

## **Appeal Checklist for Trial Attorneys**

\*All underlined documents are available at <https://www.wisprd.gov/appellate-division>

### ● **Before Sentencing**

- Review appellate rights with client (Notice of Rights (NOR) Form CR-233)
- Calculate sentence credit and address at sentencing
- Address restitution, if applicable
- Consider whether requesting a stay pending appeal will be appropriate

### ● **After Sentencing**

- E-file a motion to stay pending appeal, if appropriate
- Determine whether your client wants to appeal the judgment and e-file the NOR
  - If your client is undecided, follow-up with them within 20 days to get an affirmative answer
- If your client wants to appeal, e-file the Notice of Intent (NOI) within 20 days of sentencing<sup>1</sup>
- If you miss the NOI deadline and can show “good cause”, you must efile a motion to extend in the COA<sup>2</sup>
- Make sure to address restitution if not already addressed<sup>3</sup>
- Email the following to [madisonappintake@opd.wi.gov](mailto:madisonappintake@opd.wi.gov)
  - E-file date stamped NOI
  - Trial Attorney Questionnaire
  - Any transcripts already received
- Do not order any additional transcripts for Appellate<sup>4</sup>
- Send entire client file to appointed appellate attorney upon request<sup>5</sup>
- If a former client reaches out and you are unsure how to respond, contact Appellate

### ● **Interlocutory Appeals**

- Determine whether it is appropriate to file a petition for leave to appeal a non-final order and if so, file a petition within 14 days from written order
- If the state files a petition for leave to appeal a non-final order, file a response within 14 days
- If the petition is accepted by the COA, email [madisonappintake@opd.wi.gov](mailto:madisonappintake@opd.wi.gov) *immediately* so an appellate attorney can get appointed

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<sup>1</sup> In TPR cases, the deadline to file the NOI is 30 days and must have the client's written signature.

<sup>2</sup> See Initiating a Direct Appeal: What to File & What to Do When It's Too Late for instructions.

<sup>3</sup> If restitution or sentence credit is determined after a NOI has been filed after sentencing and there is an amended JOC, efile another NOI. This ensures that the Appellate Division will order the transcript of the additional hearing.

<sup>4</sup> Unless you are appealing an order for involuntary medication and treatment in a competency appeal. If so, you must request the transcripts within 3 days of the order. See <https://www.wisprd.gov/competency> for more information on litigating competency.

<sup>5</sup> This includes discovery, correspondence, investigation memos, notes, research. (EF-16-03. SCR 20:1.16 (d)).

- **State's Appeals**

- If the state is appealing as of right, email [madisonappintake@opd.wi.gov](mailto:madisonappintake@opd.wi.gov) *immediately* so an appellate attorney can get appointed

- **IAC Claims**

- Consult with appellate counsel- you do not need a waiver from the client
- Maintain duty of loyalty and confidentiality to client- do not talk to the DA
- Attorney client privilege is not waived until the hearing and then only to the extent necessary to address issues raised in the motion