

Filing a Postconviction Appeal at the Minnesota Court of Appeals

This packet is provided as a general guide to the process of appealing from a district court order denying a postconviction petition. These instructions explain the steps to start an appeal and answer common questions, but are not a full guide to the law.

Please read this entire packet carefully. If you do not understand any of the steps or do not know if these forms are right for your situation, you should speak with an attorney for legal advice.

This packet only covers postconviction appeals to the Minnesota Court of Appeals. If you were convicted of first-degree murder, your postconviction appeal must be filed with the Minnesota Supreme Court. If you are filing a type of criminal appeal other than from a decision on a postconviction petition, consult the Minnesota Rules of Criminal Procedure and the online materials for criminal appeals.

This packet includes:

- Step-by-Step Instructions for Filing a Postconviction Appeal
- Form: Notice of Appeal
- Form: Statement of the Case of Appellant
- Form: Appellant's Certificate of Service by Mail of Notice of Appeal and Statement of the Case
- Form: Appellant's Certificate of Service by Mail of Brief

For Additional Assistance:

Additional helpful materials, including example briefs, can be found on the Minnesota State Law Library website (<https://mn.gov/law-library/>).

Questions can be directed to the State Law Library at (651) 297-7651, or the Office of the Clerk of the Appellate Courts at:

Clerk of the Appellate Courts
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155
(651) 291-5297

Please note that court employees can give general information about court rules and procedures, but they cannot give legal advice.

Important Information about Postconviction Appeals

Eligibility for Public Defender

If this is your first appeal on this conviction, and you meet certain financial eligibility requirements, you may be entitled to a public defender for your appeal. Contact the Office of the Minnesota Appellate Public Defender for application forms and instructions:

Office of the Minnesota Appellate Public Defender
540 Fairview Avenue North, Suite 300
St. Paul, MN 55104
(651) 201-6700

You might *not* be entitled to a public defender if you had a previous appeal involving the same conviction, and you were represented by an attorney from the Office of the Minnesota Appellate Public Defender in that appeal. See [Minn. Stat. § 611.25, subd. 1\(a\)\(2\)](#); [Minn. R. Crim. P. 28.02, subd. 5](#).

Court of Appeals Opinions are Available to the Public

Once your appeal is decided, the Court of Appeals will issue a written decision, called an “opinion,” which will describe your case and the reasons for the court’s decision. **The opinion will be available to the public on the Minnesota Judicial Branch’s website.** After an opinion is filed, it cannot be removed from the Internet. This means that anyone who searches for your name on the Internet may be able to find and read the opinion.

Laws that Apply to your Appeal

Your appeal is governed by the Minnesota Rules of Criminal Procedure ([particularly Minn. R. Crim. P. 28.02, subs. 2 and 4](#)), the Minnesota Rules of Civil Appellate Procedure, the Special Rules of Practice for the Minnesota Court of Appeals, and the Minnesota Statutes, as well as case law (cases previously decided and published by the Minnesota Supreme Court and Minnesota Court of Appeals).

This packet includes simplified instructions, but you should read the rules and statutes yourself for more information. **If you are representing yourself, you are responsible for researching court rules, case law, and statutes that govern your case.**

You can find the rules and statutes at the Minnesota State Law Library (Room G25, Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155, or call 651-297-7651), and at public libraries. You can also find the rules at the Minnesota Judicial Branch’s website: <http://www.mncourts.gov/About-The-Courts/SupremeCourt/CourtRules.aspx>.

No Filing Fees

No filing fees are required to file a postconviction appeal. [Minn. Stat. § 590.06](#).

Step-by-Step Instructions for Filing a Postconviction Appeal

Step 1: Calculate Your Appeal Deadline

After the district court files an order denying part or all of your petition for postconviction relief, you have 60 days to appeal to the Court of Appeals. See [Minn. R. Crim. P. 28.02, subd. 2](#); [Minn. R. Crim. P. 28.02, subd. 4\(3\)\(c\)](#).

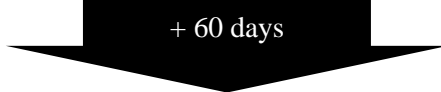
Note: Other types of criminal appeals, such as direct appeals of felony or misdemeanor convictions, have very different filing deadlines. Read [Minn. R. Crim. P. 28.02, subd. 4\(3\)](#) to confirm the deadline that applies to your appeal.

Your appeal time begins to run on the date that the district court administrator files the order; not when you receive a copy of the order. See [Minn. R. Crim. P. 33.03](#). The Court of Appeals can extend the appeal deadline for up to 30 additional days, but you must file a motion for an extension, and your motion must show "good cause" to get an extension. See [Minn. R. Crim. P. 28.02, subd. 4\(3\)\(g\)](#). For instructions about motions, see page 12.

