

# FAQ: FILING A LATE NOTICE OF APPEAL OF NEW YORK CITY CRIMINAL CONVICTIONS

## Why would I want to appeal my conviction?

Whether you were convicted at trial or pled guilty, you have the right to appeal your criminal conviction to a higher court. An appeal is a chance for the higher court to review your case and make sure there were no errors and that all your rights were protected. There are also timing reasons why you might want to appeal because, while your conviction is on appeal, it is not final. You can benefit from this if, for example, the law changes for the better either because a new law is passed or because a court issues a decision. It's possible that you would only benefit from that change if your conviction is still on appeal when that happens. In some circumstances, it can also be beneficial if you are not a citizen of the United States because immigration may not be able to use it against you while your appeal is pending.

## What if I waived my right to appeal when I pled guilty?

Often, prosecutors insist that people sign papers “waiving” their right to appeal as part of a plea bargain. Many times, higher courts ignore the waiver because the paperwork is wrong or the judge does it incorrectly. Also, higher courts can always review certain claims, even if you signed a valid appeal waiver. Even if you think you may have waived your right to appeal, the higher court can review the waiver to see if it was valid. If you do not know whether you signed a waiver of appeal, you should still file.

## When do I need to file?

In order to appeal a conviction, you normally need to file a notice of appeal within 30 days of the date you were sentenced. Please refer to our separate resource, [Filing Direct Appeals of New York City Criminal Convictions and Getting a Lawyer Assigned, March 2021](#).

## What if I've missed the deadline to file a notice of appeal?

If you miss the deadline, you can ask for permission to file a late notice of appeal. It is best to have an attorney file this motion. If you have an immigration attorney, they may be able to help. If your conviction is from New York City, some organizations may be able to help you file your motion. You can also contact the Immigrant Defense Project. But if you cannot find an attorney to help, you can file a motion on your own. A sample is attached. Whether you have an attorney file or file yourself, it **must** be done within **one year and 30 days** of your sentencing date.

## Who will represent me on appeal?

If you cannot afford to hire an attorney, your motion should include a request for an attorney to be assigned to represent you on your appeal, called a “request for poor person relief.” If this request is granted, you will be assigned a public defender who will represent you free of charge. There's a sample in these materials.

## What will happen after I file?

After you submit your motion, you should expect to have a decision within a few months. You can reach out to the clerk for the relevant appellate division if you have questions about the status of your case. You will not be required to appear in person in order to have your motion decided.

# SIX STEPS TO FILING A LATE NOTICE OF APPEAL



## Step 1 - Get a certificate of disposition or Sentence & Commitment Order

Send a letter, go back to the court in which you were convicted, or have someone go on your behalf to request two certificates of disposition for your case (to use with your motion and an extra in case you need it later).

If you send a letter, address your letter like this:

Attn: Clerk's Office  
Supreme Court, Criminal Term **OR** Criminal Court  
[Insert County Name Here] County  
[Insert Address]

You can also look at a separate [resource](https://www.immigrantdefenseproject.org/community-legal-resource-how-can-i-learn-what-happened-in-my-criminal-court-case-in-new-york-city/) by IDP explaining how to obtain your court file and minutes. (<https://www.immigrantdefenseproject.org/community-legal-resource-how-can-i-learn-what-happened-in-my-criminal-court-case-in-new-york-city/>)

HOW TO IDENTIFY  
AN OLD STYLE  
CERTIFICATE OF  
DISPOSITION

SUPREME COURT OF THE STATE OF NEW YORK FEE: \$10.00  
QUEENS COUNTY  
125-01 QUEENS BOULEVARD  
KEW GARDENS, NY 11415

**CERTIFICATE OF DISPOSITION INDICTMENT**

DATE: 10/27/2022 CERTIFICATE OF DISPOSITION NUMBER: [REDACTED]


PEOPLE OF THE STATE OF NEW YORK CASE NUMBER:  
VS. LOWER COURT NUMBER(S): [REDACTED]  
DATE OF ARREST: [REDACTED]  
ARREST #: [REDACTED]  
DATE OF BIRTH: [REDACTED]  
DATE FILED: [REDACTED]

[REDACTED]  
DEFENDANT

I HEREBY CERTIFY THAT IT APPEARS FROM AN EXAMINATION OF THE RECORDS

HOW TO IDENTIFY  
A NEW STYLE  
CERTIFICATE OF  
DISPOSITION

Certificate #: U-000000384-N Page 1 of 1

 **BRONX SUPREME CRIMINAL**  
265 East 161st Street, Bronx, NY 10451

Court ORI: NY062015J

**NO FEE**  
Non-Public  
Version

The People of the State of New York  
vs. [REDACTED]

**Certificate of Disposition**  
Docket Number: IND- [REDACTED]  
Legacy Docket Number: [REDACTED]  
CJTN: [REDACTED]  
NYSID: [REDACTED]

Defendant DOB: [REDACTED] Arrest Date: [REDACTED] Arraignment Date: [REDACTED]

THIS IS TO CERTIFY that the undersigned has examined the files of the **Bronx Supreme Criminal** concerning the above entitled matter and finds the following:

Count	Charge	Charge	Disposition	Disposition
-------	--------	--------	-------------	-------------



## Step 2 - Figure out where to file.

You must file with the appellate court that covers the trial court where you were convicted. Appeals are divided into four “departments” covering different counties in New York State. Which trial court covers the case may depend on where your case was originally heard and what kind of conviction you have. Addresses are provided at the end of this guide.



## Step 3 - Write your motion.

The motion is made up of two parts: (1) Notice of Motion; and (2) Affirmation in Support of Motion.

In Part One, which is the Notice of Motion, you have to give the court basic information about your case and explain that you want to ask permission to file a late notice of appeal. See Appendix\*.

### HOW TO IDENTIFY A NOTICE OF MOTION

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK, :  
Respondent, :  
-against- :  
[INSERT YOUR NAME], :

NOTICE OF MOTION  
FOR PERMISSION TO  
FILE LATE NOTICE  
OF APPEAL AND FOR  
POOR PERSON  
RELIEF

[INSERT] COUNTY

In Part Two, which is the Affirmation in Support of Motion, you must explain *why* you did not file your notice of appeal earlier. The court will grant you permission to file a late notice of appeal only for certain reasons. There are three sample motions included in the appendix with some common reasons, like you asked your attorney to file notice of appeal but they did not, you did not know you were allowed to file an appeal, or your attorney or the court told you that you were not allowed to file an appeal. See Appendix\*.

### HOW TO IDENTIFY AN AFFIRMATION IN SUPPORT OF MOTION

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK, :  
Respondent, :  
-against- :  
[INSERT YOUR NAME], :

AFFIRMATION IN  
SUPPORT OF MOTION  
FOR LATE NOTICE OF  
APPEAL PURSUANT TO  
CPL § 460.30

[INSERT] County

No matter which sample fits your situation the closest, be sure to give as much detail as you can about any conversation you had with your attorney about your right to file an appeal. Remember that you are writing under oath. Make sure that whatever you write here is accurate and complete to the best of your recollection.



## ..... Step 4 - Gather all the parts of your filing.

Each filing *must* include:

- The Notice of Motion, see Appendix B (Part One of your Motion).
- Affirmation in Support of Motion, see Appendix B (Part Two of your Motion).
- An affirmation of service on the district attorney’s office. See Appendix E.

Every filing *should* be accompanied by the following if you are able:

- Informational Statement – Criminal Cases, see Appendix D.
- A certificate of disposition, Uniform Sentence & Commitment Order (UCS-854), or sentencing minutes. See Appendix A or C.
- A Motion for Poor Person Relief, see Appendix F.

