



MARICOPA COUNTY JUSTICE COURTS

If you want to file a...

CRIMINAL TRAFFIC / MISDEMEANOR APPEAL



MARICOPA COUNTY JUSTICE COURTS

PLEASE READ CAREFULLY

The Notice of Right to Appeal outlines appeal process procedures and contains important deposit information.

Appellant is the party filing the appeal
Appellee is the opposing party
Trial Court is the Justice of the Peace Court

Attached:

Defendant's Notice of Right to Appeal
Defendant's Notice of Appeal
Designation of Record on Appeal
Sample Memoranda (an example of what is required in the Memorandum)
Blank Memorandum form (to be filed with the court)
Notice of Change of Address

Forms not included in this packet, but available at the court if needed:

Procedural Motion
Response to Procedural Motion
Motion for More Time (to file memorandum)



Maricopa County Justice Courts, Arizona

STATE OF ARIZONA

CASE NUMBER: _____

VS.

Defendant

DEFENDANT'S NOTICE OF RIGHT TO APPEAL - CRIMINAL

This notice explains your rights and responsibilities to file an appeal to Superior Court from an order or final judgment, and your right to an attorney to represent you.

YOUR RIGHT TO AN ATTORNEY DURING THE APPEAL

You have a constitutional right to an attorney to represent you during the appeal stage of your case. This means:

- You have the right to hire a private attorney, and
- In certain situations, you may be eligible for a court appointed attorney to represent you.

Generally, if you had a court appointed attorney for the trial, you will continue to have a court appointed attorney for the appeal.

If the sentence you are appealing includes jail time or probation and you cannot afford to hire a private attorney, you may complete a financial statement and request a court appointed attorney. Depending upon your income and financial situation, an attorney may be appointed; your request may be denied; or you may have an attorney appointed with the requirement that you pay some amount in contribution toward the cost of the attorney's services. The procedure to apply for a court appointed attorney is set forth in Rules of Criminal Procedure, Rule 6. If you wish to consider this process, ask the clerk for further instructions.

If you file an appeal you are the APPELLANT. The Justice Court is called the Trial Court.

THE APPEAL PROCESS

There are two separate stages to the appeal process. The first stage begins in the Justice Court and the second stage takes place in the Superior Court. You must complete ALL steps at both stages or you risk having your appeal dismissed. This notice does not set forth all the rules that govern the appeal process. You may review the complete rules at the library as contained in the Superior Court Rules of Appellate Procedure, the Rules of Criminal Procedure and in the Arizona Revised Statutes. It is recommended that you keep a copy of all your documents during the appeal process.

STAGE ONE - THE TRIAL COURT

THE NOTICE OF APPEAL To appeal you must file a NOTICE OF APPEAL with the trial court within fourteen (14) calendar days from the final order or final judgment. If you do not file a NOTICE OF APPEAL within the time allowed by law, you lose the right to appeal. It is required that you designate the specific judgment, order or ruling that is being appealed.

BOND ON APPEAL If your release status at the time of appeal is "own recognizance", you will retain that status pending the appeal. If you have posted a bond to secure your release, your bond will remain with the court pending the appeal unless modified by the court.

STAY OF EXECUTION OF SENTENCE Execution of any sentence requiring incarceration will be stayed, pending the appeal. Any order of restitution however, is not stayed pending the appeal.

THE RECORD Also, within the time to appeal you must file an original and one copy of the DESIGNATION OF RECORD. A designation of the record is a formal list of the items in the court record that you want to include in the appeal.

The justice court record is made by audiotape, CD or video. The court will provide you with a copy of the audiotape, CD or video if the proceedings were on the record. The court will contact you to pick up a copy of the audiotape, CD or video within 10 days after you file the NOTICE OF APPEAL.

If the taped proceedings are more than 90 minutes in length, it will be necessary for you to pay a court reporter to prepare a transcript (a typed record) of the proceedings. You can find a listing for COURT REPORTERS in the yellow pages of the telephone book. Within 14 calendar days after you file the NOTICE OF APPEAL, you must make arrangements with the court reporter or transcriber to pay any record or transcript preparation fees. The transcript must be filed with the trial court before, or at the same time, you file your memorandum (see FILING THE APPELLANT'S MEMORANDUM).

If you cannot afford to pay for the transcript, ask the clerk for information about a waiver or extension to make payment at a later time. If you fail to pay for the transcript your appeal may be dismissed. Additional copies of the proceedings may be obtained for an additional charge.

THE WRITTEN APPELLANT'S MEMORANDUM You will need the record for the next step - the APPELLANT'S MEMORANDUM. The appellant's memorandum is your written "brief" or explanation of why the trial court ruling was legally wrong. Your memorandum should refer to specific portions of the record of the trial or hearing to point out where there was error by the court (that is why a written record must be prepared).

The memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length. You may also attach any exhibits from the trial or hearing to the memorandum.

FILING THE APPELLANT'S MEMORANDUM (within 60 days) The APPELLANT'S MEMORANDUM must be filed with the trial court within 60 calendar days of the deadline to file the NOTICE OF APPEAL.

Type or print the caption of the case and your case number at the top of your memorandum. Type or print the title, APPELLANT'S MEMORANDUM, below the caption so that the court can identify it when it is filed. If you are not represented by an attorney you must file the original and one copy of the memorandum with the trial court.

Note: If an attorney represents you, your attorney must file the original memorandum with the trial court. Your attorney will also be responsible for sending copies as necessary to the opposing side. The opposing side will then have 30 days to file an APPELLEE'S MEMORANDUM in response.

WAIT FOR FURTHER INSTRUCTIONS Once the memorandum has been filed, you should wait for further instructions from the Superior Court as outlined in Stage Two. Remember that the trial court must have your current mailing address at all times to keep you informed. Even if you hire an attorney your address is still required for legal notifications.

STAGE TWO - THE SUPERIOR COURT

NOTIFICATION FROM THE SUPERIOR COURT If you have completed all of the steps of the first stage, your case moves to Superior Court where an appeals judge will review the case. About 60 days after you file your memorandum you will receive notification that your case has been sent to Superior Court. Next, you will receive a second notice from the Superior Court assigning a Superior Court case number to use in all further correspondence. The notice will also inform you what will happen next.

SUPERIOR COURT ACTION ON THE APPEAL If you have completed all of these steps, you will receive a ruling from the Superior Court. The Superior Court has the right to affirm the trial court; overrule the trial court; modify some of the trial court's decision; or, if the record is not clear, order a new trial in the trial court.

If the final outcome of your case is that the ruling stands, or if your appeal is dismissed for any reason, the court may use any bond, deposit or payments made to satisfy any obligation you may have under the original judgment. You may have to return to the trial court to receive further instructions.

REMINDER: The appeal will not be sent to Superior Court until you have met all of the following requirements:

- ~ Filed a timely NOTICE OF APPEAL (within 14 days from the final order or final judgment)
- ~ Make arrangements with any court reporter or transcriber to pay any record or transcript preparations fees (within 14 days from the final order or final judgment - if the record is longer than 90 minutes)
- ~ Prepare and file a transcript, if required (within 74 days from final order or final judgment)
- ~ Filed the Memorandum (within 74 days from final order or final judgment)

I hereby acknowledge receipt of a copy of this Notice:

Date: _____
Defendant _____



Maricopa County Justice Courts, Arizona

CASE NUMBER: _____

STATE OF ARIZONA

vs.

Defendant(s) Name / Address / Email / Phone

DEFENDANT'S NOTICE OF APPEAL (CRIMINAL)

The undersigned appeals from the final order or final judgment in the above case as follows:

A. _____ B. _____ C. _____ D. _____ E. _____
Violation Code Violation Code Violation Code Violation Code Violation Code

Appellant understands the instructions set forth in the NOTICE OF RIGHT TO APPEAL, including:

- Payment for preparation of the record or transcript
- The right to post bond to stay enforcement of the judgment unless released on "own recognizance"
- Filing the required memorandum (an original and a copy) with the trial court

Appellant further acknowledges and understands that failure to complete all stages in the appeal process may result in the dismissal of the appeal and reinstatement of the trial court judgment.

The following address may be used for all court notices. The court will be notified IN WRITING of any change of address.

Defendant's current mailing address (must be printed here, even if defendant is represented by counsel):

Mailing Address: _____

City, State, Zip: _____

Daytime Phone / Alternate Phone: () - () -

Defendant's date of birth _____

Date: _____ Defendant Defendant's Attorney _____ Bar No. _____

Attorney contact information:

Mailing Address: _____

City, State, Zip: _____

Daytime Phone: () - _____

I CERTIFY that I mailed a copy of this NOTICE OF APPEAL to:

Maricopa County Attorney's Office
Attorney for the State, Appeals Bureau
225 W. Madison, 3rd floor
Phoenix, AZ 85003

Date: _____ By: _____
Clerk

Date Stamp



Maricopa County Justice Courts, Arizona

CASE NUMBER: _____

STATE OF ARIZONA

vs.

Defendant(s) Name / Address / Email / Phone

DESIGNATION OF RECORD ON APPEAL (CRIMINAL)

The appellant herein is the State the Defendant.

INSTRUCTIONS TO APPELLANT: This designation of Record is to be filed within the 14 calendar day time limit to appeal. You are required to file an original and one copy with the trial court.

