

IF YOU DO NOT HAVE A LAWYER

An appeal is a new step in your case. The Court of Appeals reviews what the trial court decided to determine whether the trial court made a mistake. Generally, the Court of Appeals focuses on whether the trial court correctly applied the law. The Court of Appeals does not accept evidence or documents that were not put into the record during trial court proceedings. Because of the special nature of an appeal, it is helpful for individuals seeking appellate review to be represented by a lawyer.

Who may qualify for court-appointed counsel on appeal

You always have the right to hire counsel or to represent yourself. Parties in certain cases qualify for court-appointed counsel. Whether you have the right to have an attorney appointed to represent you depends on a variety of factors, including what type of case you are appealing.

When Appealing a Criminal Case

In a direct criminal appeal, if you cannot afford to hire an attorney, you can request that one be appointed.

File a motion to appoint counsel and complete an in forma pauperis affidavit. If you had court-appointed counsel represent you during your criminal proceedings in the trial court, that attorney represents you on appeal.

The Court generally does not appoint attorneys in postconviction proceedings, sometimes called “collateral cases.” If the order being appealed is not the order that convicted or sentenced the appellant in a lower court, the case in the Court of Appeals is considered collateral.

When Appealing a Civil Case

In a civil case, the appellant’s rights to appointed counsel are very limited. The Court may consider appointing counsel in cases involving the termination of parental rights, actual innocence claims, and matters concerning involuntary commitment or a not guilty by reason of insanity defense. File a motion to appoint counsel and complete an in forma pauperis affidavit to tell the court about your finances.

In most other civil appeals, the Court of Appeals will not appoint counsel. You may, however, file a motion to request court-appointed counsel if you believe your appeal requires an attorney.