If you are unable to pay an attorney to handle your appeal, you should ask the court to assign one to you as part of your filing by including A Motion for Poor Person Relief. **Though this “Motion for Poor Person Relief” should be submitted together as part of your filing packet, it is a separate motion that should be accompanied by its own affirmation of service.** Give as much detail as you can about your financial situation and your inability to pay, making sure that all information is accurate and complete to the best of your knowledge.



## ..... Step 5 - Have someone else send a copy of your motion to the District Attorney’s Office that prosecuted your case.

You must have a friend or family member who is over the age of 18 years send a copy of your entire filing to the District Attorney’s office that prosecuted your case, and they must complete an affidavit of service. You **cannot** send the motion by yourself, or it will be rejected. The District Attorney’s offices in New York are divided by county:

### NYC District Attorney’s Offices:

District Attorney, Bronx County 198 E. 161st Street Bronx, New York 10451	District Attorney, New York County 1 Hogan Place New York, New York 10013
District Attorney, Kings County 350 Jay Street Brooklyn, New York 11201	District Attorney, Queens County 125-01 Queens Boulevard Kew Gardens, New York 11415
District Attorney, Richmond County 130 Stuyvesant Place, 7th Floor Staten Island, New York 10301	

Other district attorney addresses for non-NYC counties are available at:

[https://www.daasny.com/?page\\_id=48](https://www.daasny.com/?page_id=48)



## Step 6 - Send your filing to the correct Appellate Court

..... Send your motion to the appellate court, and be sure to include the completed affidavit of service. Keep a copy of your entire motion, including a copy of the affidavit of service, for yourself.

The court should send you a decision on both your late notice of appeal and motion for poor person relief. The decisions are also posted online, which you can search at: <https://nycourts.gov/reporter/slip-service.shtml>. If your poor person motion is granted, the assigned attorney should handle all future steps in your appeal. If you have questions about the status of your motion, you can call the clerk for the relevant appellate division or term.

## Where do I appeal my criminal case?

**You must send the appeal or late notice of appeal paperwork to the court that can hear your case, which is determined by the court of conviction and in some cases, the ultimate outcome of the case.** The below charts can help you match the court of conviction with the correct appellate court for your case. The court of conviction will be listed at the top of the Certificate of Disposition for the case.

## New York City Cases

In New York City, only convictions from the Supreme Court are appealed to the Appellate Division. Convictions from the Criminal Court of the City of New York are appealed to the Appellate Term. The Supreme Court hears felony cases and the Criminal Court hears misdemeanor and lesser offense cases.

<p><b>Criminal Court of the City of New York, Bronx County</b>          Located at 215 East 161st Street, Bronx, between Sherman &amp; Sheridan Avenues and 265 East 161st Street, between Morris &amp; Sherman Avenues.</p> <p><b>Criminal Court of the City of New York, New York County</b>          Located at 100 Centre Street, Manhattan, one block from Worth Street near Leonard Street &amp; Franklin Street.</p> <p><b>Midtown Community Court</b>          Located at 314 West 54th Street, Manhattan</p>	<p>First Judicial Department Appellate Term          N.Y. County Courthouse          Room 401          60 Centre Street          New York, NY 10007  <a href="mailto:ad-1-clerks-office@nycourts.gov">ad-1-clerks-office@nycourts.gov</a></p>
<p><b>Criminal Court of the City of New York, Queens County</b>          Located at 125-01 Queens Blvd., Queens near Hoover Avenue &amp; 82nd Avenue.</p> <p><b>Criminal Court of the City of New York, Kings County</b>          Located at 120 Schermerhorn Street, Brooklyn near Livingston Street &amp; Smith Street.</p> <p><b>Criminal Court of the City of New York, Richmond County</b>          Located at located at 26 Central Avenue., Staten Island</p> <p><b>Red Hook Community Justice Center</b>          Located at 88-94 Visitation Place, Brooklyn.</p>	<p>Second Judicial Department Appellate Term          Clerk's Office          141 Livingston St.          15th Floor          Brooklyn, NY 11201  <a href="mailto:ad2-clerksoffice@nycourts.gov">ad2-clerksoffice@nycourts.gov</a></p>
<p><b>Bronx County Supreme Court</b>          851 Grand Concourse, Bronx, NY</p> <p><b>New York County Supreme Court</b>          100 Centre Street, New York, NY</p>	<p>Appellate Division, First Department          27 Madison Avenue          New York, New York 10010</p>
<p><b>Kings County Supreme Court</b>          360 Adams Street, Brooklyn, NY</p> <p><b>Queens County Supreme Court</b>          125-01 Queens Blvd., Kew Gardens, NY</p> <p><b>Richmond County Supreme Court</b>          18 Richmond Terrace, Staten Island, NY</p>	<p>Appellate Division, Second Department          45 Monroe Place          Brooklyn, New York 11201</p>