Pursuant to Rule 7 of the appellate rules, the following items will automatically be included in the record:

- ~ The NOTICE OF APPEAL
- ~ The docket of proceedings
- ~ Documentation or record of payment of fine or bond
- ~ Charging document (complaint)
- ~ The JUDGMENT, ORDER or other ruling that is the subject of this appeal
- ~ Motions and any responses thereto
- ~ Exhibits
- ~ Trial record or transcript (excluding voir dire, argument and jury instructions)

You are reminded that you may be responsible for the cost of preparing a transcript of a proceeding that you wish added to the record on appeal.

In addition to the items noted above, I request that pursuant to SCRAP 7(c), 9-11, the following items, also be included in the record on appeal:

1. _____
2. _____
3. _____
4. _____
5. _____

Date: _____ Appellant Appellant's Attorney _____ Bar No. _____

I CERTIFY that I mailed a copy of this DESIGNATION OF RECORD ON APPEAL to:

Maricopa County Attorney's Office
 Attorney for the State, Appeals Bureau
 225 W. Madison, 3rd floor
 Phoenix, AZ 85003

Date: _____ By: _____
 Clerk

Date Stamp

Name: _____
 Mailing Address: _____
 City, State, Zip: _____
 Daytime Phone / Alternate Phone: _____



Maricopa County Justice Courts, Arizona

Court name / address / phone

_____)
 _____)
 _____)
 Appellant Name / Address / Phone
 VS. _____)
 _____)
 _____)
 _____)

CASE NUMBER: _____
 LC CASE # _____

- APPELLANT MEMORANDUM
- APPELLEE RESPONSE MEMORANDUM
- ORAL ARGUMENT REQUESTED (Check this box if you want to present an oral argument in the Superior Court)

Appellee Name / Address / Phone

Sample MEMORANDUM

The Memorandum

1. Is due to be filed with the court within 60 calendar days of the deadline to file the Notice of Appeal
2. Must not be more than 15 pages in length.
3. Must be typed or legibly printed on single sided 8.5 x 11 " white paper and double-spaced (except for quotations).
4. If you are not represented by an attorney you will need to file the original memorandum with the court, along with one copy for every other party.
5. If the record of proceedings were longer than 90 minutes, at the same time the memorandum is filed with the court , you must also file a prepared transcript of the proceedings .

STATEMENT OF THE CASE

A short statement of the facts of the case. This should include a short review of the testimony and a brief summary of the facts as presented in the Justice Court.

STATEMENT OF THE FACTS

Specific reference should be made to the portion of the recorded proceedings or transcript wherein you contend the trial court erred. A concise argument of the legal issues and any supporting legal authority (statute, rule, case precedent, etc.) relating to your position. EXAMPLE: If you want the Superior Court to consider the testimony of a particular witness, you should identify the page and line of the transcript where the testimony appears.

REASONS WHY THE JUSTICE COURT RULED INCORRECTLY

A statement explaining exactly what you are asking the court to do.

CONCLUSION

The conclusion should state exactly what the appellant is requesting the Superior Court Judge to do.

Respectfully submitted this date: _____
 Appellant

CERTIFICATE OF MAILING / DELIVERY

If you are not represented by an attorney you must file the original, and one additional copy of the memorandum with the trial court. The trial court will mail a copy of the memorandum to the opposing side.

If an attorney represents you, you will only need to file the original memorandum. Your attorney will be responsible for filing original with the trial court and for sending copies as necessary to the opposing side.

The opposing side will then have 30 days to file an APPELLEE'S MEMORANDUM in response.

REASONS WHY THE JUSTICE COURT RULED INCORRECTLY (INCLUDE ANY STATUTES OR AUTHORITY):

CONCLUSION:



Maricopa County Justice Courts, Arizona

CASE NUMBER: _____

Plaintiff(s) Name / Address / Email / Phone

Attorney for Plaintiff(s) Name / Address / Email / Phone

Defendant(s) Name / Address / Email / Phone

Attorney for Defendant(s) Name / Address / Email / Phone

NOTICE of CHANGE OF ADDRESS

If your address is protected by Court Order, DO NOT use this form

I am the Plaintiff Defendant in this action.

I hereby notify the court and all parties to this action that my address has changed.

My **OLD** address is: *Please Print*

Street _____

City, State Zip _____

Phone () -

E-Mail _____

My **NEW** address is:

Street _____

City, State Zip _____

Phone () -

E-Mail _____

Date: _____

Plaintiff Defendant

I CERTIFY that a copy of this document has been or will be mailed on _____ to:

Plaintiff at the above address Plaintiff's attorney Defendant at the above address Defendant's attorney

Date: _____ By _____
Signature