General Instructions for Calculating Court of Appeals Deadlines

- Do not count the day of the event that starts the time period (for example, the date the district court administrator files the order). Instead, start counting the next day. [Minn. R. Crim. P. 34.01](#).
- Continue counting calendar days. Do not skip weekends or legal holidays.
- If the last day of the period falls on a Saturday, Sunday, or legal holiday, then the deadline is the next business day. For the purpose of calculating deadlines, legal holidays for the appellate courts are:
 - New Year's Day (January 1);
 - Martin Luther King, Jr.'s birthday (the third Monday in January);
 - Presidents' Day (the third Monday in February);
 - Memorial Day (the last Monday in May);
 - Independence Day (July 4);
 - Labor Day (the first Monday in September);
 - Columbus Day (the second Monday in October), even though the appellate courts are open on Columbus Day;
 - Veterans' Day (November 11);
 - Thanksgiving Day (the fourth Thursday in November);
 - The Friday after Thanksgiving; and
 - Christmas Day (December 25).

The date the district court administrator filed the order was _____.



The deadline for my appeal is _____.

Note: Before the deadline for your appeal (on the line above), the *Notice of Appeal* must be **filed** with the Clerk of the Appellate Courts and **served** on all respondents (steps 2-5 provide instructions for filing and serving documents).

If you do not file and serve the *Notice of Appeal* by the deadline, your appeal will be dismissed.

Step 2: Fill out the *Notice of Appeal* and *Statement of the Case*

- Fill out the *Notice of Appeal*, which tells the court that you want to appeal. A *Notice of Appeal* form is attached to this packet.
- Fill out the *Statement of the Case*, which should *briefly summarize* the reasons you think the district court’s decision was incorrect. You do not need to make detailed arguments in the *Statement of the Case*, because you will make detailed arguments later in your *Brief*. A *Statement of the Case* form is attached to this packet. You may attach a copy of the district court’s order denying your petition for postconviction relief, but do not attach any other documents to your *Statement of the Case*.

Some questions on the *Statement of the Case* may require you to complete some basic legal research about your appeal before you can complete them. Detailed instructions for completing this form are available at <http://www.mncourts.gov/courtOfAppeals.aspx#Tab08Resources>.

The party who files the appeal is called the “appellant.” In a postconviction appeal, the other party is the State of Minnesota and is called the “respondent.” The State of Minnesota is represented by the county attorney and the Minnesota Attorney General. The title of a postconviction appeal is: “(Your name), petitioner, Appellant, vs. State of Minnesota, Respondent.”

The *Statement of the Case* asks whether you are requesting oral argument, but oral argument will not be allowed if any party does not have an attorney. The *Statement of the Case* asks you to indicate which format you will use when you file your *brief*: formal, informal, or previously submitted memorandum of law with a short letter argument. Refer to Step 9 on page 15 for information about the different format options for your *brief*.

Fill in all of the blanks on the forms. If you do not fill out all of the blanks, the Clerk of the Appellate Courts may have to return the forms to you, and it may cause you to miss your deadline to appeal.

Step 3: File the *Notice of Appeal* and *Statement of the Case*

“Filing” means submitting or delivering documents to the Office of the Clerk of the Appellate Courts. Filing the *Notice of Appeal* is how you tell the Court of Appeals that you are starting an appeal.

- Choose your method of filing (see instructions below):

General Instructions for “Filing”

Parties **without an attorney** may file documents by **mailing** the documents to the Clerk of the Appellate Courts, addressed to:

Clerk of the Appellate Courts
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

For filing by postal mail, a document will be considered filed “on time” if it is deposited in the U.S. Mail by the deadline with correct postage and the correct address, even though the Clerk of the Appellate Courts will not receive the document on the day you deposit it in the mail.

For simplicity, this packet only includes forms and instructions for filing by mail. This packet assumes that you are filing by mail. However, there are two other options for filing:

- 1) **Hand-delivering** them to the Clerk of the Appellate Courts during business hours (8:00 a.m. to 4:30 p.m. weekdays), or
- 2) **Submitting them electronically** through the appellate courts’ e-filing system, E-MACS. Once you start to e-file in an appellate case, you must continue to e-file throughout the case – you cannot choose later to file in person or by mail. (**Note: All attorneys are required to use E-MACS and cannot file documents by mail or by hand-delivery to the Clerk of the Appellate Courts.**)

For information about electronic filing and to submit documents electronically, go to the Clerk of the Appellate Courts’ webpage (www.mncourts.gov/Clerk-of-Appellate-Courts.aspx#tab05AppellateFiling). For additional instructions on filing, see [Minn. R. Civ. App. P. 125.01](#). **The Clerk’s Office cannot accept filings by fax or email.**

- Make four copies of each of the *Notice of Appeal* and *Statement of the Case*. Keep one copy of each document for your records.
- File the original of the *Notice of Appeal* and *Statement of the Case* with the Clerk of the Appellate Courts by mailing it to the address above.
- File one copy of the *Notice of Appeal* and *Statement of the Case* with the district court of the county where the order you are appealing was filed, by mailing it to that court’s address.

Step 4: Serve the documents on the other parties

Any time you submit a document to the Clerk of the Appellate Courts for filing, a copy must also be provided to all other parties at or before the time of filing. This is called “service.”

Reminder: You must file the *Notice of Appeal* and serve it on the other parties by the deadline you calculated in Step 1, or your appeal will be dismissed.

General Instructions for “Service”

If a party has an attorney, you must serve the attorney rather than the party. If a party does not have an attorney, you may serve that party directly.

