A CITIZEN'S GUIDE TO APPEAL TO THE **MUNICIPAL COURT OF APPEALS**

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A CITIZEN'S GUIDE TO APPEAL FROM MUNICIPAL COURT INTRODUCTION:

INTRODUCTION:

This guide is given to you at the time you file your appeal to guide you the steps you need to take to make sure all the proper documents are filed for the Appellate Court to rule on that appeal.

It is important to keep your mailing address current. You must notify the municipal court if your mailing address changes by filing your new address with the Municipal Court Clerk who is located at 810 E. Overland, El Paso, Texas. Always include your case number, email address, phone number and current mailing address.

An appeal of your case does not mean there will be another trial of the issues already decided by the Trial Court. That is, the Appellate Court does not hold another trial or hear the new evidence in your case. By law, the Appellate Court may only review whether the trial court committed errors of law or fact.

Please read this guide carefully because if you fail to follow the rules or procedures, the Appellate Court's review of your case will be limited.

If you need an extension of the time limits, you may ask for the extension in writing.

MARIA B. RAMIREZ
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:

File an Appeal Bond with the Municipal Court Clerk within 10 days of being found guilty at trial.
Texas Government Code Section 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 with the Trial Court, in which case the appeal bond must be filed 10 days after the Motion.

For a New Trial 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 online at: www.elpasotexas.gov/assets/Documents/CoEP/Municipal-Courts/-Forms/Appeal-Bond-Fill.pdf

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 preservation of the proceedings at the trial before the Municipal Court. To have a 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 the proceeding or you may contact this Court to obtain the audio recording.

You have the responsibility of having the Reporter's Record transcribed and filing it with the Appellate Court Clerk no later than the 60th day after the Appeal 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. The Court cannot refer you to a specific Court Reporter but there are numerous court reporters in El Paso.

Do I need a Reporter's Record?

The Appellate Court has held numerous occasions 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 say the trial court committed, it is essential that you have a Reporter's Record that shows what evidence was introduced so the Appellate Court may 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 Municipal Court Clerk at 810 Overland . 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 30 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

You may also ask the court reporter to email the reporter's record. If the court reporter is going to email the record, you may call this Court for instructions. 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 in 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 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. Because Municipal Courts have jurisdiction over Class C misdemeanors which are "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 may, 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 or documents 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 may not hear proceedings "de novo". 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 an error in the application of the law was made.

What kind of decisions may the Appellate Court render?

The Appellate Court may:

- 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 will then 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 online at **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?

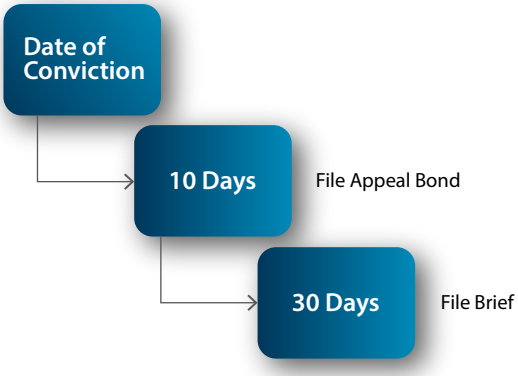
Many people represent themselves on their appeal. However, if, after reading this guide and after reviewing the El Paso Municipal Courts of Records Act, you need more assistance, it may be advisable to seek the advice of an attorney. *Please understand that the staff of the El Paso Municipal Court is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

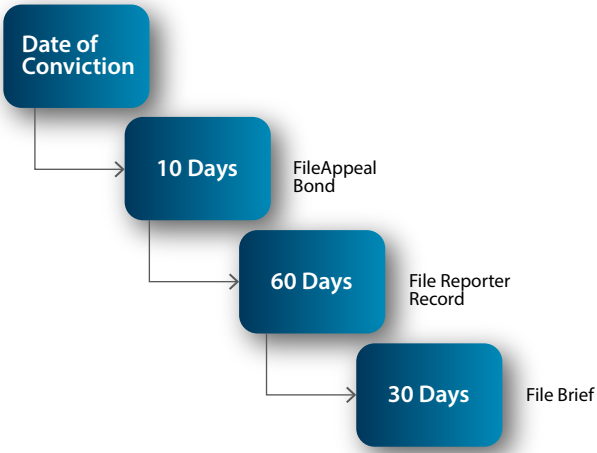
The subject index of appellate cases can be found on this web site under Subject Index: Court of Appeals Cases. legacy.elpasotexas.gov/muni_clerk/court-of-appeals-cases.html? This index can be used to identify cases which pertain to the issues you are raising in your appeal. Copies of the decisions can 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 is requested:



THE CITY OF EL PASO
MUNICIPAL COURT

elpasotexas.gov/municipal-courts