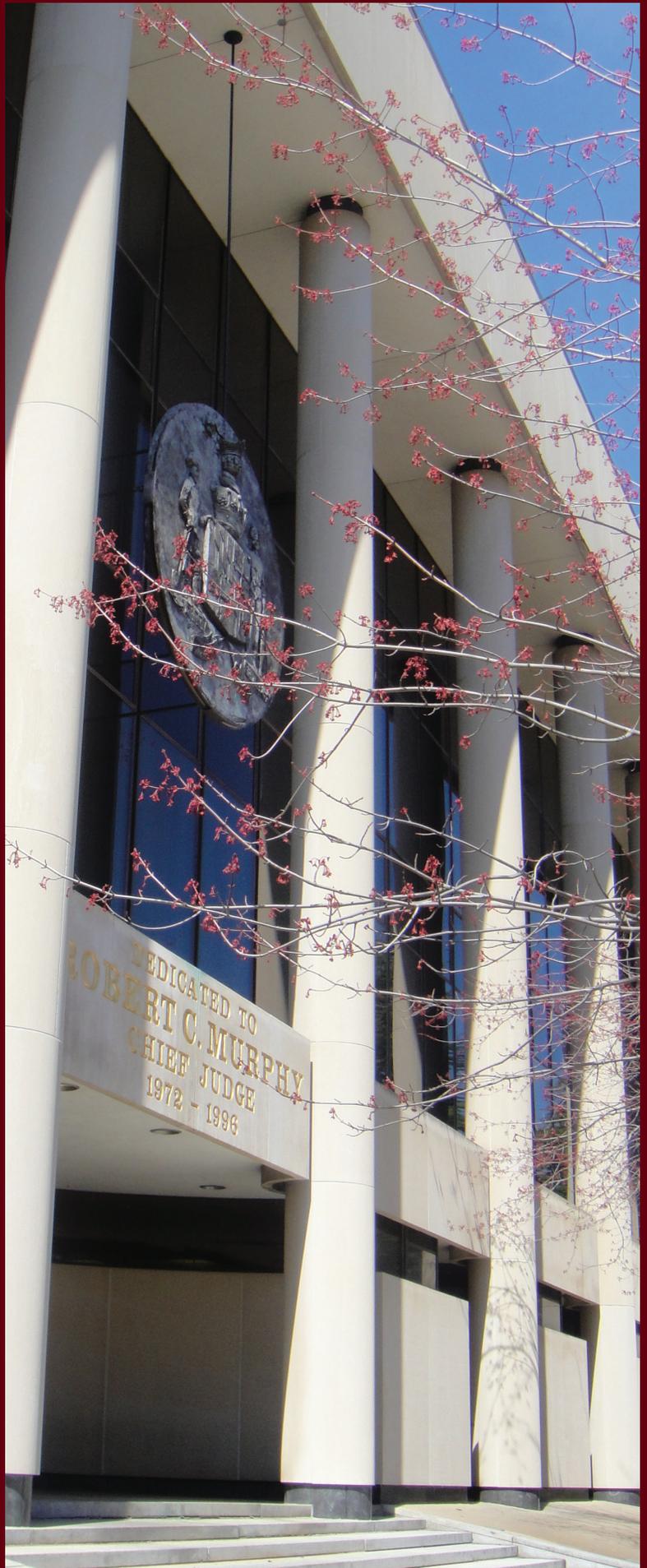


A Guide for Self-Representation

Maryland Court of Special Appeals

2018



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Maryland Court of Special Appeals
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard – 2nd Floor
Annapolis, Maryland 21401-1698
410-260-1450 or 1-888-200-7444
mdcourts.gov

Introductory Comments by Chief Judge Patrick L. Woodward

(Please read these comments before proceeding further.)



The purpose of this Guide is to assist non-lawyers in filing and proceeding with an appeal (pp. 5-15) or application for leave to appeal (pp. 16-23) in the Maryland Court of Special Appeals. Before proceeding any further, however, please keep in mind the following:

- To challenge a decision that was made by a lower court, you must first decide whether you are required to file an appeal or application for leave to appeal. They are two distinctly different documents and, if you file one when the rules require the other to be filed, you face the strong possibility your case will be dismissed.
- This Guide is based on the Maryland Rules in effect on January 1, 2018. That is why you should always consult the most recent online edition of this Guide, which may be found on the Court's website – mdcourts.gov.
- Although this Guide is based on the Maryland Rules, it is not intended to replace nor be a substitute for those Rules. We urge you to carefully review the Maryland Rules, in particular Rules 8-101 through 8-611, before filing an appeal and Rule 8-204 before filing an application for leave to appeal and, thereafter, to consult those Rules frequently during the appeal or application process.
- If there are terms used throughout this Guide that you do not understand, consult the glossary on pp. 32 – 33 or visit The People's Law Library of Maryland at peoples-law.org for more information.
- A copy of the Maryland Rules may be found in the Maryland State Law Library in Annapolis and in most public libraries in the state. The Rules may also be found on-line at peoples-law.org.
- This Guide is intended to assist you in appealing a decision of a circuit court or an orphans' court to the Court of Special Appeals. A decision of the District Court may only be appealed to the circuit court. In those cases, an appeal from that decision may not be made to the Court of Special Appeals. You may, however, request that the Court of Appeals, the state's highest court, review your case by filing a petition for writ of certiorari (see glossary on p. 33) with that Court. See Md. Rule 8-302(b) and §12-305 of the Courts and Judicial Proceedings Article of the Maryland Code.
- There are strict deadlines and filing requirements that you must follow in filing and pursuing an appeal or application for leave to appeal, and your failure to adhere to them may result in the dismissal of your appeal or application for leave to appeal before the Court even considers the merits of your case.
- Finally, neither the Guide, nor any portion of it, may be cited as legal authority for any reason or purpose in any matter pending before a court of this state.

mdcourts.gov

Appellate Review in the Court of Special Appeals

The Court of Special Appeals, Maryland’s intermediate appellate court, reviews final decisions or judgments made by the circuit court (and orphans’ court) after a timely Notice of Appeal has been filed or after an application for leave to appeal has been granted. Review of a lower court’s decision by the Court of Special Appeals is referred to as “appellate review.”

Most cases considered by the Court of Special Appeals are “direct appeals.” This means that the party unhappy with the lower court’s decision has the right to appellate review and may exercise that right by timely filing a Notice of Appeal in the circuit court.

In certain cases (such as post-conviction, a conviction after entering a guilty plea, and revocation of probation), there is no right to a direct appeal. In those cases, if a party in the case is unhappy with the circuit court’s decision and would like appellate review, he or she must ask the Court of Special Appeals to review the case and may

do so by filing an “application for leave to appeal.” in the circuit court. The Court of Special Appeals will then either grant the application and review the case or deny the application. If the application is denied, there is no appellate review.

This Guide is intended to assist non-lawyers seeking appellate review in the Court of Special Appeals by explaining how to timely file a Notice of Appeal or an application for leave to appeal. The Guide is based on Maryland law and Rules in effect on January 1, 2018, but it is not intended to be a substitute for them. The Rules are frequently updated. You should always consult the current Rules before proceeding. A copy of the Rules may be found in most public libraries and may also be viewed on line at **mdcourts.gov**. (under E-Services, click People’s Law Library, then click link for Md. Code and Rules on Westlaw).

This Guide for Self-Representation may be found in most circuit court law libraries located in every county of the state and in most Department of Corrections prison libraries. The Guide may also be viewed on-line at mdcourts.gov (click link for Court of Special Appeals). A copy may also be obtained by calling the office of the Clerk of the Court of Special Appeals at 410-260-1450 or 1-888-200-7444 or by mailing a written request to the Clerk of the Court of Special Appeals, 361 Rowe Blvd., Annapolis, MD 21401.



Preliminary Comments

This Guide is divided into three sections: [the blue-bordered pages address direct appeals](#), [the red-bordered pages address applications for leave to appeal](#), and [the yellow-bordered pages provide samples of various forms and motions that may be helpful](#).

The first thing you should do, therefore, is determine whether you must file a Notice of Appeal or an application for leave to appeal.

The difference between a Notice of Appeal and application for leave to appeal in the pleadings is critical. For example, if you file a Notice of Appeal when you should have filed an application for leave to appeal, your appeal will likely be dismissed because you failed to explain why the circuit court erred and why you think your case is worthy of appellate review.

In the following types of cases, you should file an application for leave to appeal:

1. a case where the defendant pleads guilty (or enters an Alford plea) to a crime;
2. a case involving the revocation of probation;
3. an inmate grievance matter;
4. a post-conviction case;
5. a case involving victims' rights; and
6. a case involving an individual committed as not criminally responsible by reason of insanity or as incompetent to stand trial, who is seeking review of a decision related to continued commitment, conditional release, or discharge;
7. an order of the court related to bail.

In most other cases, you should file a Notice of Appeal.

If in doubt as to what pleading you should file, you should consult an attorney or ask the clerk of the circuit court in which your case was heard.

There are strict deadlines and filing requirements you must follow in filing and pursuing an appeal, and failure to adhere to them may result in the dismissal of your appeal before the Court even considers your case. In general, a Notice of Appeal or an application for leave to appeal must be filed within 30 days after the entry of the final judgment or order of the circuit

court which you are seeking to appeal. These deadlines cannot be extended.

This Guide does not address e-filing. Information on e-filing may be found at mdcourts.gov — click the link for E-Services, then the link for e-filing. Or you may click the link for the Court of Special Appeals and on its homepage click the link for e-filing. Self-represented parties are not required to e-file.

If you have a civil case and are interested in alternative dispute resolution or mediation, review the information found at mdcourts.gov — click the link for the Court of Special Appeals, and then the link for Alternative Dispute Resolution (“ADR”). The ADR process is designed to assist you in reaching a voluntary agreement for complete or partial resolution of the issues on appeal and may save you time and/or money spent on briefs and transcripts. If you cannot access the information on-line, general questions may be answered by calling the mediation office at 410-260-3717.

This Guide is intended to help you appeal a decision from a circuit court or an orphans' court to the Court of Special Appeals where the case was first decided in either of those two courts.

Appeals from the District Court. If you wish to appeal a decision of the District Court of Maryland, you would appeal to the circuit court following Md. Rules 7-101 through 7-116. A subsequent appeal from the circuit court's decision may not be made to the Court of Special Appeals. Instead, you may request the Court of Appeals, our highest state court, to review your case by filing a petition for writ of certiorari with that Court. *See* Md. Rule 8-302(b) and §12-305 of the Courts & Judicial Proceedings Article of the Maryland Code.

The information provided in this Guide focuses solely on an appeal in the Court of Special Appeals and should not be used if you are seeking appellate review with the Court of Appeals.

If there are terms used in this Guide that you do not understand, consult the glossary on p. 32 or visit the People's Law Library of Maryland at peoples-law.org for more information.

 **Direct Appeal**

 **Application for Leave to Appeal**

The Maryland Judiciary

District Court

There is one District Court with branches in each of Maryland's 23 counties and Baltimore City. That court hears traffic violations, misdemeanors and certain felony crimes, domestic violence and peace order petitions, landlord-tenant disputes, small claims of \$5,000 or less, and other civil cases involving claims up to \$30,000. A case in the District Court is tried before a judge only; there are no jury trials. A judgment in the District Court may be appealed to the circuit court.

Orphans' Court

An orphans' court, located in each county and Baltimore City, handles wills, estates, and other probate matters and limited aspects of guardianship. A judgment of the orphans' court may be appealed to the circuit court or to the Court of Special Appeals.

Circuit Court

Each county and Baltimore City has a circuit court which generally handles more serious criminal cases, major civil cases, juvenile cases, and family matters, such as divorce. The circuit court reviews most cases appealed from the District Court and the orphans' court, and reviews decisions of various government agencies (state and local). Cases may be tried before a jury or before a judge without a jury.

Court of Special Appeals

Created in 1966, the Court of Special Appeals is Maryland's intermediate appellate court and is located in Annapolis. The Court considers reviewable judgments, decrees, orders, or other actions of the circuit and orphans' courts. The Court reviews the decision on the record, created in the court below, and decides whether the court's decision should be affirmed, reversed or modified. Judges sitting on the Court generally hear and decide cases in panels of three.

Court of Appeals

The Court of Appeals is Maryland's highest court and is located in Annapolis. It reviews appeals taken from the Court of Special Appeals and from certain District Court and circuit court decisions. The right to appeal to the Court of Appeals is not automatic. A party seeking to appeal to the Court of Appeals must file in that court a petition for writ of certiorari asking for the Court's review. The Court usually agrees to hear only cases with issues of great public importance.

- The next section of this Guide (the blue-bordered pages) reviews the process for seeking a direct appeal, when an appeal is permitted by right. Appellate review in this instance is initiated by timely filing a Notice of Appeal.**
- If you are seeking appellate review in a case involving a petition for post-conviction relief, a guilty plea or Alford plea, revocation of probation, bail, inmate grievance, a health commitment or victim's rights, you should file an Application for Leave to Appeal. That process is summarized in the red-bordered pages beginning p.16.**

Checklist for Direct Appeal

“Steps in the Direct Appeal Process,” the section which follows, provides more detail as to how to file and pursue an appeal.



Determine the Date of Final Judgment/ Appealable Order (Review Step 1, p. 7)

Criminal

In a criminal case, determine the date that the sentence was imposed. If a timely motion for a new trial was filed, determine the date of the entry of the ruling on that motion or date of the entry of a notice withdrawing the motion.

Review Md. Rule 8-202(b).

Civil

In a civil case, determine the date the final judgment or appealable order was entered on the trial court’s docket. (If a timely motion for judgment notwithstanding the verdict, motion for a new trial, or motion to alter or amend the judgment was filed, determine the date of entry of the ruling on that motion or the date on which it was withdrawn.)

Review Md. Rule 8-202(c).

The clerk of the circuit court can provide you with this information.



File the Notice of Appeal (Review Step 2, p. 8)

Criminal

In most criminal cases, the Notice of Appeal must be filed within 30 calendar days after sentencing (or within 30 calendar days after the withdrawal of or ruling on a timely filed motion for a new trial).

Civil

In most civil cases, the Notice of Appeal must be filed within 30 calendar days after entry of the judgment or order from which the appeal is taken.

Timely file the Notice of Appeal (with a certificate of service), and deposit the appropriate filing fees, with the clerk of the circuit court and serve a copy of the Notice of Appeal on all parties (or their attorneys) in the case. *Review Md. Rules 8-201, 8-202, and 1-323.* The Fee Schedule is on p. 25 of this Guide.

It is critical that all documents are filed on time. Time frames or due dates are set forth in the Md. Rules or in an order specific to your case. Failure to file a document on time may result in the dismissal or striking of the appeal. Filing deadlines for a Notice of Appeal cannot be waived.



Complete the Civil Appeal Information Report (Review Step 3, p. 9)

In most civil cases, the appellant must complete the Civil Appeal Information Report and file it with the Clerk of the Court of Special Appeals within 10 days of filing the Notice of Appeal. The clerk of the circuit court will give you the Information Report when you file the Notice of Appeal or you can obtain a copy from the Court's website at mdcourts.gov (click "court forms"). The appeal may be dismissed if you fail to file the report. *Review Md. Rules 8-205 and 8-206.*

Note: A Civil Appeal Information Report is not required in criminal cases, in juvenile causes, appeals from guardianships terminating parental rights, appeals from actions for a writ of *coram nobis*, and applications and appeals by prisoners seeking relief related to confinement or conditions of confinement.



Order the Transcripts: (Review Step 4, p. 9)

If you are the appellant, timely order and pay for the necessary transcripts from the circuit court reporter. *Review Md. Rules 8-411 and 8-207(a)(3).*



Prepare the Record Extract: (Review Step 6, p. 10)

If you are the appellant, you must prepare and file the record extract with your briefs. The appellant is required to contact the appellee prior to preparing the record extract so that the parties may agree upon the extract contents. *Review Md. Rule 8-501.*

A record extract is not required in an appeal from a judgment in a criminal case, in appeals from a judgment in child in need of assistance proceedings,

extradition proceedings, inmate grievance proceedings, juvenile delinquency proceedings, permanency planning proceedings, or termination of parental rights proceedings. A record extract is also not required when an agreed statement of the case is filed pursuant to Md. Rules 8-207 or 8-413(b). *Review Md. Rule 8-501.*



Draft, Copy and File Briefs: (Review Step 6, pp. 10-11)

If you are the appellant, you must file 15 copies of a brief (and in a civil case, 10 copies of the record extract) on or before the deadline on the briefing notice. *Review Md. Rules 8-112, 8-501, 8-502, 8-503, 8-504, and 8-207 and the briefing schedule issued in your case.*

If you are incarcerated or institutionalized and representing yourself, you may file 9 copies of your brief and record extract. If you are the appellee, file 15 copies of a brief within 30 days after the filing

of the appellant's brief or by the date set by the Court of Special Appeals. *Review Md. Rules 8-501, 8-502, 8-503, 8-504, and 8-207.*

If you are the appellant, you may file a reply brief in response to the brief filed by the appellee. A reply brief is optional. Any reply brief should be filed within 20 days after the appellee's brief is filed. *Review Md. Rules 8-112, 8-501, 8-502, 8-503, 8-504, and 8-207.*

Steps in the Direct Appeal Process

It is important to understand that an appeal is not a new trial. The Court of Special Appeals will not consider new testimony, new exhibits, or other information relating to the facts of the case that were not presented to the circuit court and available to it when the judgment appealed from was entered. The following summary addresses an appeal from a circuit court (or orphans' court) decision to the Court of Special Appeals where the appeal is permitted by right.

Please carefully review the Maryland Rules, especially the Rules indicated below each step, for a full understanding of what you must do to successfully file and pursue an appeal. The steps in the direct appeal process, which will be further explained in the following pages 7 - 15, are generally:

1. Final Judgment or Appealable Order
2. Notice of Appeal
3. Civil Appeal Information Report (applicable in certain civil cases only)
4. Transcripts
5. Transmittal of the Record
6. Record Extract & Briefs
7. Court's Calendar
8. Court's Opinion
9. Motion for Reconsideration
10. Court's Mandate
11. Further Review by the Court of Appeals

In some instances, the Rules may differ somewhat depending on whether the case is a criminal matter or a civil matter. We have attempted to highlight those differences, when applicable, by bolding certain language.

Note: There are some unique situations where your appeal may not follow all of the ordinary steps of the appellate process, such as if your case involves:

1. An appeal from a judgment granting or denying a petition for adoption, guardianship terminating parental rights, or guardianship of the person of a minor or disabled person;
2. An appeal from a judgment declaring a child "a child in need of assistance"; or
3. An appeal from a judgment or order granting, denying, or establishing custody of or visitation with a minor child.

Review Md. Rule 8-207(a) because the deadlines are shorter than those of appeals in other types of cases.

1. Final Judgment or Appealable Order

With few exceptions, an appeal cannot be filed until all claims as to all parties have been decided and a final judgment has been entered by the court. This means that there is nothing more the circuit court can do and there is no other action the parties can take to pursue or defend their rights in that court.

An appeal, however, may be taken from *certain* "interlocutory orders" in a civil case, such as an order depriving a parent, grandparent, or natural guardian of the care and custody of a child, or changing the terms of such an order. Review §12-303 of the Courts Article of the Md. Code for a complete list of interlocutory orders that may be appealed before the case is final in a circuit court.

In a criminal matter, a judgment is not final for appeal purposes until the defendant has been sentenced or the court rules on a timely filed motion for a new trial — whichever occurs later. See Md. Rule 8-202(b).

The party seeking to appeal must determine the date that the final judgment or order was "entered" in the case. The entry date is the date the clerk of the circuit court recorded the judgment or order on the case docket. In many cases, the circuit court docket entries may be viewed on-line through Case Search at mdcourts.gov (click "search court records"). You may also visit the clerk's office in the circuit court and view the docket entries there.

For an in-depth discussion on what is a final judgment or an appealable order, you may review *Finality of Judgments and Other Appellate Triggers*, by Kevin Arthur (MICPEL, 2009), a copy of which may be found in the Maryland State Law Library in Annapolis.

Copies may also be found in the libraries of the University of Baltimore School of Law and the University of Maryland School of Law, both in Baltimore, and in many of the law libraries located in the circuit courts throughout the state.

2. Notice of Appeal

The person seeking to appeal is called the “appellant.” Ordinarily you can appeal only if you were a named party in the circuit court case and you are “aggrieved” by the decision. “Aggrieved” means that the judgment — in whole or in part — goes against you or is not in your favor.

In civil cases, the Notice of Appeal must be filed within 30 calendar days after entry of the court’s judgment or order from which the appeal is taken. The time begins to run on the day after the date the judgment or order is entered on the court’s docket. For example, the trial judge may have announced the judgment or signed the order on May 3rd and the clerk might have recorded or entered that judgment or order in the case docket on May 5th. In this example, the 30-day time period for filing the appeal begins to run on May 6th and expires on June 4th. Review Md. Rule 8-202(c) if a timely motion for judgment notwithstanding the verdict, motion for a new trial, motion to alter or amend the judgment, or a motion for reconsideration was filed, as the timely filing of any of those motions affects the time in which an appeal must be filed. *See Md. Rule 8-202(a) & (c).*

If one party files a timely Notice of Appeal, any other party may file a Notice of Appeal within 10 days after the date on which the first Notice of Appeal was filed or within any longer time otherwise allowed by Md. Rule 8-202.

In criminal cases, the Notice of Appeal must be filed within 30 calendar days after sentencing. However, if a timely motion for a new trial was filed, the Notice

of Appeal must be filed within 30 calendar days after sentencing or within 30 calendar days after a ruling on the motion or the entry of a notice withdrawing the motion — whichever is later.

For example, if a defendant is found guilty on June 10th and is sentenced on July 12th, the 30-day period for filing the Notice of Appeal begins to run on July 13th and expires August 11th. However, if a motion for a new trial is filed pursuant to Md. Rule 4-331(a) on or before June 20th, the Notice of Appeal must be filed within 30 days after: (1) the entry of the judgment (July 12th) or (2) the entry of a notice withdrawing the motion for a new trial or an order by the court denying the motion for a new trial — whichever is later. *See Md. Rule 8-202(b).*

A Notice of Appeal form is in the Appendix to this Guide (*See* p. 34).

Filing Process

The Notice of Appeal is filed with the clerk of the circuit court. In an appeal from an order or judgment of the orphans’ court, the Notice of Appeal is filed with the register of wills and should state whether appellate review is sought in the circuit court or in the Court of Special Appeals.

In a civil case, a filing fee must be paid at the time the Notice of Appeal is filed. Review Md. Rule 8-201(b) regarding limited exceptions to the filing fee requirement and also the time frame for paying the filing fee in a criminal case. The current Fee Schedule is on p. 25 of this Guide.

Mailing a Notice of Appeal on the 30th day is *not* the same as filing it. The Notice of Appeal must be *filed with* the clerk of the circuit court by the close of business on or before the 30th day. “Filed” means the Notice of Appeal is placed in the custody of the clerk by actual delivery. If the 30th day falls on a Saturday, Sunday, or

The filing of an appeal does not automatically stay the judgment of the lower court. In other words, the judgment of the lower court must be obeyed even though the case is on appeal, and if there is a money judgment against the appellant, the appellee may collect on the judgment.

A party may request that the judgment of the lower court be stayed in certain instances. If granted, the party requesting the stay may be required to post a bond. Review Md. Rules 8-422, 8-423, 8-424, 8-425.



legal holiday, the Notice of Appeal must be filed on the very next day that the court is open.

No court has the authority to extend the time for filing a Notice of Appeal. *See Md. Rule 1-204(a).* An appeal filed beyond the 30-day time period will be dismissed or stricken and the Court of Special Appeals cannot review the case.

The Notice of Appeal (and *all* papers filed in any court) must include a Certificate of Service confirming that a copy was served on all other parties (or their counsel if they are represented) in the case. A Notice of Appeal filed without a Certificate of Service stating the date and manner of service cannot be accepted for filing. *See* p. 13 for more information about the Certificate of Service requirement.

Review Md. Rules 8-201, 8-202, 1-322, 1-323 & 1-203.

3. Civil Appeal Information Report (applicable in certain civil cases only)

In most cases where an appeal is noted from a judgment in a civil case, any appellant or cross-appellant must file a “Civil Appeal Information Report.” Upon the filing of the Notice of Appeal, the clerk of the circuit court will provide the appellant with a copy of the form. The form may also be downloaded from the Court’s website at mdcourts.gov (click “court forms”). A copy is also in the Appendix on p. 40.

The report must be completed and filed within 10 days after the Notice of Appeal is filed. *Review Md. Rule 8-205(c) for the precise due date.*

The Civil Appeal Information Report is filed with the Clerk of the Court of Special Appeals. If you are the appellant, be sure to complete the form and the Certificate of Service on the last page. Also, attach a copy of the Notice of Appeal and a copy of the written order or judgment of the circuit court.

Failure to file the Civil Appeal Information Report on time may result in the dismissal of the appeal.

Sometime after the filing of the Civil Appeal Information Report, the Court of Special Appeals will enter an order directing the case to proceed without a pre-hearing or scheduling conference *or* directing the parties to appear for a pre-hearing or scheduling conference. Most cases will proceed without a pre-hearing or scheduling conference.

A Civil Appeal Information Report is *not* required in criminal cases, juvenile causes, appeals from guardianships terminating parental rights, appeals from actions for a writ of error *coram nobis*, and

applications and appeals by prisoners seeking relief related to confinement or conditions of confinement.

Review Md. Rules 8-205 & 8-206.

4. Transcripts

The appellant must timely order and pay for all transcripts of the lower court proceedings that are relevant to the Court of Special Appeals’ review of the case on appeal. A transcript is the written record of everything that was said in the lower court during the trial or hearing. Rule 8-411(a) specifies what transcripts are required.

In civil cases, where a Civil Appeal Information Report has been filed, the appellant must order the transcript, in writing, within 10 days after the date of an order from the Court of Special Appeals directing that the appeal proceed without a pre-hearing conference or within 10 days after the date of an order of this Court issued after a pre-hearing conference (see Step 3 above).

In criminal cases, and in those civil cases where a Civil Appeal Information Report is not required (juvenile causes, appeals from guardianships terminating parental rights, appeals from actions for a writ of error *coram nobis*, and applications and appeals by prisoners seeking relief related to confinement or conditions of confinement), the appellant must order the transcript within 10 days after filing the Notice of Appeal.

In an appeal from a judgment or order involving guardianship of the person of a minor or disabled person, termination of parental rights, adoption, a child in need of assistance, or custody and visitation, the time for ordering the transcript is shorter. *Review Md. Rule 8-207(a)(3) for details.*

The appellant must order the transcript from the circuit court stenographer (sometimes called the court reporter). The appellant must file a copy of the written order with the clerk of the circuit court.

The court stenographer’s contact information can be obtained from the clerk of the circuit court. The court stenographer charges a fee for the preparation of the transcripts. The fee is based on the length of the hearing or trial. **Neither the circuit court nor the Court of Special Appeals can reduce or waive the cost of the transcripts.**

The original transcript is filed in the circuit court for inclusion in the record of the case. Ordinarily, the court stenographer will provide the circuit court with

the original transcript for filing in the record and will give copies to the appellant. If you are the appellant, you should request a copy of the transcript for yourself and you must serve a copy of the transcript on the appellee (or on appellee's counsel if represented by an attorney).

Failure to order in a timely manner and file the transcripts may result in the dismissal of the appeal. *Review Md. Rules 8-411 & 8-207 (a)(3).*

5. Transmittal of the Record

The circuit court transmits the record of the case to the Court of Special Appeals. The record contains the original papers filed in the case and all evidence presented in the circuit court or administrative agency. It must also include the transcripts of the trial and any relevant hearings held in the circuit court.

Although the clerk of the circuit court actually transmits the record to the Clerk of the Court of Special Appeals, it is the appellant's responsibility to make sure that the record is complete and that the clerk files it within the time set forth in Md. Rule 8-412 (or Rule 8-207(a)(4), where applicable). It is also the appellant's duty to timely order and pay for all necessary transcripts that must be included in the record.

In some instances, it may be necessary to ask the Court of Special Appeals to shorten or extend the time in which to transmit the record. For example, if the court stenographer tells the appellant that the transcripts cannot be prepared before the due date for transmitting the record to the Court of Special Appeals, it is the appellant's responsibility to file a motion with the Court of Special Appeals, requesting permission to extend the time in which the record must be transmitted. The motion should specify the proposed extended due date for transmitting the record. The appellant should attach a copy of a letter from the court reporter indicating how much additional time is needed. Any such motion must be filed before the due date for transmitting the record. *See* p. 12 for more information on motions.

Review Md. Rules 8-412 & 8-207(a)(4).

6. Record Extract and Briefs

Record Extract

The appellant in most civil cases is required to provide the Court (and the appellee or appellee's counsel) with a record extract. A record extract is a compilation of photocopies of the papers in the record, including transcripts and exhibits that are

reasonably necessary for the Court's determination of the questions presented in the appeal and any cross-appeal. The record extract shall include a copy of the circuit court docket entries and the judgment or order appealed from. *It may not include* any document that was not a part of the record in the circuit court case. For example, if you find a document *after trial* that might have helped your case, it cannot be included in the record extract or referred to in your brief.

A record extract is not required in an appeal from a judgment in a criminal case.

