

A CITIZEN'S GUIDE  
TO APPEAL  
FROM MUNICIPAL  
COURT

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## A CITIZEN'S GUIDE TO APPEAL FROM MUNICIPAL COURT

### INTRODUCTION:

It is my hope that this information will assist you in deciding if you want to appeal your case, and if so, what steps you need to take to perfect that appeal.

First, it is important to understand that the appeal of your case does not involve a retrial of the issues that have already been decided by the Trial Court. That is, the Appellate Court does not rehear the evidence in the case, but only concerns itself with issues of law and legal questions involved in the trial of the case. Therefore, the appeal is a limited one, addressing only questions of law, and does not afford you an opportunity to retry your case before a different judge.

Of course, if you believe the Trial Court has made an error of law in respect to his findings in your case, you are entitled to appeal your case. In an effort to assist you in perfecting your appeal, the following information will be helpful. It is essential that you meet the guidelines for your appeal, or it may be dismissed on procedural grounds.

The purpose then is to help you secure the rights which are afforded to you by law, and it is to that end that this information is provided.



ODELL HOLMES, JR

Judge

Municipal Court of Appeals of the City of El Paso, Texas



**I was found guilty in Municipal Court and I want to appeal.  
How do I do that?**

If you are found guilty in Municipal Court and assessed a fine, and you want to appeal your case, you must complete a minimum of two steps:

1. File Appeal Bond with the Municipal Court Clerk within 10 days of being found guilty at trial.
2. Pay the \$25.00 docketing fee to the Municipal Court Clerk's Office at the same time you file your Appeal Bond.

(See Tex. Government Code Sec. 30.00147)

**When must the Appeal Bond be filed?**

The Appeal Bond must be filed not later than 10 days after you are found guilty and assessed a fine in your case, unless a Motion for New Trial is filed, in which case the appeal bond must be filed 10 days after it is overruled. A Motion for New Trial is not necessary to appeal your case. A form of the Appeal Bond can be obtained from the Municipal Court Clerk's office or on line at:

[http://www.elpasotexas.gov/muni\\_clerk/appeals.asp](http://www.elpasotexas.gov/muni_clerk/appeals.asp)

**What is a Docketing Fee?**

The law requires that at the same time you file your Appeal Bond, you pay to the Clerk of the Municipal Court a \$25.00 Appellate Court Docket Fee. The fee is only refundable to you if the Appellate Court reverses the Trial Court's decision. Otherwise, it is retained in addition to any other fine or court costs assessed against you.



If you are unable to pay the docketing fee, the Appellate Court can waive that requirement. To receive a waiver you must sign an affidavit that you are unable to pay it and you must prove that inability by filing a financial statement showing your income and expenses to support your claim with the Appellate Court.

**What are the requirements of an Appeal Bond?**

The Appeal Bond must be at least \$100.00 or double the amount of the fine and costs assessed against you, whichever is greater. It must state that the Defendant was convicted in the case and has appealed, and be conditioned on the Defendant’s appearance in the Municipal Court of Appeals as directed by that Court.

**What is a Reporter’s Record?**

A Reporter’s Record (formerly called a Statement of Facts) is the court reporter’s preservation of the proceedings at the trial before the Municipal Court. In order to have the court reporter record the proceedings at the trial court, either you, the prosecutor, or the trial judge must request it. If no request is made, no record of the proceedings will be made and the Appellate Court will be unable to review most of the legal errors you may wish to raise on appeal.

El Paso’s Municipal Courts use recording equipment to record the trial proceedings so if you want to get the record transcribed you need to make arrangements through the Municipal Court Clerk’s office to obtain the recording disc to give to a certified court reporter to transcribe.

You have the responsibility of having the Reporter’s Record transcribed, and filing it with the Appellate Court Clerk not



later than the 60th day after the Appeal Bond is filed. You must make your own arrangements to secure the services of a Court Reporter and to pay the Court Reporter for the preparation of the Reporter's Record since it is ordered at your own expense.

**Do I need a Reporter's Record?**

The Appellate Court has held numerous occasions that it cannot address questions relating to the factual or legal sufficiency of the evidence or as to the admissibility of the evidence or other Court rulings without a Reporter's Record. If those are the types of errors you are raising on appeal, it is essential that you have a Reporter's Record that shows what evidence was actually introduced so the Appellate Court can provide you with a meaningful appeal.

**If I get a Reporter's Record do I win my case?**

No, not necessarily. Even with a Reporter's Record, the Appellate Court must review the evidence that was submitted to the Trial Judge, and determine whether the Trial Courts decision is supported by factual and legal evidence, and, if it is, it will uphold the Trial Court's judgment.

**What is a brief?**

You are required to file a brief with the Appellate Court Clerk. Your brief should set out the reasons you think the Trial Court was in error in its decision, and give any legal authorities which support your position to the Appellate Court. Although there are specific requirements for the contents of a brief, the Court accepts briefs in letter form. Be sure that your brief is legible, preferably typewritten, and submitted in English or with a translation of your brief into English.



**When is the brief due?**

Your brief is due no later than 15 days after the filing of the Clerk's Record and the Reporter's Record, if any, and your brief should be filed with the Appellate Court. It is advisable to file your brief as soon after you have appealed your case so that your appeal will not be dismissed for want of prosecution.

**What happens if I do not file a brief?**

If you fail to file your brief as required, the Appellate Court will notify you that it intends to dismiss your appeal for such failure, and provide you a time limit in which to cure that omission. Failure to do so will result in dismissal of your appeal for Want of Prosecution.