You can serve **by mail** by depositing the documents, correctly addressed, in the U.S. Mail, with adequate first-class postage. You can serve documents by mail yourself.

For simplicity, this packet only includes forms and instructions for service by mail. This packet assumes that you are serving the other parties by mail.

However, there are other methods of service:

- (1) **In person** (“personal service”): Have another person hand-deliver the document. The person who hand-delivers the document must be 18 years or older and not a party to the appeal. You cannot serve a party in person yourself.
- (2) **Electronically**: If you filed electronically using the appellate courts’ e-filing system, E-MACS, you can serve the respondents electronically as well, if the respondents are registered in E-MACS.
- (3) If the recipient consents to another method of delivery, such as email or fax, you could also use that method for service.

For additional instructions on service, see [Minn. R. Civ. App. P. 125.02 and 125.03](#).

- Mail a copy of the *Notice of Appeal* and *Statement of the Case* to the prosecutor (county attorney).
- Mail a copy of the *Notice of Appeal* and *Statement of the Case* to the Minnesota Attorney General by mail, by addressing your documents to:

Minnesota Attorney General
1800 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101

Step 5: File proof of service

Every document submitted to the Clerk of the Appellate Courts for filing must be accompanied by a form stating that the document was served on the other parties to the appeal. This is called “proof of service.”

General Instructions for “Proof of Service”

If you serve papers by mail, in person, or by another delivery method (with the consent of the recipient), “proof of service” is required along with any document you file.

Usually, “proof of service” is (1) a notarized *Affidavit of Service* or (2) a *Certificate of Service*. The difference between an *Affidavit of Service* and a *Certificate of Service* is that a *Certificate of Service* does not need to be signed in front of a notary.

You may file one *Affidavit of Service* or *Certificate of Service* listing multiple documents, but only if you serve those documents on the same date and on the same parties.

For additional instructions on proof of service, see [Minn. R. Civ. App. P. 125.04](#).

For simplicity, this packet assumes that you are serving the other parties by mail.

This packet includes a *Certificate of Service By Mail* for each of the documents you need to file to start an appeal. The *Certificate of Service By Mail* must include, from top to bottom:

- The parties’ names and case file number;
- County where the form was signed;
- The name of the person who served the documents;
- The titles of the documents that were served (on the *Certificate of Service* forms included with this packet, the titles of the documents are already filled in);
- The date the documents were served;
- The names of the parties who were served and the addresses to which the documents were mailed to those parties;
- The signature of the person who served the documents, the date the form was signed, and the county and state where the form was signed.

- The person who served the documents by putting them in the mail must complete and sign the form titled *Appellant’s Certificate of Service by Mail of the Notice of Appeal and Statement of the Case*.
- File the *Appellant’s Certificate of Service by Mail of the Notice of Appeal and Statement of the Case* by mailing it to the Clerk of the Appellate Courts (see Step 3 above for instructions on how to file documents).

**Step 6: Receive the *Notice of Case Filing*
and correct any deficiencies**

After you file your *Notice of Appeal* and *Statement of the Case*, the Office of the Clerk of the Appellate Courts will assign your appeal an appellate court file number and will send you a *Notice of Case Filing*. If you did not provide the court with an email address in your contact information, the *Notice of Case Filing* will be mailed to you. If you provided the court with your email address, the *Notice of Case Filing* and all other correspondence from the court will be distributed to your email address. The *Notice of Case Filing* will list any problems (“deficiencies”) with your appeal paperwork that need to be corrected before your appeal can move forward.

Receive the *Notice of Case Filing* from the Clerk of the Appellate Courts.

My appellate case file number is A____-____.

Review your *Notice of Case Filing* to see if there are any deficiencies. If there are deficiencies, you will have ten days to correct them.