A record extract is not required in an appeal from a judgment or order in the following cases: a child in need of assistance (CINA) proceeding, a juvenile delinquency proceeding, a permanency planning proceeding, a termination of parental rights proceeding, an extradition proceeding, or an inmate grievance proceeding.

A record extract is not required when an agreed statement of facts is filed pursuant to Md. Rules 8-207(b) or 8-413(b).

The documents in the record extract should be placed in the same order that they appear in the original record. The pages of the record extract, however, are to be renumbered consecutively, with one number per page (that is, E.1, E.2, E.3, etc.). If the record extract includes all or parts of the transcripts, those pages are also renumbered along with the other documents.

A sample record extract is included with a sample brief in the Appendix to this Guide at pp. 50-64.

The record extract may be included at the end of the same volume as the brief or may be prepared as a separate volume. If it is in the same volume as the brief, the table of contents for the record extract should follow the table of contents for the brief. If it is in a separate volume, the table of contents for the record extract should be at the beginning of that volume. Also, if the record extract is in a separate volume, the cover should be the same as the brief cover, except that instead of saying "Brief of Appellant," it should be titled "Record Extract." And if the record extract is in a separate volume, only 10 copies are filed with the Court (and two copies are served on each other party or their attorney in the case). *Review Md. Rule 8-501.*

Briefs

The appellant must file 15 copies (9 copies if incarcerated or institutionalized) of a brief (and in a civil case, 10 copies of the record extract, if prepared as a document separate from the brief, or 15 copies, if included in the same volume as the brief) within

40 days after the date the record is filed in the Court of Special Appeals or by the date so ordered by the Court of Special Appeals. The Clerk of the Court of Special Appeals will send all parties a “briefing notice” stating the date the briefs are due. The briefs and record extracts, if record extracts are required, must be filed at the same time. If the appellant or appellee is incarcerated or institutionalized and is representing him or herself in the appeal, he or she must file 9 copies of a brief (and record extract if required).

An appellant’s brief is the document that discusses the case and explains why the appellant thinks the trial court erred or made a mistake in deciding the case and why the decision should be reversed or modified. The brief should not be used to personally attack the opposing party, the opposing party’s attorney, or the judge who made the decision.

The content, style, and formatting of the brief are very important. The specific requirements are set forth in Md. Rules 8-112, 8-502, 8-503, and 8-504 and should be carefully reviewed and followed when preparing a brief. Appellant’s brief cannot exceed 9,100 words if prepared on a computer or 35 pages if prepared on a typewriter. The brief is explained in more detail on p. 14. An actual appellant’s brief is included in the Appendix.

If you file a brief that does not conform to all applicable Rules, the Court may issue an order directing you to make corrections and re-file it.

Failure to file appellant briefs (and record extracts, if required) when due, or in accordance with the Rules, may result in the dismissal of the appeal.

If additional time is needed to file an appellant’s or appellee’s brief, you must request the Court’s permission by filing a motion *before* the due date asking for an extension of time, stating the reasons why you need more time, and telling the Court how much more time is needed to prepare the brief. As with any paper filed in the Court, any such motion must include a certificate of service, stating that a copy of the motion was mailed to the other party in the case (or to their attorney if they are represented by counsel). *See* Md. Rules 8-431 and 1-323. The Court will then rule on the motion and grant (in whole or in part) or deny the extension request.

In certain instances, the time for filing a brief may be extended by stipulation or agreement of the parties. A stipulation must be signed by all parties or their attorneys and the stipulation must be filed with the Clerk of the Court of Special Appeals by the original due date. *See* Md. Rule 8-502(b).

If you cannot afford the full copying costs, you may request permission to file fewer than the required 15 copies. You may also request permission to file briefs with white covers instead of yellow or green covers. Such permission is requested by filing a motion with the Court of Special Appeals; any such motion must be filed *before* the due date for filing briefs and must include a certificate of service stating that a copy of the motion was mailed to the opposing party or to their attorney.

See Md. Rules 8-431 and 1-323.

The appellee’s brief is a response to the arguments made in the appellant’s brief and explains why the trial court’s judgment should be affirmed. An appellee who fails to file a brief when due may be present for oral argument but may not present oral argument (if the case is scheduled for oral argument), except with permission of the Court.

The appellee files 15 copies of a brief within 30 days after the filing of the appellant’s brief or by the date set by the Court of Special Appeals. Like the appellant’s brief, the style and formatting of the appellee’s brief is very important. For example, an appellee’s brief must have green covers, front and back, and cannot exceed 9,100 words if prepared on a computer or 35 pages if prepared on a typewriter. The specific formatting and stylistic requirements are set forth in Md. Rules 8-112, 8-502, 8-503, and 8-504 and should be carefully reviewed and followed when preparing an appellee’s brief. If you file an appellee’s brief that does not conform to all the applicable Rules, the Court may issue an order directing you to make corrections and re-file it.

The appellant may, but is not required to, file a reply brief within 20 days after the filing of the appellee’s brief. A reply brief is an answer or response to the arguments raised in the appellee’s brief. Like an appellant’s opening brief, the reply brief must be formatted according to the Rules. For example, a reply brief must have red covers, front and back, and cannot exceed 3,900 words if prepared on a computer or 15 pages if prepared on a typewriter. *Review* Md. Rules 8-112, 8-502, 8-503, and 8-504.

7. Court’s Calendar

The appeal will be scheduled for oral argument or placed on the Court of Special Appeals’ summary calendar. If the appeal is placed on the Court’s summary calendar, a three-judge panel will review the case without hearing oral argument from the parties. The appeal will be decided based on the briefs submitted by the parties and on applicable law.

If the appeal is scheduled for oral argument, the parties will come to Annapolis and appear before a three-judge panel of the Court. The parties will argue their case in person and they may not offer legal arguments different from those they made in their briefs. Persons who are incarcerated will not be transported to the Court, even if their case is set for oral argument.

The Court will not announce its decision in open court. *Review Md. Rules 8-522 and 8-523.*

8. Court's Opinion

At some point after oral argument or after the summary calendar date, if the case is not scheduled for argument, the Court of Special Appeals will file a written opinion deciding the case. The Court may dismiss the appeal, affirm the judgment of the circuit court, reverse or vacate the judgment of the circuit court, modify the judgment of the circuit court, or remand the case to the circuit court for further proceedings.

In most cases, there is no specific time frame in which the Court's opinion must be filed. However, in appeals from judgments in the following cases, the Court will file its decision within 60 days after oral argument or submission of the appeal on the briefs filed: adoption, guardianship terminating parental rights, a child in need of assistance, guardianship of the person of a minor or disabled person, and custody or visitation with a minor child.

When the opinion is filed, the Clerk of the Court of Special Appeals will send a copy to all parties, or, if they are represented by counsel, to their attorneys. *Review Md. Rules 8-604 and 8-207(a)(5).*



A copy of the Court's opinion will also be posted on the Court's website.

9. Motion for Reconsideration

Before the Court of Special Appeals issues the mandate or within 30 days after the filing of the Court's opinion (15 days in adoption, guardianship, child access, and child in need of assistance cases) — whichever is *earlier* — a party may file a motion requesting the Court to reconsider its opinion. The motion must contain specific reasons in support of the request.

If an appeal is dismissed by order of the Court, before the filing of an opinion, any motion for reconsideration must be filed within 10 days after the date of the order. *Review Md. Rules 8-605 and 8-207(a)(6).*

10. Court's Mandate

Thirty (30) days after filing its opinion (15 days in adoption, guardianship, child access, and child in need of assistance cases), the Court will issue a mandate. The mandate is the statement of the Court of Special Appeals' decision in the case and is considered the Court's final judgment.

The mandate will show the Court's judgment and the assessment of costs. The costs will usually include only the filing fees paid in the circuit court and in the Court of Special Appeals, the costs paid to the court reporter for transcripts, and the costs of preparing the briefs and record extracts. The cost of preparing the briefs and record extracts is not based on actual printing costs but rather is determined by multiplying the number of printed pages by a "standard page rate" established by the Court of Appeals. At present, that cost is determined by multiplying the number of pages in each brief and record extract by the number of copies filed and then multiplying that number by 24¢. At the time the mandate issues, these costs will already have been paid by the parties, and *no costs will be due to the Court of Special Appeals.*

Ordinarily, if the Court affirms the circuit court's judgment, the costs will be assessed against the appellant. If the Court reverses, vacates, or otherwise modifies the circuit court's judgment with or without remanding the case for further proceedings, the costs will be assessed against the appellee or divided between the appellant and the appellee. If the Court assesses costs against the appellant, the appellant must reimburse the appellee for the appellee's costs. If the Court assesses costs against the appellee, the appellee must reimburse the appellant for the appellant's

costs. If the Court divides the costs, the parties must determine, based on the costs shown, whose costs must be reimbursed by the opposing side.

When unnecessary material has been included in a record extract or appendix, the Court may order that the costs of reproduction be withheld, apportioned, or assessed against the attorney or party who caused the unnecessary material to be included. If the Court grants a motion to correct or supplement the record and later determines that the correction or supplementation was unnecessary, the costs of the correction or supplementation will be assessed against the party who filed the motion.

The Court generally does not assess costs related to attorney's fees. In other words, if you hire an attorney to represent you in your appeal and the Court decides the appeal in your favor, the Court generally will not order the opposing party to pay the fees you owe your attorney. However, under Md. Rule 1-341, in a civil action, if the Court finds that the conduct of any party in maintaining or defending the appeal was in bad faith or without substantial justification, the Court may assess against the party and/or the attorney advising the conduct the costs of the proceedings and the reasonable expenses, including reasonable attorney's fees, incurred by the adverse party in opposing the appeal. In some cases, there may be a statute or contractual provision that permits the prevailing party to seek reimbursement of attorney's fees by filing a request in the circuit court.

Review Md. Rules 8-207(a)(6), 8-606, 8-607, 8-608 and 8-611.

11. Further Review by the Court of Appeals

A party dissatisfied with the decision of the Court of Special Appeals may ask the Court of Appeals, the state's highest court, to review the case. This is done by filing a petition for writ of certiorari with the Clerk of the Court of Appeals. The petition must be filed within 15 days after the Court of Special Appeals files its mandate or within 30 days after the filing of the opinion by the Court of Special Appeals — whichever is later.

Review Md. Rule 8-302.

Certificate of Service Rule

All papers filed with any court must include a Certificate of Service stating the date and manner that you "served" a copy of the document on all other parties in the case (or on their attorneys if they are represented by counsel) and the date the document was served. The clerk of the court cannot accept any document for filing (such as a pleading, a motion, a brief, or even a letter) unless it is accompanied by a Certificate of Service. The Certificate of Service is explained below and a form is included in the Appendix. The document filed does not need to be notarized and does not have to be mailed certified, return receipt requested. *Review Md. Rule 1-323.*

Certificate of Service

I HEREBY CERTIFY that on this 3rd day of March 2015¹ a copy of the Appellant's Brief and Joint Record Extract ² were served, by first-class mail, postage prepaid,³ on: John Doe, 410 Main Street, LaPlata, MD 21212.⁴

Samuel Smith ⁵
15 Tucker Road
Annapolis, Maryland 21204

1. The date you served the document must be stated. If you mailed the document on March 3, 2015, that is the date you include here. If you hand-delivered the document, the date of that delivery goes here.
2. The name of the document you served on the other parties is stated here, e.g., Notice of Appeal, motion to extend time for filing brief, appellant's brief.
3. The method of service — hand-delivered, first-class mail, certified mail, or other method — is stated here.
4. The name and address of all parties (or their attorneys if they are represented by counsel) to whom the papers were sent or delivered are stated here.
5. You must sign the certificate and include your mailing address.

The Brief

The brief must be prepared in accordance with Md. Rules 8-112, 8-502, 8-503, and 8-504.

Review Md. Rule 8-112 for specific requirements as to type font and size, spacing, and margins. Review Md. Rule 8-503(d) regarding the permitted length of a brief.

A brief consists of the following parts and in this order:

Cover

A brief shall have a cover and back of the following colors:

Appellant's brief – yellow

Appellee's brief – green

Reply brief – red

Incarcerated or institutionalized parties who are representing themselves may file briefs with white covers and white backs.

The cover page must include: the case caption; the name, address, telephone number and e-mail address, if available, of at least one attorney for a party represented by counsel or of the party if not represented by an attorney; and the name of the trial court and each judge of that court whose ruling is at issue in the appeal. The cover page also identifies the brief as that of the appellant or the appellee. *Review the sample brief in the Appendix.*

Table of Contents

The Table of Contents follows the cover page. *Review Md. Rule 8-504(a)(1) and the Table of Contents found in the sample brief in the Appendix.*

Table of Authorities

The Table of Authorities must include a list of all cases (arranged in alphabetical order), constitutional provisions, statutes, ordinances, Rules and regulations that are cited in the brief and the page number[s] where the case, rule, etc., is mentioned in the brief. *Review Md. Rule 8-504(a)(1) and the Table of Authorities found in the sample brief in the Appendix.*

Statement of the Case

This is a short paragraph which states the nature of the case, the course of the proceedings, and the disposition in the lower court. The appellee's brief need not contain a Statement of the Case unless the appellee disagrees with the statement in the appellant's brief. *Review Md. Rule 8-504(a)(2) and the sample brief in the Appendix.*

Questions Presented

This section lists the question or questions the appellant is raising in the appeal. A question presented should state the error the appellant thinks the trial court made. It can briefly reference the law or facts the error concerns without giving unnecessary detail. For example, the question presented could be: "Did the trial judge err in ruling that the defendant could be impeached with a prior crime?" Or, "Did the trial court err in failing to admit the will into evidence?" *Review Md. Rule 8-504(a)(3) and the sample brief in the Appendix.*

Statement of the Facts

The Statement of the Facts tells the underlying "story" or provides the court with a narrative of what led to the court proceedings. The Statement of the Facts is generally longer than the Statement of the Case. However, it should be clear and concise and should include only those facts that are relevant to the Court of Special Appeals' review of the case and its determination of the questions presented. It is not necessary to repeat what was included in the Statement of the Case. *Review the sample brief in the Appendix.*

All facts must be supported by a reference or citation to the page(s) of the Record Extract supporting the assertion or statement made. References to the Record Extract shall be indicated as "E" followed by the extract page number. (Review the sample brief.) **IN A CIVIL CASE, THE REFERENCES IN YOUR STATEMENT OF FACTS MAY ONLY BE TO THE RECORD EXTRACT.**

If your case does not require a Record Extract (because it is an appeal from a judgment in a criminal case, child in need of assistance case, extradition proceeding, inmate grievance proceeding, juvenile delinquency proceeding, permanency planning proceeding, or termination of parental rights proceeding), the facts are supported by reference to the transcript of testimony and to other documents in the record. References to the transcript are indicated as "T." followed by the transcript page number. References to the record are indicated as "R." followed by the record page number.