**Where do I file with the Appellate Court?**

The Reporter's Record, if any, and your brief need to be filed with the Municipal Court Clerk's Office for the City of El Paso. The physical and mailing address of the Clerk is:

810 E. Overland

El Paso, Texas 79901

Once your appeal is perfected, and docketed by the Appellate Court, a docket number will be assigned to that case. Please include that docket number on any further correspondence or documents filed with the Appellate Court. Also please address all documents intended for the Appellate Court with "Attention: Municipal Court of Appeals".



**Do I have the right to be represented by an attorney?**

You do have a right to hire an attorney to represent you in regard to all proceedings in Municipal Court because they are of a criminal nature, and if you are found guilty, a fine, in most cases up to \$ 500, can be assessed. In some instances the fine can be even more than that. However, Class C misdemeanors over which Municipal Courts have jurisdiction, are considered, "fine only offenses", you do not have a right to have a court appointed attorney to represent you even if you are indigent.

**Will I be making an oral argument before the Appellate Court?**

You no longer have a right to present oral argument to the Appellate Court, but upon your request for oral argument, the Appellate Court can, in its discretionary authority, grant oral argument if it believes that it would assist in the decision making process relating to the case. Otherwise, the case will be decided based on the Brief's filed by the parties and the law applicable to the case.

**Will the Appellate Court rehear the evidence in the case?**

No. Appeals before the El Paso Municipal Court of Appeals are not "de novo" proceedings. The appeal is not an opportunity to retry the case before a different judge. The Court will not rehear the evidence presented at trial. An appeal is an opportunity to determine whether the trial judge applied the law properly to the evidence that was presented in your case. The Appellate Court will review the record of the case and decide whether or not an error in the application of the law was made.



## **What kind of decisions can the Appellate Court render?**

The Appellate Court Can:

- Affirm Trial Court's Decision:

*The Appellate Court can affirm the Trial Court's decision. If so, the Trial Court decision stands, and you must pay the fine and court costs assessed.*

- Reverse Trial Court's decision and Remand for a New Trial:

*The appellate Court can reverse and remand the case and you will be afforded a new trial at the Trial Court level.*

- Reverse and Render a Decision in Your Favor:

*The Appellate Court can reverse and render a decision in your favor. The Trial Court then will be directed to enter a judgment of acquittal on your behalf.*

## **How will I find out the decision of the Appellate Court?**

A written decision will be issued by the Appellate Court. You will receive a copy in the mail.



### **When does the appeal become final?**

A decision of the Appellate Court becomes final 15 days after rendering its decision. Generally, that is the final stage of the appeal although a limited right of appeal is provided to the Eighth Court of Appeals if the fine assessed against you in the Municipal Court exceeded \$100.00 or if you are contesting the constitutionality of a statute or ordinance on which your conviction is based.

### **Where can I find the El Paso Municipal Court of Appeal Act?**

The Act creating the Municipal Court of Appeals is the El Paso Courts Act, Texas Government Code, Section 30.00121, et seq., available in most law libraries or on the Internet. Although the information in these Frequently Asked Questions addresses some of the most important features of that Act, it is by no means intended to be exhaustive of the subject, and it may be advisable for you to refer to that Act to answer any additional questions that you may have. Texas statutes, including a copy of the El Paso Courts of Record Act, may be obtained on line at [www.capitol.state.tx.us](http://www.capitol.state.tx.us) under Texas Statutes, Government Code Chapter 30, Section 30.00121.

### **I need someone to explain this legal stuff to me in more detail and I need help in preparing my brief. Who can do that?**

Many people represent themselves on their appeal. However, if, after reading this guide and after reviewing the El Paso Municipal Courts of Records Act, you need more assistance, it may be advisable to seek the advice of an attorney. Please understand that the staff of the El Paso Municipal Court is prohibited from recommending specific attorneys to you or



giving you legal advice.

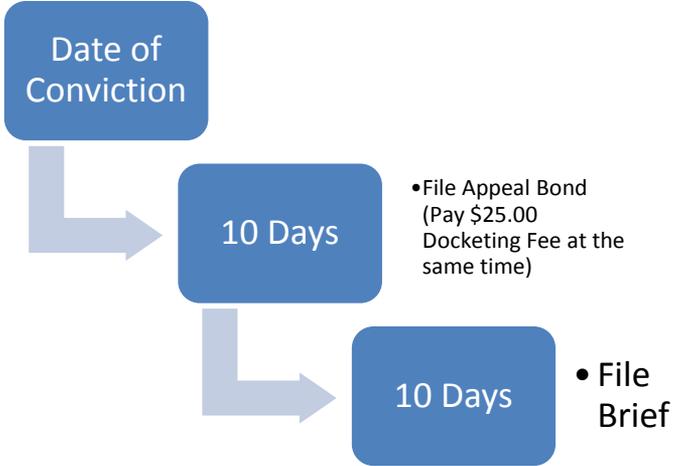
**How can I find a list of appellate cases previously decided, arranged by subject heading?**

The subject index of appellate cases can be found on this web site under Subject Index: Court of Appeals Cases. This index can be used to identify cases which pertain to the issues you are raising in your appeal. Copies of the decisions can be obtained through the City Clerk's Office, 300 N. Campbell, El Paso, Texas 79901 or printed off the website provided above.



## What is the timetable to file an appeal?

Timetable where No Reporter's Record was requested:



Timetable where Reporter's Record was requested:



