

NOTICE OF APPEAL RIGHTS

**NOTE: This is not a Notice of Appeal
It is a notification of client rights to
appeal**

FROM: Attorney Name: _____ TO: _____
Address: _____
Phone Number: _____
RE: Indictment/Docket No.: _____ Judge: _____
Court: _____
Sentence Date: _____ Crime Convicted Of: _____

Pursuant to my obligation as your attorney under 22 NYCRR § 1022.11(a), please be advised that the following are your appeal rights, notice of time limitations involved, manner of instituting an appeal or applying for permission, obtaining a transcript of the testimony, and the right of a person who is unable to pay the cost of an appeal to apply for leave to appeal as a poor person:

1. You have an absolute right to appeal from your conviction in this case. Even if you have waived that right on taking a guilty plea, the voluntariness and propriety of that waiver can be appealed, and certain legal issues can never be waived.
2. If you want to appeal, a Notice of Appeal must be prepared and (1) copy served on the District Attorney at 25 Delaware Avenue, Buffalo, NY 14202; and (2) filed in duplicate (i.e., original plus one copy) with the Clerk of Court in which you were sentenced, together with an Affidavit of Service upon the District Attorney. This must be done within THIRTY (30) DAYS from the date you were sentenced (see above) or, if your appeal is from a denial of a habeas corpus or Article 78 petition, THIRTY (30) DAYS from the date the order was served on you or your attorney.
3. Your appeal must be perfected (i.e., completed) within SIXTY (60) DAYS of service of the Notice of Appeal, or else the appeal is subject to dismissal on a motion. If the appeal is not perfected within NINE (9) MONTHS of service of the Notice of Appeal, it is subject to dismissal without motion. You will need to obtain a stenographic copy of the minutes of every court appearance in your case (i.e., the transcript) from the stenographer assigned to the Judge for your case as named above. In addition to the transcript, perfecting an appeal has numerous other components and you should secure legal representation to protect your rights.
4. If you are indigent and cannot afford to pay for an attorney and the costs of appeal, you are entitled to have counsel assigned to represent you on appeal free of charge and to proceed as a poor person. However, if your appeal is from a County or Supreme Court conviction, you must prepare an application to the Appellate Division for permission to appeal as a poor person, sign it and have your signature notarized. Your application must be served on (1) the District Attorney at 25 Delaware Avenue, Buffalo, NY 14202 and (2) the County Attorney at 69 Delaware Avenue, Buffalo, NY 14202. The original application and Affidavits of Service upon the District Attorney and County Attorney must be sent to the Supreme Court, Appellate Division, Fourth Department, 50 East Avenue, Suite 200, Rochester, NY 14604. If an attorney is assigned to you for the appeal, he/she will be provided with a copy of the transcript free of charge and the appeal must then be perfected within ONE HUNDRED TWENTY (120) DAYS of receipt of the transcript.

DO YOU WISH TO APPEAL? (Please "X" the appropriate brackets)

() YES, I WANT TO APPEAL

If you wish to appeal, I will prepare, serve and file the Notice of Appeal on your behalf.

() YES, I am without funds to pay for the cost of appeal, including an attorney, & want to apply for permission to appeal as a poor person.

If you wish to apply for permission to appeal as a poor person, I will prepare the application for your signature and will, thereafter, serve and file it on your behalf. Once completed, this will conclude my obligation as your attorney and representation of you in this matter.

() NO, I DO NOT WANT TO APPEAL

Unless you let me know that you want to appeal, I do not have to prepare, serve and file the Notice of Appeal. Please remember that the Notice of Appeal must be served and filed within THIRTY (30) DAYS from the date of your sentence listed above.

I acknowledge that this Notice of Appeal Rights was given to me in person by my above-named attorney immediately upon sentencing.

Dated: _____, 20_____

(DEFENDANT)

This Notice of Appeal Rights was given to Defendant in person by me on (Date), immediately upon sentencing on _____.
(Date)

Dated: _____, 20_____

(DEFENSE COUNSEL)