If you are the appellee, you need not repeat the facts in your brief if you agree with the Statement of Facts included in the appellant's brief. You may, however, set out your version of the facts or include facts that were left out of the appellant's brief if they are important to your argument. In a case with more than one appellant or appellee, any appellant or

appellee may adopt by reference any part of the brief of another. *See Md. Rule 8-503(f). Review Md. Rule 8-504(a)(4) and the sample brief in the Appendix.*

Standard of Review

Include a concise statement of the applicable standard of review for each issue, which may appear in the discussion of the issue or under a separate heading placed before the argument. The standard of review describes the deference that the appellate court will give to the decisions of the trial court. *Review Md. Rule 8-504 (a)(5).*

Argument

In this section, the appellant sets out what he or she believes to be the mistakes made by the circuit court in reaching its decision. The appellant should identify the statutes, reported cases, constitutional provisions, court Rules, or any other authority the appellant believes affect the validity or appropriateness of the judgment. Based on such authority, the appellant should state why the circuit court's decision should be reversed or modified. In the appellee's brief, the appellee should set forth argument supporting the circuit court's decision and why it should be affirmed. *Review Md. Rule 8-504(a)(6) and the sample brief in the Appendix.*

In an appeal related to a child in a juvenile proceeding and in an appeal from proceedings for adoption or guardianship, only the first name and first initial of the last name of the child, parents or other relatives should be used throughout the brief and record extract. See Md. Rules 8-121 and 8-122.

Review Md. Rules 8-112 and 8-503(d) for requirements regarding type font and size, spacing, margins, and permitted length of briefs.

Review Md. Rules 8-503 and 8-504 for requirements regarding the content, style and formatting of briefs.

Conclusion

The brief concludes with a short statement indicating what precisely the party wants the Court to do. For example, the appellant might ask the Court of Special Appeals to reverse the judgment of the circuit court. The appellee might ask the Court to affirm the judgment. *Review Md. Rule 8-504(a)(5) and the sample brief in the Appendix.*

Font and Type Size

If the brief is prepared with proportionately spaced type, the font used and the type size in points shall be stated on the last page of the brief. For example, if the brief is typed on a computer, the last page may include the statement: "Times New Roman, 13 Point." *Review Md. Rule 8-504(a)(9).*

Word Count

If you use a computer to prepare your brief: your brief (from the statement of the case to the conclusion) cannot exceed 9,100 words. You must certify in your brief the number of words in your brief using the form at p. 52. *Review Md. Rule 8-503(d).*

Appendix

The appellant must reproduce, as an appendix to his/her brief, the pertinent part of every ruling, opinion, or jury instruction of the lower court that deals with points he or she raised on appeal. The appellee may reproduce any additional part of the instructions or ruling believed necessary for the Court's review. *Review Md. Rule 8-504(b).*

The brief shall include the citation and verbatim text of all pertinent constitutional provisions, statutes, ordinances, Rules, and regulations, except that the appellee's brief shall include only those not included in the appellant's brief. *Review Md. Rule 8-504(a)(7).*



Review in the Court of Special Appeals by Way of an Application for Leave to Appeal

Introduction

This section of the Guide is intended to assist non-lawyers with filing an application for leave to appeal. It is based on Maryland law and Rules in effect on January 1, 2018, but is not intended to be a substitute for them. You should review Maryland Rule 8-204 prior to filing an application for leave to appeal. The Md. Rules may be found in most public libraries and may also be viewed on line at mdcourts.gov.

I. Cases Subject to the Application for Leave to Appeal Process

An application for leave to appeal must be filed when seeking appellate review of a court's decision in the following types of cases.

1. Habeas Corpus - Bail

A person who is held in custody may ask to be released on bail. Bail may be sought if you are awaiting trial or if you have been convicted and you are awaiting a decision by an appellate court. If bail is denied, or if bail is set in an amount which you believe is too high, you may ask another judge to review the bail ruling. This request is made by filing a petition for writ of habeas corpus. If the habeas corpus petition is denied, you may seek further review by filing an application for leave to appeal.

2. Guilty Plea or Alford Plea

If you are a defendant in a criminal case you may avoid a contested trial by admitting guilt and entering a guilty plea. You may also avoid a contested trial by entering an Alford plea whereby you do not admit guilt but agree that the state has sufficient evidence to convict you of the pending charges. If you enter a guilty plea or an Alford plea, you generally forfeit the right to a direct appeal. You may, however, seek appellate review by filing an application for leave to appeal. If you pleaded guilty, you have the right to the assistance of an attorney in preparing an application for leave to appeal. *See Halbert v. Michigan*, 545 U.S. 605 (2005). If you are indigent, a request for counsel may be directed to the Office of the Public Defender, 6 St. Paul Street, Suite 1302, Baltimore, MD 21202.

If you enter a "conditional plea of guilty" and preserve in writing any pretrial issues that you intend to appeal, you may file a direct appeal. *See*, § 12-302 (e) of the Courts & Judicial Proceedings Article of the Maryland Code.

3. Revocation of Probation

Sometimes a court will impose a sentence following a conviction in a criminal case and suspend the service of part or all of the sentence. If you receive a suspended sentence, you will be placed on probation. If you violate a condition of probation, the state may request that the court revoke the probation. When the state makes such a request, a hearing is held in the circuit court. If the court finds that probation has been violated, the court may revoke the probation and order the suspended portion of the sentence to be served. If you believe that the circuit court made a mistake in revoking your probation, you may file an application for leave to appeal asking the Court of Special Appeals to review the decision.

4. Post Conviction

Post-conviction relief is a means for correcting errors which may have occurred in a criminal case and could not be addressed in a direct appeal. *See* §§ 7-101 to 7-301 of the Criminal Procedure Article of the Maryland Code. Usually these are errors which, while affecting the trial, are not recorded in the trial record. For example, the error may relate to trial counsel's performance. If you are incarcerated or on probation or parole you may request post-conviction relief by filing a petition for post-conviction relief in the circuit court. If the circuit court does not grant the relief you want, you may request that the Court of Special Appeals review the ruling by filing an application for leave to appeal.

5. Inmate Grievance

Inmates serving prison terms have rights regarding the conditions of their confinement. If you are an inmate who believes that you have been deprived of one of those rights, you may, following the exhaustion of administrative remedies, file a grievance with the Inmate Grievance Office. If the Inmate Grievance Office dismisses the grievance, you may file a petition for judicial review in the circuit court. If you are not

satisfied with the circuit court's ruling on the petition, you may file an application for leave to appeal seeking review by the Court of Special Appeals.

6. Health Commitment

Some persons who are charged with crimes may be deemed not criminally responsible due to mental health issues. If you are found not criminally responsible, a hearing may be held to determine whether you should be committed to a hospital or mental health facility. If you are committed to a hospital or mental health facility, you may, after the passage of one year, ask to be released. If you remain committed for longer periods of time you may, after the passage of the required time, request that the pending criminal charges be dismissed. These proceedings are ultimately decided at a circuit court hearing. If you are not satisfied with the circuit court's ruling, you may ask the Court of Special Appeals to review the decision by filing an application for leave to appeal.

7. Victim's Rights

Victims of crimes and close relatives of victims have various rights regarding the conduct of the criminal trial, including the right to notice of the trial and the sentencing, the right to speak at the sentencing hearing, and the right to request restitution for losses incurred as a result of the crime. If you are a crime victim and a circuit court deprives you of some right, you may seek appellate review by filing an application for leave to appeal. **The application may be filed at the time the victim's right is actually being denied or within 10 days after the request is made on behalf of the victim, whether or not the court has ruled on the request.** *See* Md. Rule 8-204(b)(2)(B).

II. General Requirements

The following requirements, set forth in Md. Rule 8-204, apply in every case.

1. Place of Filing

An application for leave to appeal is filed with the clerk of the circuit court where the case was decided. The Rule requires the applicant to file two copies of the application with the clerk. If the application is timely filed and the filing fee is paid, the circuit court clerk will forward the application and the case record to the Court of Special Appeals.

2. Timing

Most applications must be filed within 30 days after the circuit court's final order or judgment was entered on the circuit court's docket. For example, if a circuit court issues its ruling on May 3rd and the clerk enters the order on the case docket on May 5th, the 30-day time period for filing an application for leave to appeal begins to run on May 6th and expires on June 4th. If, however, the 30th day falls on a weekend or on a day the court is closed, the deadline is extended to the next day the court is open. For example, if the 30th day falls on a Sunday and the next day (Monday) is a state holiday, the deadline is extended to close of business on Tuesday.

An application for leave to appeal in a habeas corpus case relating to bail must be filed within 10 days after the circuit court's order is entered on the docket. *See* Md. Rule 8-204(b)(2)(C).

Mailing an application for leave to appeal on the 30th day is not the same as filing it. The application must be filed with the clerk of the circuit court by the close of business on or before the 30th day. "Filed" means the application is placed in the custody of the clerk by actual delivery.

Any questions about the date the circuit court's order or judgment was entered on the case docket can be answered by the clerk of the circuit court or the clerk's staff. The circuit court's docket entries, in most cases, may also be viewed online through Case Search accessed at mdcourts.gov (click link for "courts", then link for "court records").

No court has the authority to extend the time for filing an application for leave to appeal. *See* Md. Rule 1-204(a). An application that is filed late will be stricken or dismissed.

3. Content of Application.

The application must contain a short, but complete, statement of the reasons why the judgment or order should be reversed or modified and shall specify the errors allegedly committed by the lower court. *See* Md. Rule 8-204(b)(3).

THIS IS THE MOST IMPORTANT PART OF THE APPLICATION.

If you do not give reasons why the circuit court's decision was wrong, and support that position with facts from the case, your application will likely be denied. For example, if you are seeking appellate

review of a circuit court’s decision to revoke your probation, it is insufficient to simply state that “the court made a mistake in revoking my probation.” Instead, you must explain why the court erred in revoking your probation. For example, you might say: “The court’s finding that I failed to pay the required restitution is wrong because I paid it on August 5, 2015, as shown on the attached receipt.”

If you make “bald and conclusory” statements, the application will likely be denied. For example, an allegation that a guilty plea was entered “unknowingly and involuntarily” is a mere conclusion without facts to support it and, without more, will likely result in the denial of the application. Instead, you must explain why the guilty plea was entered unknowingly or involuntarily. For example, you might say: “My plea was not voluntarily entered because I did not want to plead guilty but was forced to because my defense counsel told me on the morning of trial that if I did not plead guilty he would not represent me at trial. Although I told this to the judge, the judge nonetheless accepted the guilty plea.” You should support the allegations with the transcript of the guilty plea hearing.

See Section III on next page for additional information regarding the content of the application in specific types of cases.

4. Service on the Opposing Party

Generally, the applicant must serve a copy of the application for leave to appeal on the “adverse” or opposing party in the case. To “serve” means to deliver a copy of the pleading to the opposing party, usually by first-class mail or hand-delivery. The adverse party is usually the State of Maryland and the application is typically served on the Attorney General of Maryland by mailing a copy of it to: Attorney General, Criminal Appeals Division, 200 St. Paul Place, Baltimore, MD 21202. If the applicant is not represented by an attorney, however, the clerk of the circuit court will mail a copy of the application to the Attorney General after the application is filed. **See** Md. Rule 8-204(b)(4).

5. Filing Fee

There are two fees that the applicant must pay when the application for leave to appeal is filed. The first is a \$61 filing fee. The second is a \$60 fee paid to the circuit court for preparing and transmitting the record to the Court of Special Appeals. Both fees are paid when the application is filed. Filing fees are non-refundable. If you are indigent and unable to pay one or both fees, you may request that the court waive the fee. **See** page 25 for a discussion about fee waivers.

6. Response

The state (or opposing party) may (but is not required to) file a response to the application for leave to appeal. The response typically provides reasons why the application should not be granted. In most cases, the response must be filed within 15 days after service of the application; when the case involves bail or victims’ rights, the response must be filed within 5 days. **See** Md. Rule 8-204(d).

The Record of the Circuit Court

The record which the circuit court will transmit to the Court of Special Appeals after the application for leave to appeal is filed generally includes only the papers related to the matter for which the applicant is seeking appellate review. For example, if you filed an application for leave to appeal the circuit court’s denial of a petition for post-conviction relief, the record will include the petition, the State Attorney’s response, and any other papers filed in the post-conviction proceeding; the transcripts from the trial will not necessarily be included. If you believe that the trial transcripts support your position, you should ensure that the circuit court record includes them when it transmits the record.

III. Additional Considerations Related To Specific Cases

This section will discuss certain information which should be included in the application for leave to appeal based on the type of case involved. While the information discussed here is generally not required to be filed with the application, it is usually very helpful to the Court when deciding whether to grant or deny it.

While **not required**, a transcript of a hearing or trial held in the circuit court can be helpful in many cases. If you wish to support the application with the transcript of a hearing or trial held in the circuit court, you, as the applicant, are responsible for obtaining and paying for the transcript. A transcript is usually ordered from the court reporter for the circuit court. A court cannot waive a transcription fee, and payment terms must be discussed and resolved directly with the court reporter.

If the transcript is not available before the deadline for filing the application for leave to appeal, you should file the application before the deadline and include a statement that you intend to supplement the application with the transcript as soon as it is available. If you cannot obtain or afford the transcript, you should attempt to summarize what was said or done at the hearing as it relates to the issues raised in the application.

1. Habeas Corpus - Bail

In determining whether a person should be released from custody pending a trial (or pending appeal if already convicted), a judge must consider certain factors. *See* Md. Rules 4-216(d), 4-216.1– 4-216.3. The application for leave to appeal the denial of a habeas corpus petition related to bail should demonstrate that the judge erred in denying release on bail or in setting the amount of bail because the factors the judge must consider favored release or a lower bail amount. These factors are:

1. Nature and circumstances of the offense.
2. Nature and strength of the State's evidence.
3. The potential sentence.
4. Applicant's prior record for appearing in court when ordered; and, alternatively, applicant's history of flight.
5. Applicant's family ties.
6. Applicant's employment status.
7. Applicant's financial resources.

8. Applicant's character and reputation.
9. Applicant's mental condition.
10. Applicant's length of residence in the state and at his current address.
11. Any recommendation in the pre-sentence report.
12. Any recommendation of the State's Attorney.
13. Danger the applicant poses to the community, the victim, or any other person.
14. Danger the applicant poses to himself.
15. Applicant's criminal convictions and juvenile adjudications which occurred within the prior three years.
16. Any other relevant information.

2. Guilty Plea

The applicant must demonstrate why the court erred in accepting the guilty plea. Errors justifying appellate review generally relate to whether the trial court had jurisdiction over the case, whether the sentence imposed was legal, and whether the plea was entered knowingly and voluntarily. Whether a guilty plea was entered knowingly and voluntarily typically depends on whether the defendant understood the rights he or she was waiving by pleading guilty (such as the right to a jury trial) and whether the defendant entered the guilty plea of his or her own free will.