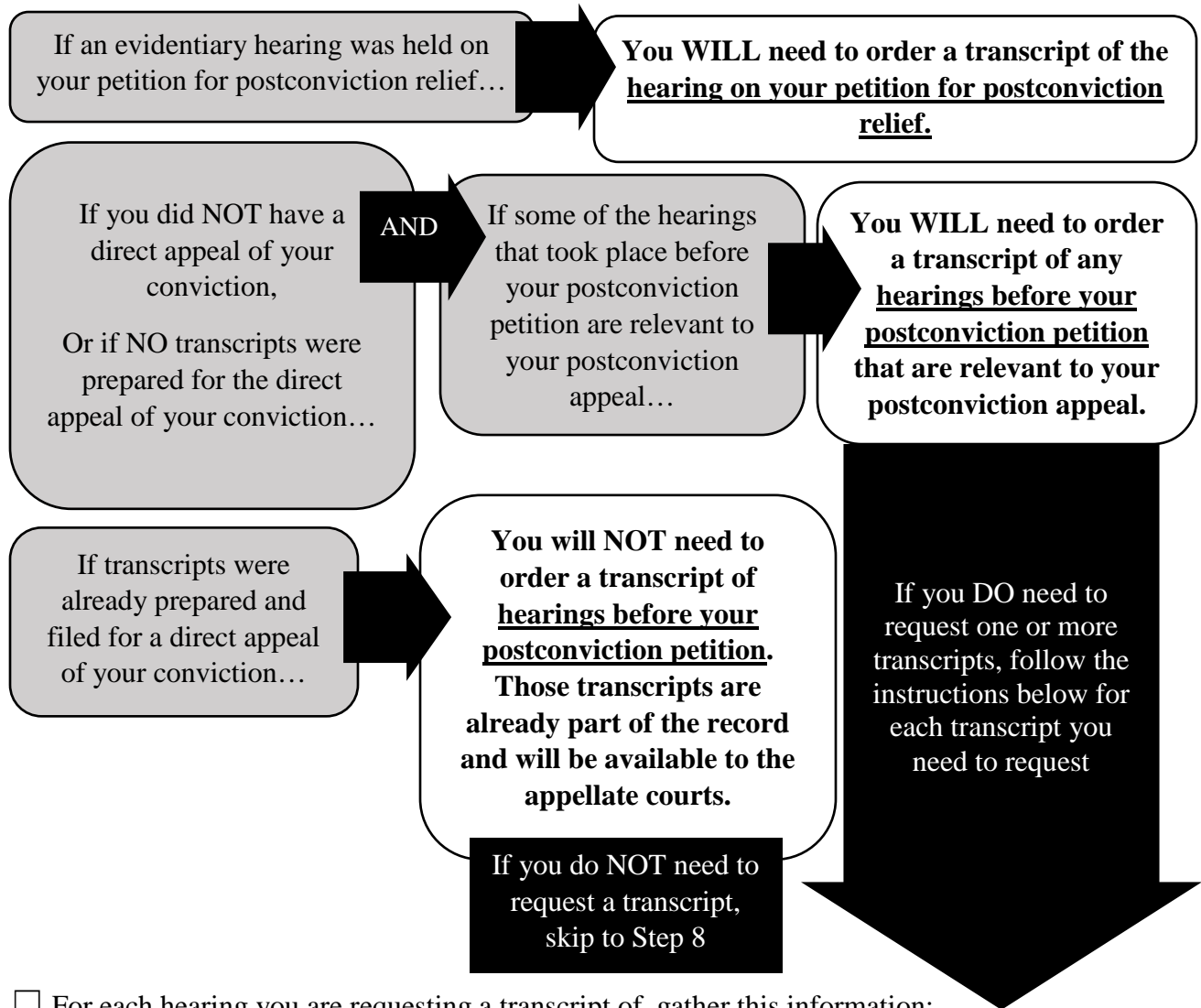
Correct all deficiencies listed. If you do not correct the deficiencies that are listed in your *Notice of Case Filing*, the Court of Appeals may dismiss your appeal.

Step 7: Order your *Transcript* (if applicable)

In addition to the parties’ briefs, the “district court record” is the only information that the Court of Appeals considers in an appeal. The district court record includes documents filed in the district court and evidence used in the hearings before the district court judge or housing court referee.

The district court record might also include a *transcript* of the hearing(s) before the district court judge. A *transcript* is a typed copy of what all of the witnesses, parties, and the judge said at your hearing. You should order a transcript of each hearing that you wish the Court of Appeals to consider as part of your postconviction appeal. The deadline for ordering your *transcript* is 30 days after you filed your *Notice of Appeal*. [Minn. R. Crim. P. 28.02, subd. 9.](#)

- Answer each of the questions in the grey bubbles below to decide whether you need to request a transcript of a district court hearing. If you do NOT need to request a transcript, skip to Step 8. If you DO need to request a transcript, follow the instructions on the next page.



- For each hearing you are requesting a transcript of, gather this information:

- (1) District court case file number for your case: _____
- (2) Date of the hearing(s): _____
- (3) Name of the judge at the hearing(s): _____

You will need to provide this information when you request the transcript.

- Call court administration at the district court where your hearing took place for instructions on how to request a transcript. You can find contact information for the district court at <http://www.mncourts.gov/Find-Courts.aspx>.

Follow court administration’s instructions to request a transcript. To request a transcript, court administration should provide you with the following information:

- (1) Court reporter’s name: _____
- (2) Court reporter’s contact information: _____

Pay the fee for the transcript. After you submit your transcript request, the court reporter will contact you and will provide you with an estimated cost to prepare the transcript and the estimated date when the transcript will be complete. Payment must be made before the transcript is prepared.

What if I cannot afford the transcript fee?

- If you qualify for representation by the Office of the Minnesota Appellate Public Defender, that office can assist with requesting a transcript without requiring a fee. Call (651) 201-6700 to determine whether you qualify for representation and to request assistance with your transcript request.
- Even if you don’t qualify for representation by the appellate public defender, you can request that the district court waive your transcript fees. Instructions and forms for making this request are available at <http://mncourts.gov/GetForms.aspx?c=19&p=70>. These forms must be filed in the district court where your case was decided.

