motion and a notice of appeal if the NOA has not been filed within 30 days of sentencing but is within 60 days of sentencing. Even if the deadline for filing a notice of appeal in the trial court has passed, please send us the appeal referral form as soon as possible.

TRANSCRIPT ORDERED: _____(date)

PLEASE NOTE: Please order transcripts of all pre-trial evidentiary hearings, as well as non-evidentiary hearings that may figure in the appeal. Please make sure you are ordering transcripts, not just the recordings.

Pursuant to Rule 8(b)(1)(A) of the Rules of Appellate Procedure, trial counsel is required to order transcripts within 14 days of filing the notice of appeal and to file a copy of the transcript order with the clerk, and serve a copy on the other parties. The trial court's administrative order sets out the procedure here: <https://www.mass.gov/trial-court-rules/trial-court-administrative-order-19-1-transcription-procedures-for-appellate#4-ordering-the-transcript-in-cases-other-than-child-welfare-proceedings>

You need not file a motion to withdraw and appoint appellate counsel (unless you have been privately retained). Mass. R. App. P. 3(e) requires that you remain counsel until the appellate attorney enters an appearance, after which you can file a notice of withdrawal. That rule also requires that you notify CPCS of the need to assign counsel, which is accomplished by sending us this appeal referral form.

The preferred practice for trial attorneys is to always file a notice of appeal and submit the appeal referral form, even when there are no obvious issues for appeal. The appellate attorney will discuss with the client whether or not to pursue an appeal.

PRINT AND EMAIL THIS FORM TO: appealform@publiccounsel.net