For example, you may allege that the trial court erred in accepting the guilty plea because you did not know that you had the right to have the case tried by a jury of twelve persons chosen from the voter registration records of the county in which the case would be tried and that the jury's verdict must be unanimous. You should attach to the application the transcript of the guilty plea hearing and point out that the trial judge, the prosecutor, and defense counsel failed to advise you of those rights.

3. Revocation of Probation

The applicant must allege that the court erred in revoking his or her probation and state why it was an error. For example, you might state that the court found that you violated the condition of probation that required you to pay \$750 in restitution, when in fact you had paid the money. Although not required, you should attach to your application the transcript of the revocation hearing held in the circuit court if it would support your position that the court erred in revoking probation.

4. Post Conviction

The applicant must allege that the circuit court erred in denying his or her petition for post-conviction relief and state reasons why the court erred. Although not required, a transcript of the post-conviction hearing is very helpful to the Court when considering whether to grant or deny the application for leave to appeal. The circuit court record that is transmitted to the Court of Special Appeals after an application for leave to appeal is filed may not contain the entire case history, but only those papers relevant to the application. Therefore, you may want to ensure that the circuit court also forwards with the record the transcripts of the trial if those transcripts support your position that the court erred in denying the petition for post-conviction relief.

5. Inmate Grievance

If you are an inmate who has filed a grievance with the Inmate Grievance Office (“IGO”) and the IGO dismissed the grievance, you may file a petition for judicial review in the circuit court. If you are unhappy with the circuit court’s decision, you may file an application for leave to appeal in which you must allege that the circuit court erred in its decision and state the reasons for the error. If there was a hearing before an Administrative Law Judge, it is helpful to include a transcript of that hearing and any exhibits introduced at that proceeding.

6. Health Commitment

A. Initial Release Hearing

If you have been found not criminally responsible, a hearing is held to determine whether you should be committed to a hospital or mental health facility. That hearing, which is held before an Administrative Law Judge (ALJ), is called the Initial Release Hearing. After receiving evidence, the ALJ prepares a report recommending either that you be released or be committed. If you are not satisfied with the ALJ’s recommendation, you may file exceptions to the ALJ’s recommendations. A hearing is then held in the circuit court on the exceptions. The circuit court reviews the exceptions and issues a final order. If you are not happy with that order, you may file an application for leave to appeal. The application should contain the following information:

1. Trial date.
2. Date of Initial Release Hearing.
3. ALJ’s report.
4. Exceptions filed by the State.

5. Date of hearing on State’s exceptions.
6. Transcript of the hearing in the circuit court on the exceptions.
7. Circuit Court order and opinion.

B. Subsequent Release Hearing

If you have been committed to a hospital or mental health facility, you may request release after the passage of a specified time (usually one year). A Subsequent Release Hearing is conducted the same way an Initial Release Hearing is conducted. Therefore, the same documents that are filed with an application for leave to appeal involving an Initial Release (see above) should also be filed when filing an application related to a Subsequent Release.

IV. Review & Decision by the Court of Special Appeals

After the record, with the application for leave to appeal, is transmitted to the Court of Special Appeals, a three-judge panel of the Court will review the application. If the state has not filed a response and the Court believes that a response by the state may be helpful, the Court may order the state to file a response.

After reviewing the application, the record, any supporting documents, and any response, the Court of Special Appeals will take the following action:

1. Deny the application;
2. Grant the application and affirm the judgment of the lower court;
3. Grant the application and reverse the judgment of the lower court;
4. Grant the application and remand the judgment to the lower court with directions to that court; or
5. Grant the application and order further proceedings in the Court of Special Appeals pursuant to the direct appeal process.

See Md. Rule 8-204(f).

The Court will notify the parties in writing of its decision. Because of the high number of applications that are filed, and the time it takes for the circuit court to transmit the application and record to the Court of Special Appeals, it may be several months before a decision is made.

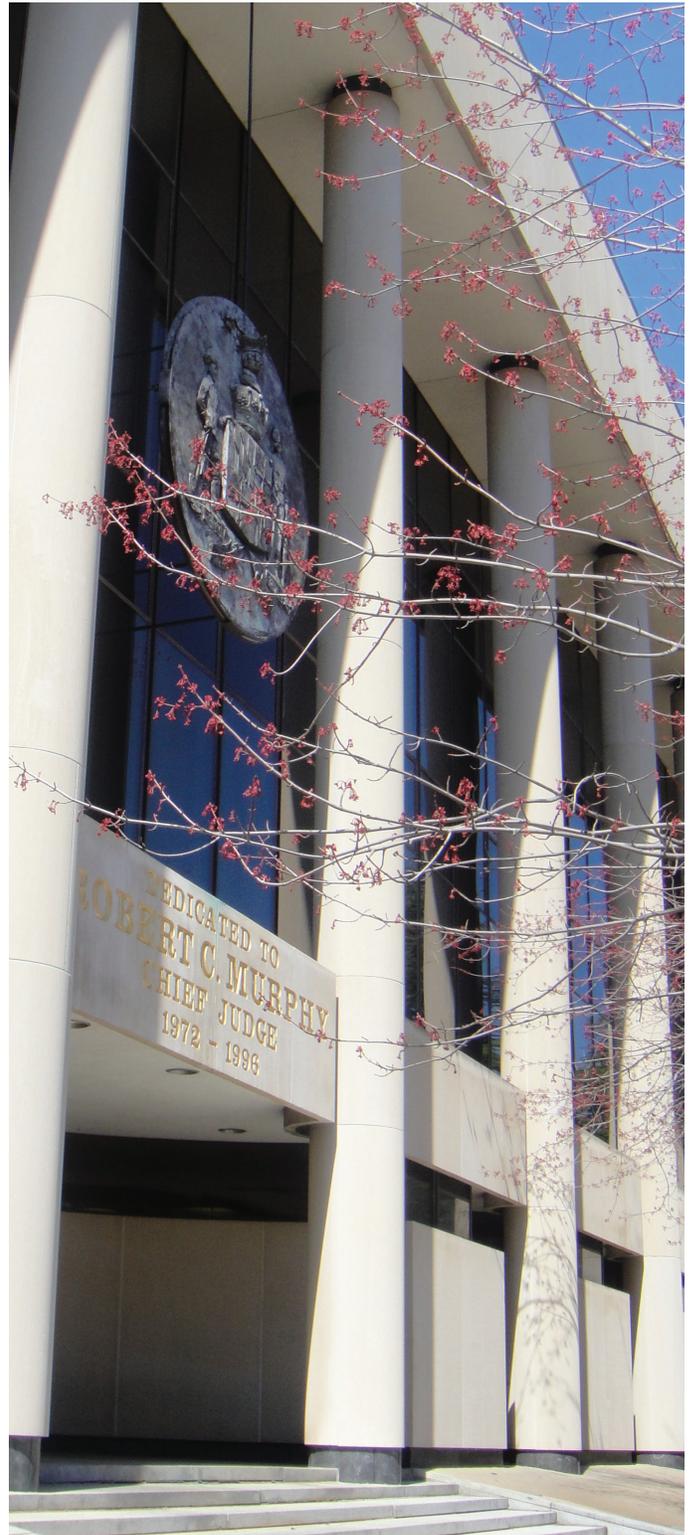
Worth Repeating!

While not required, a transcript of a hearing or trial held in the circuit court (or before an Administrative Law Judge) is particularly helpful in many cases. If the applicant wishes to support the application for leave to appeal with the transcript of a hearing or trial held in the circuit court, the applicant is responsible for obtaining the transcript. A transcript is usually ordered from the court reporter for the circuit court, who will charge a fee. A court cannot waive a transcription fee and payment terms must be discussed and resolved directly with the court reporter.

If the transcript is not available before the deadline for filing the application for leave to appeal, the applicant should file the application before the deadline expires and include a statement that the applicant intends to supplement the application with the transcript as soon as it is available.

When considering whether or not to include a transcript with the application, bear in mind that the applicant has the burden of persuading the Court of Special Appeals to grant the application. In other words, the applicant must convince the Court that an error occurred which justifies appellate review of the case. The transcript from the hearing or trial below is usually the best “proof” that an error worthy of appellate review, in fact, occurred.

If the applicant cannot obtain or afford the transcript, he or she should attempt to summarize what was said or done at the hearing as it relates to the issues raised in the application.



Application for Leave to Appeal

IN THE CIRCUIT COURT FOR _____, MARYLAND
[state the county or Baltimore City]

[Applicant's name]

Applicant,

Case No. _____

v.

STATE OF MARYLAND,

Respondent.

APPLICATION FOR LEAVE TO APPEAL

_____, pursuant to Md. Rule 8-204, applies for
[Applicant's name]

leave to appeal from the judgment or order entered in the above-captioned case on

[date]

Allegations of Error

[The Applicant must give a brief but complete statement of the reasons why the judgment should be reversed or modified and shall specify (or list) the errors allegedly committed by the circuit court. Include facts to support the allegations and, if possible, attach a transcript of the hearing or trial held in the circuit court.]

[include additional pages if needed]

Respectfully submitted,

[signature required]

[printed name]

[address]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 20____, a copy of the foregoing
Application for Leave to Appeal was served, by _____

[state method of service, e.g., first class mail, hand delivery, certified mail
or other]

on: Attorney General of Maryland, Criminal Appeals Division, 200 St. Paul Place,
Baltimore, MD 21202.

[Applicant's signature & address]

Appendix

Dismissal of the Appeal

The Court of Special Appeals may dismiss an appeal for any of the following reasons:

1. The appeal is not allowed by the Maryland Rules or other law (because, for example, it was filed before a final judgment was entered in the case or there is no right to appeal the particular judgment);
2. The appeal was not properly filed pursuant to Md. Rule 8-201 (because, for example, it was filed without the required filing fees or without a Certificate of Service);
3. The Notice of Appeal was not filed with the lower court within the time prescribed by Md. Rule 8-202;
4. The appellant failed to comply with the requirements of Rule 8-205 (regarding the timely filing of the Civil Appeal Information Report, when required);
5. The record was not transmitted within the time prescribed by Rule 8-412, unless the Court finds that the failure to transmit the record was caused by the act or omission of a judge, a clerk of court, the court stenographer, or the appellee;
6. The contents of the record do not comply with Rule 8-413 (because, for example, it did not include the required transcript);
7. A brief (or record extract when required) was not filed by the appellant within the time prescribed by Rule 8-502;
8. The style, contents, size, format, legibility, or method of reproduction of a brief, appendix, or record extract does not comply with Rules 8-112, 8-501, 8-503, or 8-504;
9. The proper person was not substituted for the appellant pursuant to Rule 8-401; or
10. The case has become moot.

If the Court dismisses your appeal, you may file a motion for reconsideration of the dismissal. Your motion for reconsideration must be filed no later than 10 days after the date of the order dismissing the appeal and, like all papers filed in the Court, must include a Certificate of Service. A \$61 filing fee must accompany a motion for reconsideration.

An appellant may voluntarily dismiss an appeal for any reason, which means he or she decides to withdraw

the appeal. This is done by filing a notice of dismissal **at any time before the filing of the Court's opinion**. The notice of dismissal is filed with the Clerk of the Court of Special Appeals. If the record is in the lower court at the time the notice of dismissal is filed, the appellant shall file the notice in the Court of Special Appeals and a copy of the notice with the clerk of the lower court.

Review Md. Rules 8-601 and 8-602.

Motions

A motion is a document in which a party asks the Court to do something or to permit one of the parties to do something. If you file a motion, you must specify what you want the Court to do and give reasons why the Court should grant your request. The motion should also include a proposed order, indicating specifically what you wish the Court to do. A motion must be accompanied by a Certificate of Service, stating how and when you served the other party (or their attorney, if represented by counsel) with a copy of the motion.

The title of the motion should state briefly the nature of the motion without including details or explanations that should be included in the body of the motion. For example, a proper title could be "Motion to Dismiss the Appeal" or "Motion to Extend Time to File Appellant's Brief."

Generally, any party to the appeal may file a response to the motion. The response must be filed within five days after service of the motion.

A motion or a response to a motion that is based on facts not contained in the record or in papers on file in the proceeding must be supported by an affidavit and accompanied by any papers on which it is based. A motion or affidavit does not have to be notarized.

A motion and any response to the motion must state with particularity the grounds for relief and authorities in support of each ground.

The original of a motion, and any response to the motion filed by the opposing party, shall be filed with the Clerk of the Court of Special Appeals. Four (4) copies of the motion (or the response) must be filed along with the original.

Sample motions are found in the Appendix.

Review Md. Rule 8-431.

Schedule of Fees

Fees payable to the circuit court when filing a Notice of Appeal

For preparing the record on appeal or in a removed or transferred case and for postage or transport of the record to the receiving court, a clerk shall collect a \$60 fee and, on petition to the court in the case of a record of extraordinary length or complexity, the additional amount allowed by the court up to \$60.

Source: §7-101 of the Courts Article of the Md. Code

Fees payable to the Court of Special Appeals or Court of Appeals

A. Payment in Advance — No Refunds

*Each fee set forth in this schedule shall be paid in advance of or concurrently with the filing or delivery of the record, document, copy, or certificate specified, except that in a criminal appeal the fee provided for in Section B.1 or B.2 may be paid any time prior to the filing of the record. No fee is refundable. **Costs taxed to a party pursuant to a judgment or mandate are to be settled between the parties.***

B. Fees

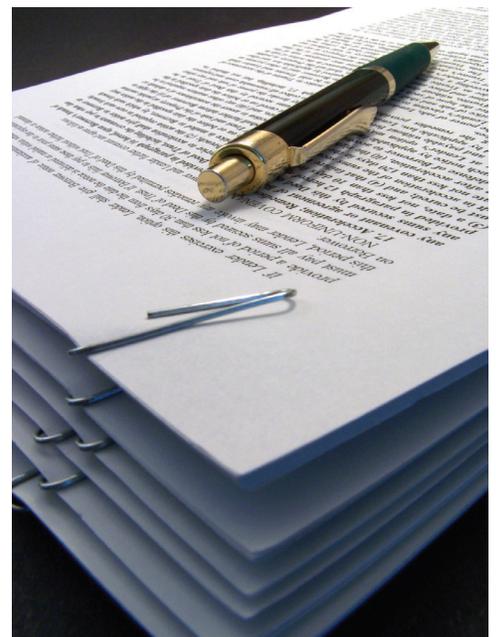
1. For filing a Notice of Appeal pursuant to Rule 8-201 or 8-301 or a certification order pursuant to Rule 8-305, any record incident thereto, and performing all other duties in connection therewith up to and including the issuance of a mandate: \$61.00.
2. For filing an application for leave to appeal, any record incident thereto, and performing all other duties in connection therewith up to and including the issuance of a mandate if the application is granted: \$61.00.
3. For filing a petition for writ of certiorari: \$50.00.
4. For filing a motion for reconsideration or for stay and performing all duties incident to the motion: \$50.00.
5. Except for one copy provided without charge to each counsel of record in a case, for a copy of the Court's opinion: \$10.00.
6. For a photocopy: 50 cents per page.
7. For admission of an attorney by regular examination, including a certificate: \$20.00; For admission of an out-of-state attorney, including a certificate: \$25.00.
8. For a certificate of good standing of an attorney under seal: \$7.00.
9. For each certification by a judge or the clerk: \$5.00.
10. For performing any other service incident to the duty of the Clerk of the Court of Appeals or the Clerk of the Court of Special Appeals, and not specifically provided for in this schedule: a reasonable fee.