Provide the court reporter with the names and contact information for the other parties involved with the appeal, so that the court reporter can provide them with copies of the transcript. **It is the appellant’s responsibility to order copies of any transcript being prepared for appeal for all the other parties to the appeal.**

Work with the court reporter to fill out a *Transcript Certificate*. This form tells the Court of Appeals that you have requested the transcript and will pay the court reporter. See [Minn. R. Civ. App. P. 110.02](#). The court reporter will have this form, or it is available online at <http://www.mncourts.gov/SupremeCourt/Court-Rules/Forms-Appendix-for-the-Rules-of-Civil-Appellate-Pr.aspx>. The *Transcript Certificate* must include:

- (1) The date you requested the transcript from the court reporter;
- (2) An estimated date that the court reporter will complete the transcript, deliver it to the parties, and file it with the district court;
- (3) Your signature (if you are acting as your own attorney); and
- (4) The signature of the court reporter.

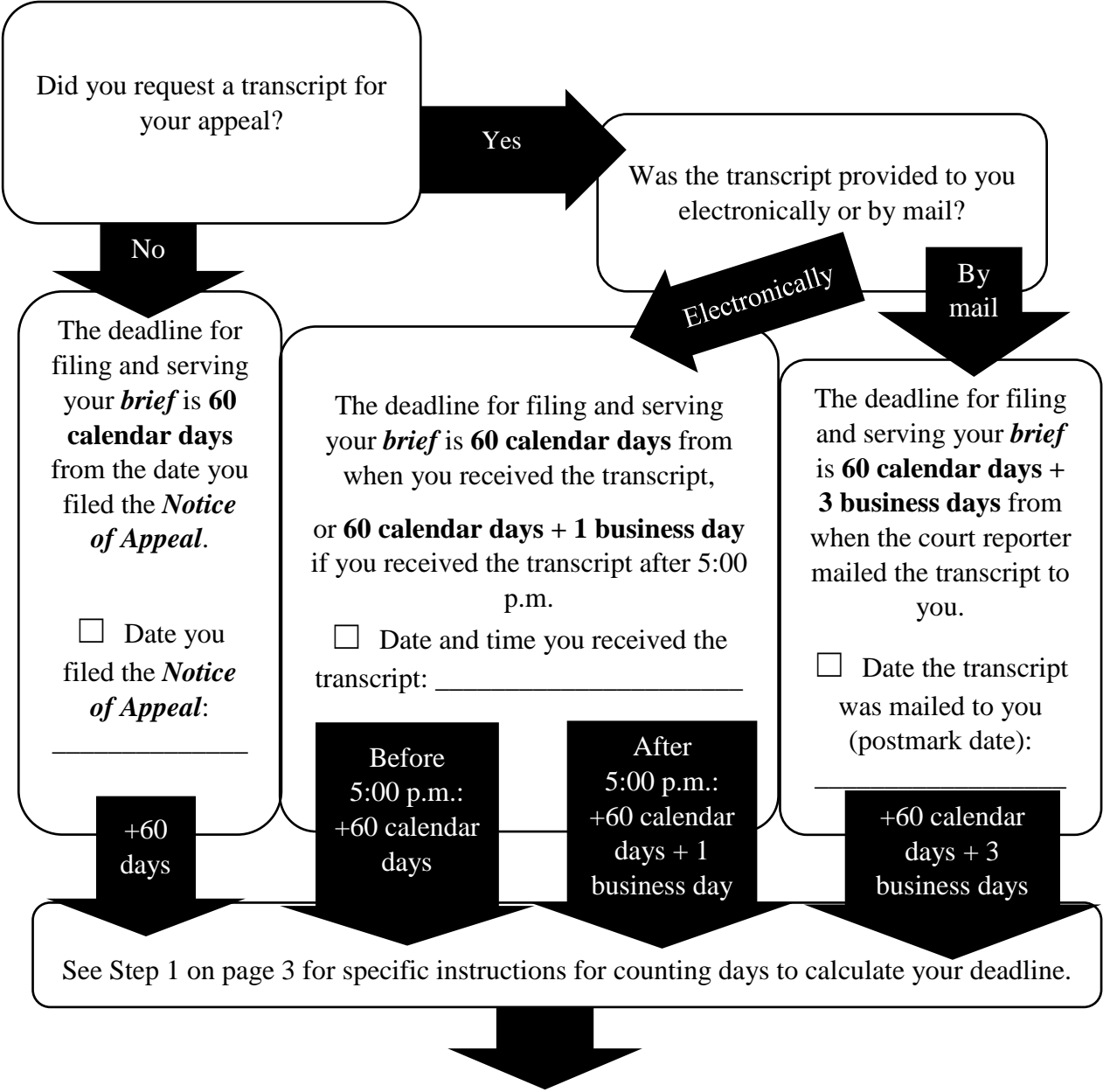
The court reporter will file the completed *Transcript Certificate* electronically.

After the court reporter receives payment, the court reporter will prepare the transcript and provide it to you and the other parties electronically or by mail. The court reporter will also file a copy of the transcript in the district court and verify with the Clerk of the Appellate Courts that this was done.

Step 8: Calculate the Deadline for your *Brief*

Your written argument on appeal is called a “brief.” As the appellant (appealing party), **you must file a *brief*, or your appeal will be dismissed.** See [Minn. R. Civ. App. P. 142.02](#). You are responsible for calculating and keeping track of your own deadlines – appellate court staff cannot do it for you.

