

YOUR APPELLATE RIGHTS (UPON WRITTEN REQUEST)

If your case is appealed, you have the following rights under the Crime Victim's Rights Act:

- Notice of the defendant's appeal.
- Notice of defendant's release while the appeal is pending.
- Notice of the time and the place of any appellate court proceedings and any changes in the time or place of those proceedings.
- Notice of the result of the appeal.
- An explanation of the appeal process.
- Notice of the same rights previously requested during the proceedings leading to the appeal in the event of a reversal of the conviction.

Feel free to contact our office for additional information.

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To receive notice of the defendant's release or parole hearing, contact the victim unit for the Michigan Department of Corrections at:

*Crime Victim Notification Unit*  
Michigan Department of Corrections  
Grandview Plaza Building  
PO Box 30003  
Lansing, Michigan 48909  
(517) 373-4467 (local)  
(887) 886-5401 (toll free)  
[www.michigan.gov/mdoc/](http://www.michigan.gov/mdoc/)

## **APPELLATE TERMS**

**AFFIRM:** To approve or continue the lower court's decision or ruling.

**APPEAL:** The process of having a higher court review a lower court's decision and/or rulings.

**APPELLANT:** The party filing the appeal. This is the party who claims that the trial court or the lower appeals court made a mistake.

**APPELLEE:** The party responding to an appeal. This is the party who claims that the trial court or the lower appeals court did not make any mistakes, or that any mistakes that were made were harmless.

**BRIEF:** A written argument of legal issues and authorities in support of the party's case.

**MOTION:** A request for a court to make a particular ruling or decision on issues related to the case.

**REMAND:** To send a case back to a lower court for further action (for example, a new trial).

**REVERSE:** To overturn a lower court's decision or ruling.

**WAIVE:** To give up a right that the party has (for example, to a hearing on an issue).



# **THE APPELLATE PROCESS**



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## **THE APPELLATE PROCESS**

The following is a brief outline of how cases progress through appeals from Circuit Court. (*Italicized* words are defined on the reverse.)

After the Circuit Court's written order is entered, the *Appellant* files a claim of appeal (for appeals of right) or an application for leave to appeal (for appeals by leave) in the Court of Appeals, pays a filing fee, and orders transcripts of the lower court's hearings, which are prepared by a court reporter.

The appellant's attorney files a *brief* (a written argument of facts, legal issues, and authorities), in the Court of Appeals. The *Appellee* usually files a responsive brief later.

After receiving both briefs, the Court of Appeals clerk schedules the case for oral arguments before a panel of three Court of Appeals judges. During the oral arguments, the appeals judges may ask probing questions of the attorneys. Sometimes both parties *waive* oral arguments, and the Court will then decide the case based on the arguments and the law in the parties' briefs.

The appeals court panel will announce its decision in a written opinion. At least two of the three judges must agree on which party will win for that party to win the appeal.

An appellate court has the power to *affirm* or *reverse* any portion of the lower court's decision. Some cases will be *remanded*, or sent back to the lower court, for further proceedings before the Court of Appeals makes its decision.

Within 21 days after the Court of Appeals' decision, a party may file an application for leave to appeal with the Michigan Supreme Court asking the Supreme Court to review the Court of Appeals'

decision. If the request is granted, the parties file briefs, oral arguments may be held, and the Court will issue a written decision. If the Supreme Court denies the request, the case may be over.

Appeals usually take a very long time, including months of waiting for oral arguments to be scheduled, and months waiting for a decision. Cases involving complicated legal issues usually take longer to decide than those that are more straightforward.

## **SHIAWASSEE COUNTY APPEALS**

In Shiawassee County, if a felony case is decided by a trial by jury, the Michigan Attorney General's Office handles the appeals process. For all other appeals from the Shiawassee County trial courts, the Shiawassee County Prosecuting Attorney is responsible for handling its own appeals.

If you would like to have information regarding an appeal of a case where you were the victim, please contact:

*Shiawassee County Victim's Rights Coordinator*  
201 North Shiawassee Street  
Surbeck Building, Second Floor  
Corunna, Michigan 48817  
(989) 743-2468  
[www.shiawassee.net/prosecuting-attorney](http://www.shiawassee.net/prosecuting-attorney)

## **TYPES OF APPEALS**

**APPEAL OF RIGHT:** After entry of a final order by the trial court (either a judgment of sentence or an order of dismissal)

**APPEAL BY LEAVE:** If an appeal of right is not available by law (for example, a filing deadline was missed), the appellate court has the discretion to hear the case, "grant leave" or not, "deny leave".

**INTERLOCUTORY APPEAL:** A party attempts to appeal a judge's decision before a final order has been entered.

## **TYPES OF COURTS**

**SUPREME COURT:** The Michigan Supreme Court is the highest court in the state, hearing cases appealed to it from other Michigan courts. Lower court decisions are appealed to the Supreme Court by filing an "Application for Leave to Appeal." The Supreme Court "grants leave" in only a small percentage of cases, usually involving important constitutional issues or questions of public policy, especially if no prior decisions have settled the question presented by the case. A majority of the justices of the court must usually agree before a particular party will win the appeal.

**COURT OF APPEALS:** An "intermediate" appellate court between the Supreme Court and the Michigan trial courts. Final decisions from the Circuit of Probate Court are appealed to the Court of Appeals. At least two of the three judges must decide on any ruling.

**CIRCUIT COURT:** The Circuit Court tries felony cases, Family Division cases (including child protection proceedings or juvenile delinquency proceedings), and appeals of orders from the District Court. Appeals from Circuit Court are heard in the Court of Appeals.

**PROBATE COURT:** The Probate Court handles civil cases like wills, trusts, guardianships, and the like. Probate Court cases are appealed to the Court of Appeals.

**DISTRICT COURT:** All criminal cases begin in District Court. This court tries all misdemeanors and handles the initial steps in felony cases. No appeals are heard in District Court. District Court appeals are heard in Circuit Court.