Source: §7-102 of the Courts Article of the Md. Code

Waiver of Fees

If you cannot afford to prepay the filing fees for noting an appeal or filing an application for leave to appeal, file a motion to waive the fees using the forms found on pages 26-31.* If your motion is denied by either the circuit court or the Court of Special Appeals you have ten days from the denial to pay the fee or your appeal will be deemed to have been withdrawn. This means you will not have an appeal. *Maryland Rule 1-325.1.*

* These forms can be downloaded from the Courts' website — mdcourts.gov — follow "courts" link, then "court forms."





CIRCUIT COURT DISTRICT COURT OF MARYLAND FOR _____
City/County

Located at _____ Case No. _____
Court Address

IN THE MATTER OF: _____ VS. _____
Petitioner/Plaintiff Respondent/Defendant

REQUEST FOR WAIVER OF PREPAID COSTS FOR ASSEMBLING THE RECORD FOR AN APPEAL

I, _____, request that the trial court grant a waiver of
Name of Party
 prepaid costs for assembling the record. I am unable to prepay the prepaid costs in this matter because of poverty.

Affidavit of Continuing Eligibility

- I respectfully submit that this Court waive the prepaid costs in this matter and
 - I will be represented by the following organization on appeal and am financially eligible for their services (*Attorney signature required below*):
 - Maryland Legal Aid
 - The Office of the Public Defender
 - A lawyer through Maryland legal services provider, _____
Name of Organization/Program
 The Maryland Legal Services Corporation funds or has otherwise approved that organization to provide civil legal services on behalf of low-income persons; and/or
 - There has been no material change in my financial situation since the waiver of prepaid costs was granted.

Affidavit of Income. (Complete this section only if the section above does not apply to you)

I respectfully submit that:

1. There are _____ family members living in my household, including myself. (Do not include
Number
 renters or temporary guests).
2. The total gross household income (before taxes) is \$ _____ (*total income earned by all persons in the household*) per WEEK MONTH YEAR.
3. The gross household income (before taxes) is from the following sources (*list amounts before taxes*) per WEEK MONTH YEAR:
 - Wages _____ \$ _____
 - Commissions/Bonuses _____ \$ _____
 - Social Security/SSI _____ \$ _____
 - Retirement Income _____ \$ _____
 - Unemployment Insurance _____ \$ _____
 - Temporary Cash Assistance _____ \$ _____
 - Alimony/Spousal Support _____ \$ _____
 - Rent received from tenants _____ \$ _____
 - Any Other Income (*Do not include food stamps/SNAP*) _____ \$ _____

4. I own the following property. (Do not list your home, one vehicle, and/or personal items in your home):

- NONE
- Real estate other than principal home Value: \$
- Other vehicles including boats Value: \$
- Bank Accounts Balance: \$
- Stocks or other securities Value: \$
- Other property (describe): Value: \$

5. I owe the following debts:

- NONE
- Credit Card: Amount Owed: \$ Monthly Payment: \$
- Car Loan: Amount Owed: \$ Monthly Payment: \$
- Other Debt: Amount Owed: \$ Monthly Payment: \$

6. Other information to demonstrate my inability to pay the costs:

.....

.....

.....

For these reasons, I request the trial court grant a waiver of prepaid costs associated with assembling the record.

I understand that I may have to pay these costs at the end of the case, unless the Court grants a final waiver of open costs, and that if I want a final waiver of open costs I must request the waiver at the conclusion of the action.

I affirm under the penalties of perjury that what I have said above is true to the best of my knowledge, information, and belief.

.....
Party Signature Telephone / Fax

.....
Party Name E-mail

.....
Address Date

.....
City, State, Zip

Attorney Certification (To be completed by your lawyer, if you are represented).

I,
Name of Attorney, certify that to the best of my knowledge, information, and belief, there is good ground to support the appeal, and it is not interposed for any improper purpose or delay.

.....
Attorney Signature Telephone / Fax

.....
Attorney Name E-mail

.....
Address Date

.....
City, State, Zip



CIRCUIT COURT DISTRICT COURT OF MARYLAND FOR _____
City/County

Located at _____ Case No. _____
Court Address

ORDER REGARDING REQUEST FOR WAIVER OF PREPAID COSTS FOR ASSEMBLING THE RECORD

UPON CONSIDERATION of the Request for Waiver of Prepaid Costs for Assembling the Record submitted by _____, and any further documentation as required
Name of Party
or authorized by Rule 1-325 or other applicable law,

THE COURT HEREBY FINDS THAT:

- The party named above received a waiver of prepaid costs in accordance with Rule 1-325(d), will be represented in the appeal by an eligible attorney under that section, and the attorney has certified that the appeal is meritorious and that the party remains eligible for representation in accordance with Rule 1-325(d).
- The party named above received a waiver of prepaid costs in accordance with Rule 1-325(e), and there has been no material change in the party's financial situation since the waiver was granted.

The party named above:

- Meets the financial eligibility guidelines of the Maryland Legal Services Corporation.
 Does NOT meet the financial eligibility guidelines.

The party named above:

- Is unable by reason of poverty to pay the costs.
 Is NOT unable by reason of poverty to pay the prepaid costs.

Other findings: _____

THE COURT HEREBY ORDERS that the waiver is:

- GRANTED The prepaid costs associated with assembling the record are hereby waived.
 In the District Court, this includes a waiver of the costs of preparing a transcript, if required by Rule 7-113.
- DENIED. You have 10 days from the date of this Order to pay the costs associated with assembling the record. If the unwaived costs are not paid in full within 10 days, the appeal will be considered withdrawn.

Date

Judge's Signature

ID Number



COURT OF APPEALS COURT OF SPECIAL APPEALS

CIRCUIT COURT FOR _____
City/County

Located at _____
Court Address

IN THE MATTER OF: _____ VS. _____
Appellant Appellee

REQUEST FOR WAIVER OF PREPAID APPELLATE COSTS

I, _____, request that the appellate court grant a waiver of
prepaid appellate costs. I am unable to prepay the prepaid appellate costs in this matter because of poverty.

Affidavit of Continuing Eligibility

- The trial court waived the prepaid costs in this matter pursuant to Rule 1-325(d) or (e); and:
 - I will be represented by the following organization on appeal and am financially eligible for their services (*Attorney signature required below*):
 - Maryland Legal Aid
 - The Office of the Public Defender
 - A lawyer through Maryland legal services provider _____
Name of Organization/Program

The Maryland Legal Services Corporation funds or has otherwise approved that organization to provide civil legal services on behalf of low-income persons; and/or
 - There has been no material change in my financial situation since the waiver of prepaid costs was granted.

Affidavit of Income. (*Complete this section only if the section above does not apply to you*)

I respectfully submit that:

1. There are _____ family members living in my household, including myself. (*Do not include
renters or temporary guests*).
2. The total gross household income (before taxes) is \$_____ (*total income earned
by all persons in the household*) per WEEK MONTH YEAR.
3. The gross household income (before taxes) is from the following sources (*list amounts before taxes*)
per WEEK MONTH YEAR:

- Wages \$ _____
- Commissions/Bonuses \$ _____
- Social Security/SSI \$ _____
- Retirement Income \$ _____
- Unemployment Insurance \$ _____
- Temporary Cash Assistance \$ _____
- Alimony/Spousal Support \$ _____
- Rent received from tenants \$ _____
- Any Other Income (*Do not include food stamps/SNAP*) \$ _____

4. I own the following property. (*Do not list your home, one vehicle, and/or personal items in your home*):

- NONE
- Real estate other than principal home Value: \$
- Other vehicles including boats Value: \$
- Bank Accounts Balance: \$
- Stocks or other securities Value: \$
- Other property (describe): Value: \$

5. I owe the following debts:

- NONE
- Credit Card: Amount Owed: \$..... Monthly Payment: \$.....
- Car Loan: Amount Owed: \$..... Monthly Payment: \$.....
- Other Debt: Amount Owed: \$..... Monthly Payment: \$.....

6. Other information to demonstrate my inability to pay the costs:

.....

For these reasons, I request the appellate court grant a waiver of prepaid appellate costs.

I understand that I may have to pay these costs at the end of the case, unless the Court grants a final waiver of open costs, and that if I want a final waiver of open costs I must request the waiver at the conclusion of the action.

I affirm under the penalties of perjury that what I have said above is true to the best of my knowledge, information, and belief.

| | |
|------------------|-----------------|
| Party Signature | Telephone / Fax |
| Party Name | E-mail |
| Address | Date |
| City, State, Zip | |

Attorney Certification (*To be completed by your lawyer, if you are represented*).

I,
Name of Attorney
 , certify that to the best of my knowledge, information, and belief, there is good ground to support the appeal, and it is not interposed for any improper purpose or delay.

| | |
|--------------------|-----------------|
| Attorney Signature | Telephone / Fax |
| Attorney Name | E-mail |
| Address | Date |
| City, State, Zip | |



COURT OF APPEALS COURT OF SPECIAL APPEALS
 CIRCUIT COURT FOR _____ City/County
 Located at _____ Court Address

IN THE MATTER OF: _____ VS. _____
 Appellant Appellee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on _____, a copy of this Request for Waiver of Prepaid Appellate Costs was served by hand delivery mailing first class mail, postage prepaid, to the following parties:

| | |
|------------|-----------------|
| _____ Name | _____ Address |
| _____ Name | _____ Address |
| _____ Date | _____ Signature |

ORDER REGARDING REQUEST FOR WAIVER OF PREPAID APPELLATE COSTS

UPON CONSIDERATION of the Request for Waiver of Prepaid Appellate Costs submitted by _____, and any further documentation as required or authorized by _____, Name of Party Rule 1-325 or other applicable law,

THE COURT HEREBY FINDS THAT:

- The party named above received a waiver of prepaid costs in the lower court in accordance with Rule 1-325(d), will be represented in the appeal by an eligible attorney under that section, and the attorney has certified that the appeal is meritorious and that the party remains eligible for representation in accordance with Rule 1-325(d).
- The party named above received a waiver of prepaid costs in accordance with Rule 1-325(e), and there has been no material change in the party's financial situation since the waiver was granted.
- The lower court has granted a waiver of prepaid appellate costs associated with assembling the record.

The party named above:

- Meets the financial eligibility guidelines of the Maryland Legal Services Corporation
- Does NOT meet the financial eligibility guidelines

The party named above:

- Is unable by reason of poverty to prepay the costs
- Is NOT unable by reason of poverty to pay the prepaid costs.

Other findings: _____

THE COURT HEREBY ORDERS that the waiver is:

- GRANTED. The prepaid costs associated with the appellate court are hereby waived.
- DENIED. You have 10 days from the date of this Order to pay the prepaid appellate costs. If the unwaived costs are not paid in full within 10 days, the appeal will be considered withdrawn.

_____ Date _____ Judge's Signature _____ ID Number

Reset

Glossary of Terms

Appeal

A review by an appellate court of what happened in a trial court or administrative agency to determine if the court or agency committed an error or errors and, if so, whether the error is significant enough to require some form of relief to the party that raised it. The appeal is initiated by filing a timely Notice of Appeal with a Certificate of Service.

Appellant

The party appealing a decision. This is the party who is unhappy with the decision in the circuit court (or orphans' court) and wants the Court of Special Appeals to reverse or modify the judgment of that court.

Application for Leave to Appeal

The pleading filed when seeking appellate review of certain final judgments or orders of the circuit court, such as in a post-conviction case, revocation of probation, inmate grievance, bail, victims' rights, and sentencing following the entry of a guilty plea or an Alford plea.

Appellee

The party who won in the circuit court (or orphans' court) and is the opposing party in the appellate case. This party usually wants the Court of Special Appeals to agree with and affirm the decision of the circuit court.

Brief

A written presentation of the facts of the case and legal argument supporting the party's position. The appellant's brief is filed first and explains the error(s) made by the trial court and argues why the Court of Special Appeals should reverse or modify the trial court's decision. The appellee then files a brief in response to the appellant's brief and sets out argument as to why the lower court's decision should be affirmed. An appellant may then respond with an optional reply brief.

Certificate of Service

A signed statement saying how and when you served a particular document on the other parties (or their attorneys) in the case. Every paper (including letters) filed in any court must include the certificate of service (sometimes called "proof of service").

Citation

A reference to a legal authority such as: cases that have been reported (or published) by the Court of Special Appeals or the Court of Appeals; statutes; the state or federal constitution; or the Maryland Rules. A citation may also refer to a page in the transcript or record extract. Citations are primarily used in briefs to support the facts of the case and the legal arguments made in support of a position.

Cross-Appeal

After a Notice of Appeal has been filed, the party opposing the appeal (the appellee), may ask the Court of Special Appeals to review a particular issue arising from the same circuit court judgment by also filing a Notice of Appeal with the clerk of the circuit court. A cross-appeal is usually filed when the appellee believes that the circuit court judgment failed to grant all of the relief requested or to rule entirely in the appellee's favor.

Docket Entries

A document or list of computer entries kept in the circuit court's record of the case. The docket entries include a list of all the papers filed in the case, the date each paper was filed, and the circuit court's orders or rulings. Docket entries also include a brief history of the action taken in the circuit court, such as the date of trial and the judgment or verdict entered after the trial.

Entry Date

The "date of entry" means the day when the clerk of the lower court first makes a record in writing of the judgment, notice, or order on the file jacket, on a docket within the file, or in a docket book, and records the actual date of the entry.

Final Judgment

The final decision by the court that is entered in the docket entries. This judgment resolves all of the issues that were presented in the court or administrative agency.

Mandate

A document signifying the final judgment of the Court of Special Appeals in the case on appeal. The mandate is issued 30 days after the Court files its opinion. (In appeals involving adoption, guardianship, child access, and child in need of assistance cases, the mandate is issued 15 days after the filing of the Court’s opinion.)

Motion

The procedure by which a party asks the Court to do something or to permit one of the parties to do something. For example, a party may file a motion asking the Court to extend the time for filing a brief. The motion must include reasons for the request.

Notice of Appeal

A document filed in the circuit court (or orphans’ court) case that lets the court know that you intend to appeal the judgment or order issued in the case. The filing of the Notice of Appeal begins the appeal process and must be accompanied by a certificate of service.