The deadline for your *brief* depends on whether you requested a transcript and whether the transcript was sent electronically or mailed to you (See [Minn. R. Crim. P. 28.02, subd. 10](#); [Minn. R. Crim. P. 34.04](#)):



The deadline for my brief is _____.

Step 9: Prepare your *Brief*

Your *brief* is your opportunity to tell the Court of Appeals why you believe the district court's decision was wrong. Your *brief* must include legal authorities (case citations, statutes, or court rules). All statements of fact must be supported by references to the transcript or other evidence in your district court record.

You have three options for the format of your *brief*:

- (1) **Formal *Brief*:** A formal brief includes a table of contents, a statement of the legal issues, a statement of the case and the facts, an argument, a conclusion, and an addendum. See [Minn. R. Civ. App. P. 128.02](#), [Minn. R. Civ. App. P. 130.02](#). A formal brief must be bound in a specific way, and can't just be stapled. A list of approved binding methods under [Minn. R. Civ. App. P. 132.01](#) is available at <http://mncourts.gov/Clerk-of-Appellate-Courts.aspx#ApprovedBriefBindingMethods>.
- (2) **Informal *Brief*:** If the court gives permission to file an informal brief, it may be simply stapled instead of bound. It must include a written argument and addendum. See [Minn. R. Civ. App. P. 128.01, subd. 1](#). To receive permission to file an informal brief, you would need to file a motion requesting permission. See page 13 for more information about motions.
- (3) **Memorandum of Law and Short Letter Argument:** If you gave a written argument to the district court in support of your postconviction petition, you may file that **Memorandum of Law** as your brief, along with a short letter argument that addresses the district court judge's denial of your postconviction petition. This may be stapled and must include an addendum. See [Minn. R. Civ. App. P. 128.01, subd. 2](#).

- Choose the format for your *brief* (formal, informal, or short letter argument). Note: This should match the option you marked in your *Statement of the Case*.
- Write your *brief*. The Minnesota State Law Library website has helpful information about writing briefs and example briefs you can read (<http://mncourts.libguides.com/appeals/briefs>).
- Prepare the addendum to your *brief*. No matter what type of brief you file, the appellant's brief must include an addendum (respondents may include an addendum with their brief, but the addendum is required for appellant's brief). The requirements for your addendum are listed in [Minn. R. Civ. App. P. 130.02](#).
 - One required part of your addendum is a copy of the decision you are appealing, even if you submitted a copy of the decision in the beginning of the appeal. If the addendum to your brief does not include a copy of the decision, the Clerk's Office will reject the entire brief.
 - Your addendum may also contain up to 50 additional pages of documents from the record or statutes, rules, cases or other authorities that would be helpful to the court when reading your brief. However, **you cannot include any new evidence that was not presented to the district court judge.**

Step 10: File and Serve your Paper Copies of your *Brief*

Even if you e-file and e-serve your *brief* using the appellate courts' E-MACS system, you will need to file and serve **paper** copies of your *brief*. See [Minn. R. Civ. App. P. 131.03](#). **Note: Briefs are the only document type that requires additional service of paper copies even after the document has been e-filed and e-served using the E-MACS system.**

- Make **eight** paper copies of your brief. If you are filing a formal brief, make sure **seven** of the copies are bound according to the instructions in [Minn. R. Civ. App. P. 132.01](#). Keep **one** copy of the brief for your records.
- File **five** paper copies of the brief by mailing them to the Clerk of the Appellate Courts (see Step 3 above for instructions on how to file documents). If you are filing a formal brief, four copies should be bound and one should be unbound.
- Serve **two** paper copies on the prosecutor (county attorney).

Note: If the Minnesota Attorney General is representing the state, serve these copies on the Minnesota Attorney General instead of the county attorney.

- The person who served the brief must fill out and sign the form titled *Appellant's Certificate of Service by Mail of Brief* (see Steps 4 & 5 above for instructions about service and proof of service).
- File the *Appellant's Certificate of Service by Mail of Brief* by mailing it to the Clerk of the Appellate Courts (see Step 3 above for instructions on how to file documents).

General Information about "Motions"

If you cannot serve and file your brief by the deadline you calculated and you need more time, or if you want to make any other request of the court, you must serve and file a signed, written request asking the court for the relief you need. This formal request is called a "motion."

The motion must state (1) what you are requesting and (2) the reason(s) for that request. The requirements for a motion are found in [Minn. R. Civ. App. P. 127](#) and specific instructions for requesting a briefing extension are found in [Minn. R. Civ. App. P. 131.02](#).

You must serve the written motion on the respondents. When you file your motion with the Clerk of the Appellate Courts, you must also file proof of service (such as a *Certificate of Service*). See Steps 4 & 5 for more instructions about service and proof of service.

If you are requesting an extension of a deadline, your motion should be served and filed before the deadline you wish to extend.

Step 11: Prepare, file, and serve a *Reply Brief* (optional)

After you file your brief, the respondent has 45 days to serve and file the *respondent's brief*. If the *respondent's brief* raises new issues that are not addressed in your brief, you may wish to file a *reply brief* responding to those new issues (but you do not have to file a *reply brief*). Your reply brief cannot raise new grounds for reversal or issues that were not raised in your brief or the *respondent's brief*.

If you choose to file a *reply brief*, the deadline is 15 days after the date you were served with the *respondent's brief*. [Minn. R. Crim. P. 28.02, subd. 10](#). If the respondent's brief was served on you by mail, you may add three days from the date respondent put the brief in the mail. [Minn. R. Civ. App. P. 125.03](#). See Step 1 for specific instructions on calculating deadlines.

The date I was served with the *respondent's brief* was _____.

+ 15 calendar days,
or +15 calendar days + 3 business
days if respondent's brief was
served by mail

The deadline for my *reply brief* is _____.

What Happens Next?

Court of Appeals Receives the Evidentiary Record and Briefs

If you requested a transcript of a hearing in your postconviction appeal (or the underlying criminal case), the court reporter will file that transcript with the district court. The district court sends the record from your case, including the transcript(s), to the Court of Appeals.

As described in Step 11, the respondent has an opportunity to submit a brief to the Court of Appeals, and you may (but do not have to) file a reply brief after you receive the respondent's brief.

Oral Argument or Non-Oral Consideration

After the parties have filed their briefs, your appeal will be scheduled for consideration by a panel of three Court of Appeals judges. You will receive a *Notice* of the date of oral argument or non-oral consideration by the panel. This notice will also include the names of the judges assigned to decide your case.

If you are not represented by an attorney, the Court of Appeals will not allow oral argument by any party. See [Minn. R. Civ. App. P. 134.01](#).

In deciding your appeal, the Court of Appeals looks at the evidence used in the hearing(s) before the district court judge. You may not give new evidence on appeal without first getting permission from the Court of Appeals. The Court of Appeals generally does not accept new evidence.

Opinion is Issued

The Court of Appeals will issue a written decision, called an "opinion," within 90 days after the appeal is scheduled for oral argument or non-oral consideration.

If you wish to appeal the Court of Appeals decision, you have 30 days after the opinion is issued to file a *petition for further review (PFR)*, which is a request for the Minnesota Supreme Court to review the Court of Appeals decision. See [Minn. R. Crim. P. 29.04, subd. 2](#).

NOTICE OF APPEAL BY DEFENDANT TO COURT OF APPEALS

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

_____,
Plaintiff,

vs.

_____,
Defendant.

**NOTICE OF APPEAL BY
DEFENDANT TO COURT
OF APPEALS**

District Court File No. _____

Date Judgment, Sentence or
Order Entered: _____

TO: Clerk of the Appellate Courts
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Minnesota Attorney General
1800 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101
Telephone: _____

PLEASE TAKE NOTICE that the above-named Defendant hereby appeals to the Court of Appeals of the State of Minnesota from the following judgment or orders of the above-named District Court:

Order denying in whole or in part a petition for postconviction relief under Minnesota Statutes, Chapter 590, entered on the _____ day of _____, 20____.

Dated: _____

(signature)
Name: _____
Address: _____
Telephone No.: _____

(Effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1990.)

**STATE OF MINNESOTA
IN THE COURT OF APPEALS**

CASE TITLE:

(The lines below should match the names in the case title on your district court paperwork.)

_____ ,

COURT OF APPEALS CASE # _____

vs.

**STATEMENT OF THE CASE
OF APPELLANT**

*Additional instructions for completing this form are available at
<http://mncourts.gov/CourtOfAppeals.aspx#tab0103Resources>.*

1. District court where case originated: _____ County District Court
(county name)

Name of presiding judge: _____

2. Jurisdictional Statement: Appeal from district court order denying a petition for postconviction relief.

a. Statute, rule, or other authority authorizing appeal: [Minn. R. Crim. P. 28.02, subd. 2.](#)

b. Date of service of notice of filing of order from which appeal is taken:

c. Authority fixing time limit for filing notice of appeal (specify applicable rule or statute):
[Minn. Stat. § 590.06.](#)

d. Date of filing any motion that tolls appeal time: _____

e. Date of filing of order deciding tolling motion: _____

f. Date of service of notice of filing of order deciding tolling motion: _____

3. State type of litigation and designate any statutes at issue:

a. Type of litigation: Criminal; postconviction

b. Statute(s) at issue: _____

4. Short description of issues that were raised in the district court, and how the district court judge decided those issues:

5. Short description of the issues you are raising in this appeal (Summarize why you are appealing, by describing what you think the district court judge did wrong in 1-2 sentences. You can make a detailed argument in the brief that you will be filing later):

6. Related appeals:

a. List any prior or pending appeals arising from the same district court case as this appeal (write appeal numbers, or write "none"):

b. List any pending appeals arising from different district court cases that raise similar issues to this appeal (write appeal numbers, or write "none known"):