Opinion

The written decision of the Court of Special Appeals setting forth the reasons for its decision and the facts and law on which the decision is based.

Petition for Writ of Certiorari

The method by which a person or entity requests the Court of Appeals, Maryland’s highest court, to review the decision or judgment entered by a lower court. That process is set forth in Md. Rules 8-302 and 8-303.

Pro Se

A person, not represented by an attorney, who is representing himself or herself in a case.

Record

The circuit court file containing the original papers filed in the case. The record will contain all evidence presented in the circuit court or administrative agency, and, if necessary to decide the issues raised in the appeal, it must include a transcript (ordered and paid for by the appellant) of any testimony taken or relevant hearings held in the court below.

Record Extract

A document prepared by the appellant in a civil case (after consulting with the appellee) that includes photocopies of the circuit court docket entries, the judgment or order from which the appeal is taken, and those portions of the record which are relevant or important to the case on appeal. The record extract is included as an appendix to the appellant’s brief or prepared as a separate volume.

Show Cause Order

An order from the Court directing a party to explain why the Court should not take some specific action. For example, the Court may issue a show cause order directing the appellant to give reasons why the appeal should not be dismissed for lack of jurisdiction.

Stay

A court order which temporarily suspends court proceedings or the effect of a judgment. Noting an appeal does not automatically stay enforcement of a trial court judgment.

Transcript

The written version of everything that was said at the trial or hearings in the circuit court. The transcript is prepared by the court stenographer (sometimes called the court reporter). The appellant must order and pay for any transcripts that are necessary for the Court of Special Appeals’ review of the case on appeal.

Sample Notice of Appeal

IN THE CIRCUIT COURT FOR _____, MARYLAND
[state the county or Baltimore City]

[plaintiff's name]

Plaintiff,

Case No. _____

v.

[defendant's name]

Defendant.

NOTICE OF APPEAL

_____ notes an appeal to the Court of Special
[appealing party's name]

Appeals in the above-captioned action.

[signature]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 20____, a copy of the foregoing

Notice of Appeal was served, by _____
[state method of service, e.g., first class mail, hand delivery, certified mail or other]

ON: _____
[give name and address of all parties, in the case or their attorneys if represented by counsel, to be served]

[your signature & address]

Certificate of Service Form

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 20____, a copy
[month] [year]

of the foregoing _____
[name of document]

was served by (check one)

- 1. hand;
- 2. first-class mail, postage prepaid;
- 3. certified mail; or
- 4. other _____
[specify]

on the following: [give name(s) and complete addresses of all *parties* in the case, or their attorneys if represented by counsel, to whom the document was served upon]

[your signature]

[your address]

Motion to Extend Time for Filing Briefs

_____,
Appellant,
v.
_____,
Appellee.

* In the
* COURT OF SPECIAL APPEALS
* No. _____
* September Term, _____
*

Motion To Extend Time For Filing Appellant's Briefs

I, _____, hereby request until _____
to file briefs in the above-captioned appeal because _____

[sign your name]

CERTIFICATE OF SERVICE

I hereby certify, that on this _____ day of _____, 2013, a copy of the foregoing motion to extend time for filing appellant's brief was mailed, postage pre-paid, to Attorney General, Criminal Appeals Division, 200 St. Paul Place, Baltimore, MD 21202.

[signature]

Sample Affidavit

AFFIDAVIT OF _____
[name]

I, _____, am over eighteen years of age, have personal knowledge of
[name]
the facts set forth herein, and am competent to testify to those facts. The statements herein
are based on my personal knowledge [and, if applicable, a thorough, personal review of __

[name the document]].

[state each fact in separately numbered statements]

- 1.
- 2.
- 3.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that
the contents of the foregoing paper are true.

Signature

Date

Civil Appeal Information Report Form

COURT OF SPECIAL APPEALS OF MARYLAND
361 Rowe Blvd., Second Floor, Annapolis, MD 21401
www.mdcourts.gov/cosappeals
410-260-1450

CIVIL APPEAL INFORMATION REPORT (Md. Rules 8-205 & 8-206)

Appeal No. _____
 (To be filled in by Clerk, Court of Special Appeals)

Instructions: There is no fee to file this form. Within 10 calendar days of filing an appeal the appellant (the person filing the appeal) must deliver, by mail or in person, a complete and signed form to the address listed above. A copy must also be served by mail or delivery to all other parties or their attorneys. **FAILURE TO FILE THE FORM ON TIME OR TO CORRECT ANY ERRORS IN THE TIME SPECIFIED MAY RESULT IN DISMISSAL OF THE APPEAL.** The non-appealing party may, but is not required to, file a responding Civil Appeal Information Report. This form is not required for cases regarding Child(ren) In Need of Assistance or Supervision, termination of parental rights, juvenile delinquency, criminal convictions, habeas corpus, coram nobis, post-conviction, violation of probation, appeals by prisoners relating to their confinement, and cases where an application for leave to appeal is allowed by law. Attach copies of all requested documents to the original and all copies of the form. Use extra pages if needed.

COMPLETE THE FOLLOWING:

1. Case Identification:

Case name: _____ V _____
 Case Number: _____, Circuit Court for _____ County
 Judge: _____

2. Identification of parties and their attorneys:

Appellant's Name: _____

Address: _____

Phone (home, cell & work): _____

E-mail: _____

Appellant's Attorney: _____

Address: _____

Phone: _____

E-mail: _____

Appellee's Name: _____

Address: _____

Phone (home, cell & work): _____

E-mail: _____

Appellee's Attorney: _____

Address: _____

Phone: _____

E-mail: _____

3. CASE INFORMATION:

a. Type of case:

- CONTRACT
- DIVORCE
- FORECLOSURE
- PERSONAL INJURY
- DECLARATORY JUDGMENT
- OTHER (Specify) _____
- CUSTODY
- ESTATE
- WORKERS' COMPENSATION
- REAL ESTATE
- ADMINISTRATIVE APPEAL

b. Is this an appeal from an order granting a motion to dismiss or motion for summary judgment? YES NO If yes, was there a hearing? YES NO

c. Dates & duration of any trial or hearing (days/hours): _____

d. Were any post-judgment motions filed under Rule 2-532 (Judgment Notwithstanding the Verdict), 2-533 (New Trial), or 2-534 (Alter or Amend)? YES NO If yes state:

Date Motion Was Filed: _____

Date of Ruling on Motion: _____

Decision on the Motion: _____

e. Do the judgments, orders, or rulings end the entire case against all parties? YES NO
If no, explain why the case is appealable under Rule 2-602 or Courts Article Sections 12-301 or 12-303: _____

f. Was *in banc* review requested under Rule 2-551? YES NO
If "yes," who filed for *in banc* review: _____

4. Appeal

a. Date appeal was filed: _____

b. Is this an appeal from an order about adoption, termination of parental rights, guardianship of the person, custody or visitation? YES NO

c. Was this matter previously appealed? YES NO

Appeal No. _____, Sept. Term, _____

Appeal No. _____, Sept. Term, _____

d. Are there any related cases or appeals pending? If so, identify the case:

Case name: _____ Case No.: _____ Court: _____

Case name: _____ Case No.: _____ Court: _____

5. **Issues on appeal.** (*Information disclosed does not limit the scope of appeal. Rule 8-205(f).*)

6. **Mediation &/or Pre-Hearing Conference** - *For questions regarding mediation or pre-hearing conferences please call the ADR Division at 410-260-3717. Information about the appellate mediation program is also available at www.mdcourts.gov/cosappeals/mediation.*

a. Describe the history and present status of settlement negotiations:

b. Was this case previously submitted to any Alternative Dispute Resolution process (arbitration, mediation, settlement conference, etc.)? Yes No. If so, please describe? _____

c. Could this case benefit from mediation before briefs are filed? YES NO

d. Could this case benefit from a Pre-Hearing Conference (Rule 8-206)? YES NO

(Information disclosed in this answer is subject to the confidentiality provision of Rule 8-205(f)).

7. **IMPORTANT - ATTACH A COPY OF: (1) CIRCUIT COURT DOCKET ENTRIES, (2) THE JUDGMENT APPEALED FROM, AND (3) THE NOTICE OF APPEAL.**

(For questions about your appeal please call the Clerk's Office at 410-260-1450 or see www.mdcourts.gov/cosappeals)

CERTIFICATE OF SERVICE

I certify that on the date stated below a copy of the foregoing Report was mailed, postage prepaid to:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

DATE

SIGNATURE

Sample Appellant's Brief with Record Extract

Sample Brief

IN THE
COURT OF SPECIAL APPEALS OF MARYLAND

September Term, 2010
No. 4236

JOHN SMITH

Appellant

v.

JANE SMITH

Appellee

Appeal from the Circuit Court for Anne Arundel County
(The Honorable William H. Justice)

BRIEF OF APPELLANT JOHN SMITH
&
RECORD EXTRACT

John Smith
482 Heritage Road
Annapolis, MD 21401
410-909-0110
jsmith@internet.com
Appellant

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STATEMENT OF THE CASE

On August 24, 2009, Jane Smith, the Appellee, filed this action for Limited Divorce, asserting various claims for relief. On April 19, 2010, the Circuit Court for Anne Arundel County ordered John Smith, the Appellant, to pay child support in the amount of \$785.00 per month. (E. 14)

Subsequently, the financial condition of the Appellant materially changed, and on May 4, 2010, the Appellant filed a Motion for Modification of Child Support and requested a hearing to consider all his claims. (E.10) On June 16, 2010, the Circuit Court deferred ruling upon the Appellant’s Motion without a hearing, stating: “All issues raised in Motion can be raised at Merits Hearing and no need to Reconsider exists.” (E.9)

On July 2, 2010, the Appellant filed a Motion to Reconsider the Order Deferring/Denying his claim for Modification of Child Support, and again requested a hearing. (E.5) On July 15, 2010, without a hearing, the court denied the Appellant’s Motion for Reconsideration stating: “Denied as the Court will not consider the Pendente Lite Order.” (E.4) The Order also denied the Appellant’s request that the Modification petition be heard at the merits hearing which was scheduled for August 20, 2010. (E.4) No hearing was ever held to consider the Appellant’s claims to modify his child support.

On August 6, 2010, the Appellant timely noted his appeal to this Court.

QUESTION PRESENTED

1. Was the trial court's denial of the Appellant's Motion for Modification of Child Support and Motion to Reconsider without granting the Appellant a hearing he requested, legally correct when Maryland Rule 2-311(f) requires the trial court to hold a hearing before rendering a decision disposing of a claim or a defense?

STATEMENT OF FACTS

On August 24, 2009, the Appellee filed this action for limited divorce asserting various claims for relief. On April 19, 2010, after a hearing the court ordered the Appellant to pay child support in the amount of \$785.00 per month. (E.14)

Several days later, the Appellant's full time employment was drastically reduced as his employer reduced his position to part time employment, from 40 hours per week to approximately 20-22 hours per week, thereby cutting his income in half. (E. 10-11) The Appellant also failed to obtain additional employment he had been seeking, thereby reducing his income even further, through no fault of the Appellant. (E.11)

In light of these material changes in his financial circumstances, on May 4, 2010, the Appellant filed a Motion for Modification of Child Support. (E. 10) The Appellant requested a hearing to consider his claims, however, on June 16, 2010 the court deferred consideration of Appellant's Motion for Modification without a hearing, stating: "All issues raised in Motion can be raised at Merits Hearing and no need to Reconsider exists." (E.9)

To obtain a prompt ruling on the merits of his claims, on July 2, 2010, the Appellant filed a Motion to Reconsider the Order Deferring/Denying his claim for Modification of

Child Support, and again requested a hearing. (E. 5) On July 15, 2010, the court denied the Appellant's Motion for Reconsideration stating: "Denied as the Court will not consider the Pendente Lite Order." (E.4)

However, the Appellant never asked the Court to reconsider its original Order of April 19, 2010, because on May 4, 2010 he filed a new claim for relief based on a new change of circumstances, upon which the court has never considered the merits of. The court's Order of July 15, 2010, also denied the Appellant's request that his motion be heard at the Merits hearing, which was scheduled for August 20, 2010. The court's Order of July 15, 2010, was directly contrary to the court's prior Order of June 16, 2010, which stated that the modification could be heard at the Merits hearing.

ARGUMENT

Standard of Review

Maryland Rule 8-131 (c) provides that when an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. The trial court's decision must be reversed if it was not legally correct. *Heat & Power Corp. v. Air Products & Chemicals, Inc.*, 320 Md. 584, 591 (1990). The clearly erroneous standard for appellate review does not apply to determinations of legal questions or conclusions of law, as in this case there were no hearings or factual findings. By denying the Appellant's Modification Request without a hearing, the trial court's decision was not legally correct.

THE TRIAL COURT'S DECISIONS TO DENY THE APPELLANT'S MOTION FOR MODIFICATION OF CHILD SUPPORT AND

MOTION TO RECONSIDER WITHOUT A HEARING WERE NOT LEGALLY CORRECT, BECAUSE THE APPELLANT WAS NOT GRANTED A HEARING AS REQUIRED BY MARYLAND RULE 2-311(f).

Annotated Code of Maryland, Family Law Article, § 12-104, provides that a party may file a request to modify a child support award upon the showing of a material change of circumstances. *Wills v. Jones*, 340 Md. 480 (1995). Maryland Rule 2-311 (f) provides that the Circuit Court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested. *Bond v. Slavin*, 157 Md. App. 340 (2004).

The Appellant requested a hearing upon his Motion for Modification for Child Support (E.11) and upon his Motion to Reconsider the Deferral/Denial of Modification of Child Support. (E.7) No hearing was ever granted. The Appellant's Motion set forth facts under oath supporting the material change in circumstances which would have required the Circuit Court to grant his claims for relief. At a hearing, the Appellant would have had the opportunity to present additional evidence in support of his claim. By denying the Appellant's Motions without granting him a hearing, the Circuit Court denied the Appellant due process and his day in court as required by Maryland Rule 2-311(f).

As the Circuit Court failed to follow the requirement of Maryland Rule 2-311(f), its decisions in denying the Appellant's Motions without a hearing, were not legally correct.

CONCLUSION

For the above reasons and authorities stated, the Appellant respectfully requests that the judgement of the Circuit Court be reversed, and that this matter be remanded to the

Circuit Court for it to hold a hearing to consider the Appellant’s Motion for Modification of Child Support.

Respectfully submitted,

John Smith, Appellant

Statement as to Typeface: The font used in this Brief is Times New Roman and the type size is 13 point.

TEXT OF CITED STATUTES & RULES

Maryland Annotated Code, Family Law Article, § 12-104

(a) *Prerequisites.* – The court may modify a child support award subsequent to the filing of a motion for modification and upon a showing of a material change of circumstance.

(b) *Retroactivity of modification.* – The court may not retroactively modify a child support award prior to the date of the filing of the motion for modification.

Maryland Rule 2-311 (f)

A party desiring a hearing on a motion, other than a motion filed pursuant to Rule 2-532, 2-533, or 2-534, shall request a hearing in the motion or response under the heading “Request for Hearing.” Except when the Rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

Maryland Rule 8-131(a)

When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

CERTIFICATION OF WORD COUNT AND COMPLIANCE

WITH RULE 8-112

1. This brief contains _____ words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements state in Rule 8-112.

Signature

Rule 8-503(g).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of August, 2011, two copies of the foregoing Brief of John Smith, the Appellant, were mailed, postage pre-paid to: Jane Smith, Appellee, 435 Hunter Mills Road, Annapolis, Maryland 21401.

John Smith

RECORD EXTRACT

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Pendente Lite Order of April 19, 2010 E. 13

CIRCUIT COURT FOR ANNE ARUNDEL COUNTY
 Robert P. Duckworth
 Clerk of the Circuit Court
 7 Church Circle
 Post Office Box 71
 Annapolis, MD 21404-0071
 (410)-222-1420, TTY for Deaf: (410)-222-1429
 Civil (410)222-1431

01/10/11

Case Number:
 Date Filed: 08/24/2009
 Status: Open/Active
 Case Flag: Appeal
 Judge Assigned: To Be Assigned,
 Location :
 CTS Start : 08/24/09 Target : 08/24/10

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

| Description | Number |
|----------------|--------|
| ----- | ----- |
| Case Folder ID | C091 |

INVOLVED PARTIES

| Type Num | Name (Last, First, Mid, Title) | Addr Str/End | Pty. Disp. Addr Add/Upc |
|-----------|--------------------------------|--------------------|----------------------------|
| ----- | ----- | ----- | ----- |
| PLT 001 | | | |
| | | Party ID: | |
| Mail: | | 08/24/09 | 08/26/09 SNF |
| | Annapolis, MD 21401 | | |
| Attorney: | | Appear: 08/24/2009 | |

DEF 001

Party ID:

E.1

JUDGE HISTORY

| JUDGE ASSIGNED | Type | Assign Date | Removal RSN |
|---------------------|------|-------------|-------------|
| TBA To Be Assigned, | J | 08/26/09 | |

DOCUMENT TRACKING

| Num/Seq | Description | Filed | Party | Jdg Ruling | Closed | User |
|--------------|--|----------|--------|-------------------------|----------|----------------|
| <u>12-15</u> | 0001000 Complaint for Limited Divorce | 08/24/09 | PLT001 | TBA | | SNP 08/26 |
| <u>16-17</u> | 0001001 Answer to Complaint for Limited Divorce | 02/18/10 | DEF001 | TBA | | TLH I 02/21 |
| | 0001002 Answer To Counter-Complaint For Limited Divorce, Custody, Child Support and Other Relief | 02/26/10 | PLT001 | TBA | | KB 03/03 |
| | 0002000 Attorney Appearance Filed | 08/24/09 | PLT001 | TBA | 08/26/09 | SNP 08/26 |
| <u>18</u> | 0003000 Financial Statement | 08/24/09 | PLT001 | TBA | 08/26/09 | SNP 08/26 |
| <u>19</u> | 0004000 Information Sheet-Contested | 08/24/09 | PLT001 | TBA | | SNP 08/26 |
| <u>20</u> | 0005000 Writ of Summons - Civil Issued | 08/26/09 | DEF001 | TBA | 08/26/09 | SNP 08/26 |
| <u>21</u> | 0006000 Return of Service - Served CV-Writ of Summons served 09/15/09 | 09/28/09 | DEF001 | TBA | 09/28/09 | PLF 09/26 |
| <u>22</u> | 0007000 Request for Order of Default/Non-Mil.Aff | 10/21/09 | PLT001 | PLN Granted | 11/03/09 | DMB I 10/23 |
| <u>23-24</u> | 0008000 Order of Default ORDERED, Default is entered against to file a responsive pleading to the Complaint for Limited Divorce. Testimony to be taken before a Master of this Court. (Copies mailed to | 11/03/09 | 000 | JMW Vacated for failure | 01/13/10 | DMP I 11/03 |
| <u>25</u> | 0009000 Notice of Default Order Issued | 11/03/09 | 000 | TBA | 11/03/09 | DMP I 11/03 |
| <u>26.</u> | 0010000 Hearing Notice Issued | 11/05/09 | 000 | TBA | | VH |

User Inter: pay support through OCSE by way of an EWO. Child Support payments
 Y are redirected through AACO OCSE. All future payments shall be
 6/24/ paid through the MD Child Support Account (copies mailed to atty
 , OCSE)

| AE SA | Description | Filed | Party | Jdg Ruling | Closed | User ID/ Entered |
|-------|---|----------|-------|------------|----------|---------------------|
| 3/09/ | 0 Order | 08/26/10 | 000 | PLN | | GDH GDH |
| AE SA | RE; Support dated 8-24-10 STRIKE ORDER as of 8-26-10 date Per | | | | 08/26/10 | 08/26/10 |
| /29/ | Judge North. (copy faxed and mailed to OCSE, R | | | | | |
| B DA | 00 Order of Court | 08/26/10 | 000 | PLN | | JPS JPS |
| /10/ | Order Re: Defendant is in arrears. Defendant to pay monthly | | | | 10/13/10 | 10/13/10 |
| P | support and arrearage. Child Support Payments are redirected | | | | | |
| '12/ | through A.A. Co. OCSE. All future payments shall be paid through | | | | | |
| | the Md. Child Support Account. (Copies mailed to Atty's | | | | | |
| | Copy forwarded to OCSE) | | | | | |
| | 00 Order of Court | 11/10/10 | 000 | JMW Ruled | | AKP AKP |
| 10/ | Ordered that a Status Conference shall be held on December 10, | | | | 11/10/10 | 11/10/10 |
| | 2010, at 9:00 a.m. (Copies to Attys | | | | | |
| AN | 00 Order to proceed without prehearing | 12/06/10 | 000 | TBA | | ADP |
| 27/ | conference signed by Judge Eyster. | | | | | |
| | (Copy to Stenos) | | | | | 12/06/10 |
| | Case due to COSA 1/31/11. | | | | | |
| BA | 000 Order of Court Regarding review of the | 12/21/10 | 000 | JMW Ruled | | SAE SAE |
| 0/ | file, it is ORDERED that as this case | | | | 12/21/10 | 12/21/10 |
| VL | is on appeal to the Court of Special Appeals, this matter is | | | | | |
| 3/ | stayed until the earlier of the receipt of a mandate from the | | | | | |
| | Court of Special Appeals, an Order of this Court granting a | | | | | |
| | motion filed by either party to lift the stay or other Order of | | | | | |
| | this Court lifting the stay and it is ORDERED that the Status | | | | | |
| | Conference currently scheduled for the 10th day of December, 2010 | | | | | |
| | is cancelled. (copy mailed to Attys | | | | | |
| | 000 Original Pleadings sent to COSA | 01/10/11 | 000 | TBA | | ADP |
| /1/ | including 1 Volume of Pleadings. | | | | | |
| | By BWA Courier 1/14/2011. | | | | | 01/10/11 |

SERVICE

| Name | Issued | Response Served | Returned Agency |
|----------------|----------|-----------------|-----------------|
| Writ of Habeas | 08/26/09 | 10/15/09 | 09/15/09 |
| 001 D... | | | Private Process |

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY

| | |
|------------------|-------------------------|
| | * |
| Plaintiff | * |
| vs. | * Case # 02-C-09 |
| | * |
| Defendant | * |

**MOTION TO RECONSIDER ORDER
DENYING DEFENDANT'S MOTION FOR MODIFICATION
OF PENDENTE LITE ORDER REGARDING CHILD SUPPORT**

Now comes the Defendant, _____ by and through his attorneys,
_____, LLC, and hereby files this Motion to
Reconsider Order Denying Defendant's Motion for Modification of Pendente Lite Order
Regarding Child Support, and as grounds states:

1. On May 4, 2010 the Defendant filed a Motion for Modification of Child Support Pendente Lite, and requested a hearing.
2. Pursuant to the Annotated Code of Maryland Family Law Article, §12-104, the Court may Modify a Child Support Award subsequent to the filing of a Modification and upon a showing of a material change of circumstances. Moreover, Maryland Rule 2-311(f) provides in pertinent part that a Court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this Section.
3. That the Defendant requested a hearing in his Motion for Modification. That the Defendant further set forth in his Motion under oath the material change in

E.5

circumstances which occurred after the issuance of the initial Child Support Order.

4. That the Court never allowed the Defendant to have his day in Court for his Modification hearing to present evidence to show a material change in circumstances entitling him to relief.

5. That the Defendant believes that the Court interpreted the Defendant's Motion for Modification in error as a Motion for Reconsideration.

6. The Court in this action entered an Order on June 29, 2010 which denied the Defendant's Motion, however, in handwritten notation it appears to state "All issues raised in Motion can be raised at merits hearing and no need to reconsider exists."

7. The Defendant is uncertain whether the Court has denied his request in total without a hearing, or simply is deferring on Defendant's Motion until the pending trial date of August 20, 2010, recognizing the fact that the case would not be set in by the Court until that date anyhow.

8. That the Defendant is entitled to a hearing on his Motion, which appears to be summarily denied by the Court's current ruling. If the meaning of the Court's Order is that the Defendant will receive a full hearing on all issues raised in his Motion at the merits hearing which is scheduled on August 20, 2010, and that the matter is not decided against him at this time, then the Defendant has no objection to the Court ruling in light of the practicalities of scheduling a pendente lite hearing prior to the final merits hearing.

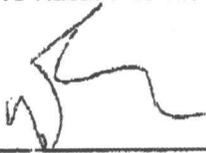
9. Accordingly, the Defendant respectfully requests clarification of the Court's Order entered June 29, 2010, or reconsideration of said Order so that the record clearly states the Court's findings regarding the Defendant's Motion for Modification and that a

E.6

hearing be granted on Defendant's Motion for Modification.

WHEREFORE THE DEFENDANT PRAYS:

- A. That the Court clarify It's Order of June 29, 2010;
- B. That the Defendant's Motion for Modification be scheduled for Hearing at the same time as the merits hearing on August 20, 2010.
- C. That a hearing be set on this Motion unless the requested relief is granted.
- D. And for such other and further relief as the nature of his cause may require.



Attorney for Defendant

POINTS & AUTHORITY

Maryland Rule 2-311
Annotate Code of Maryland, Family Law Article §12-104

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of July, 2010 a copy of the foregoing Motion to Reconsider Order Denying Defendant's Motion for Modification of Pendente Lite Order Regarding Child Support was sent first class mail, postage prepaid, to R.



Plaintiff

v.

Defendant

* IN THE

* CIRCUIT COURT

* FOR

* ANNE ARUNDEL COUNTY

* Case No.: C-09-

* * * * *

ORDER DENYING DEFENDANT'S MOTION FOR MODIFICATION OF PENDENTE LITE ORDER, CHILD SUPPORT

Upon consideration of the Defendant's Motion for Modification of Pendente Lite Order, Child Support and the Plaintiff's Response thereto, it is this 16 day of June, 2010, by the Circuit Court for Anne Arundel County,

ORDERED, that the Motion is hereby DENIED.

JUDGE

CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

2010 JUN 29 A 11:15

CIVIL

TRUE COPY,

TEST: Robert P. Duckworth, Clerk

By: _____ Deputy

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY

| | |
|------------------|-------------------|
| | * |
| Plaintiff | * |
| vs. | * Case # 02-C-09- |
| | * |
| Defendant | * |

MOTION FOR MODIFICATION OF PENDENTE LITE ORDER, CHILD SUPPORT

Now comes the Defendant, _____, by and through his attorneys,
 _____ LLC, and Moves this Honorable Court to
 Modify It's Pendente Lite Order dated April 19, 2010, and for grounds, states:

1. That the parties appeared before The Honorable William C. Mulford, II on April 15, 2010 for a Pendente Lite Hearing, wherein at that time the Court Ordered Child Support to be paid to the Plaintiff commencing April 15, 2010 at the rate of \$785.00 per month and determined Child Support arrearages to be \$3,462.00.

2. At the time of the hearing, the Defendant was employed full time and had additional part time employment, i.e., basketball referring and grass cutting.

3. That since the passage of the aforesaid Order, the circumstances of the parties have substantially changed in that:

a. That subsequent to the Hearing the Defendant's full time employment changed through no fault of his own, as his employer reduced his position to part time employment from 40 hours per week to approximately 20 - 22 hours per

week, thereby cutting his income almost in half.

b. That the Defendant also anticipated that he was going to be hired to referee a Basketball event, which unfortunately also did not occur, thereby reducing his income even further, again through no fault of the Defendant.

4. That the Court also awarded the Defendant Pendente Lite visitation which was dramatically reduced from the status quo prior to the hearing, that is, before the hearing the Defendant had 2 overnights per week and the Court reduced his overnight visitation to only every other weekend from Friday to Sunday, thereby reducing his overnight visitation by 50%.

5. That it would be in the best interest of the minor children to allow the Defendant to have more overnight visitation than what has been Ordered Pendente Lite, i.e., at a minimum of 2 overnights per week while the children are in school, and additional overnight visitation during the summer and time outside of school.

WHEREFORE, Defendant requests:

A. That the Court pass an Order modifying it's Order dated April 19, 2010, by reducing the amount of child support payable by the Defendant.

B. That visitation be modified so that the Defendant have visitation with the minor children no less than 2 overnights per week during the school year and additional overnights when school is not in session.

C. That this Motion be set for a Hearing.

D. That he be awarded such other and further relief as the nature of his cause may require

Attorney for Defendant

Affidavit

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth in this Motion for Modification of Pendente Lite Order are true to the best of my knowledge, information and belief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March, 2010 a copy of the foregoing Motion for Modification was sent first class mail, postage prepaid, to

Plaintiff * IN THE
 v. * CIRCUIT COURT
 Defendant * FOR
 * ANNE ARUNDEL COUNTY
 * CASE NO.: C-09-

* * * * *

PENDENTE LITE ORDER

A hearing having been held, testimony taken, counsel heard and for the reasons stated on the record, it is this 19 day of April, 2010, hereby

ORDERED,

1. That the Defendant, _____ is awarded pendente lite visitation with the two minor children, _____ and _____, every other weekend from Friday after school to Sunday at 5:00 P.M. and Wednesdays after school until 8:30 P.M., beginning on April 23, 2010; and it is further

ORDERED,

2. That the Defendant shall pick up and drop off the two minor children; and it is further

ORDERED,

3. That the Defendant shall be responsible for transporting the two minor children to all scheduled activities during visitation, whether school or extracurricular activities; and it is further

CIVIL DEPARTMENT

2010 APR 27 A 11: 53

NOTES

Maryland Court of Special Appeals
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard – 2nd Floor
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