7. Contents of record:

- a. Is a transcript necessary to review the issues on appeal? Yes No
- b. If yes, is it a full transcript of the hearing(s) before the district court judge or housing court referee, or a partial transcript? Full transcript Partial transcript
- c. Has the transcript already been delivered to the parties and filed with the district court administrator? Yes No
- d. If not, has it been ordered from the court reporter? Yes No
- e. If a transcript is unavailable, is a statement of the proceedings under [Minn. R. Civ. App. P. 110.03](#) necessary? Yes No
- f. In lieu of the record as defined in [Minn. R. Civ. App. P. 110.01](#), have the parties agreed to prepare a statement of the record pursuant to [Minn. R. Civ. App. P. 110.04](#)? Yes No

8. Oral argument (Only attorneys can make oral argument. If you do not have an attorney, neither you nor respondents will have oral argument):

a. If you have an attorney, is oral argument requested? Yes No
 I do not have an attorney

b. If yes, where is oral argument requested:

Minnesota Judicial Center in St. Paul

Other: _____

9. Type of brief to be filed (choose one, the type that you plan to file):

Formal brief under [Minn. R. Civ. App. P.128.02](#)

(A formal brief includes a table of contents, a statement of the legal issues, a statement of the case and the facts, an argument, a conclusion, and an addendum. A formal brief must be bound in a specific way, and can't just be stapled. A list of approved binding methods under [Minn. R. Civ. App. P. 132.01](#) is available at <http://mncourts.gov/Clerk-of-Appellate-Courts.aspx#ApprovedBriefBindingMethods>.)*

Informal brief under [Minn. R. Civ. App. P. 128.01, subd. 1.](#)

(Before filing an informal brief, you must file a motion requesting permission to do so. An informal brief contains a concise statement of your argument and an addendum. It may be stapled.)*

Trial memoranda, supplemented by a short letter argument under [Minn. R. Civ. App. P. 128.01, subd. 2,](#) and an addendum.

(If you filed a written Memorandum of Law in the district court, you may file that Memorandum as your brief, along with a short argument in letter format that addresses the district court judge's decision. This may be stapled and must include an addendum.)*

** No matter what type of brief you file, your brief must include an addendum. See [Minn. R. Civ. App. P. 128.02 and 130.02](#). Your addendum may also contain up to 50 additional pages of documents from the record or statutes, rules, cases or other authorities that would be helpful to the court when reading your brief. However, you cannot include any new evidence that was not presented to the district court judge.*

10. Names, addresses, and telephone numbers of appellant and respondent (or attorneys, if any):

Appellant or appellant's attorney:

Print name: _____

Address: _____

Email address: _____

Telephone: _____

Signature: _____

Respondent or respondent's attorney:

Print name: _____

Address: _____

Email address: _____

Telephone: _____

(The Statement of Case is not a jurisdictional document, but it is important to the proper and efficient processing of the appeal by the appellate courts. The "jurisdictional statement" section is intended to provide sufficient information for the appellate court to easily determine whether the order or judgment is appealable and if the appeal is timely. The nature of the proceedings below and the notice of appeal determine the jurisdiction of the appellate court. The sections requesting information about the issues litigated in the lower court or tribunal, and the issues proposed to be raised on appeal are for the court's information, and do not expand or limit the issues that might be addressed on appeal. Likewise, the section asking counsel to identify and prior or pending appeals from the same case, and any separate appeals that raise similar issues is intended to provide more information about the procedural history of the case and to ensure that the court has early notice of other pending related matters in case consolidation is appropriate.)

**STATE OF MINNESOTA
IN THE COURT OF APPEALS**

CASE TITLE:

(The lines below should match the names in the case title on your district court paperwork.)

_____ ,

COURT OF APPEALS CASE # _____

vs.

**APPELLANT'S CERTIFICATE OF
SERVICE BY MAIL OF
NOTICE OF APPEAL AND
STATEMENT OF THE CASE**

**STATE OF MINNESOTA
COUNTY OF _____**

I, _____ (**Name**), certify that on _____ (**Date**), I served the attached **Notice of Appeal, Statement of the Case**, and **Judgment** on the following parties by mailing to each of them a copy thereof, enclosed in an envelope, postage pre-paid, and by depositing the same in the United States Mail, directed to each party as follows (**List the name and address of each party to whom the documents were mailed**):

1. _____

2. _____

3. _____

I declare under penalty of perjury that everything I have stated in this document is true and correct.

(Signature)

(County where certificate was signed)

(Date of signature)

(State where certificate was signed)

**STATE OF MINNESOTA
IN THE COURT OF APPEALS**

CASE TITLE:

(The lines below should match the names in the case title on your district court paperwork.)

_____ ,

COURT OF APPEALS CASE # _____

vs.

**APPELLANT'S CERTIFICATE OF
SERVICE BY MAIL OF BRIEF**

STATE OF MINNESOTA
COUNTY OF _____

I, _____ (**Name**), certify that on _____ (**Date**), I served the attached **Brief** on the following parties by mailing to each of them a copy thereof, enclosed in an envelope, postage pre-paid, and by depositing the same in the United States Mail, directed to each party as follows (**List the name and address of each party to whom the brief was mailed**):

1. _____

2. _____

3. _____

I declare under penalty of perjury that everything I have stated in this document is true and correct.

(Signature)

(County where certificate was signed)

(Date of signature)

(State where certificate was signed)