# **Cases in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties**

Cases from District, City, Town and Village Courts are appealed to the Appellate Term. Felony cases from the County Court are appealed to the Appellate Division, unless the outcome of the case was a non-felony. If the criminal case was heard in County Court, but the disposition was not a felony conviction (for example, cases that result in a misdemeanor only), it is appealed to the Appellate Term.

Court of conviction	Appellate Court
District, City, Town, and Village Court County Court (non-felony disposition)	Second Judicial Department Appellate Term Clerk's Office 141 Livingston St. 15th Floor Brooklyn, NY 11201
County Court (felony disposition)	Appellate Division, Second Department 45 Monroe Place Brooklyn, New York 11201



## Cases in County Courts in All Other Counties

Cases from County Courts are appealed to the Appellate Division. The Certificate of Disposition should specify the County Court. Below is a chart to help identify which Appellate Division you should file the appeal with depending on which County Court heard the case.

If the disposition specifies a City, Town or Village Court (also known as “Justice Courts”, the case must be appealed to the County Court. City, Town and Village courts generally handle misdemeanor and lesser offenses. The process for appealing these convictions is confusing and difficult. It may require different documents than the model documents described in this resource. You should speak with your attorney about filing the appeal. You can find addresses for County Courts by going to <https://www.nycourts.gov/courts/index.shtml> and using the court locator.

County Court	Appellate Court
Albany County Court	Appellate Division, Third Department Robert Abrams Building for Law and Justice State Street, Room 511 Albany, New York 12223
Broome County Court	
Chemung County Court	
Chenango County Court	
Clinton County Court	
Columbia County Court	
Cortland County Court	
Delaware County Court	
Essex County Court	
Franklin County Court	
Fulton County Court	
Greene County Court	
Hamilton County Court	
Madison County Court	
Montgomery County Court	
Otsego County Court	
Rensselaer County Court	
St. Lawrence County Court	
Saratoga County Court	
Schenectady County Court	
Schoharie County Court	
Schuyler County Court	
Sullivan County Court	
Tioga County Court	
Tompkins County Court	
Ulster County Court	
Warren County Court	
Washington County Court	














Allegany County Court  
Cattaraugus County Court  
Cayuga County Court  
Chautauqua County Court  
Erie County Court  
Genesee County Court  
Herkimer County Court  
Jefferson County Court  
Lewis County Court  
Livingston County Court  
Monroe County Court  
Niagara County Court  
Oneida County Court  
Onondaga County Court  
Ontario County Court  
Orleans County Court  
Oswego County Court  
Seneca County Court  
Steuben County Court  
Wayne County Court  
Wyoming County Court  
Yates County Court

Appellate Division, Fourth Department  
M. Dolores Denman Courthouse  
50 East Avenue  
Rochester, New York 14604



# CHECKLIST

## FAQ: FILING A LATE NOTICE OF APPEAL OF NEW YORK CITY CRIMINAL CONVICTIONS

Checkbox	Step Required	Instructions	Samples	Icon
<input type="checkbox"/>	Request and obtain Certificate of Disposition or Sentence & Commitment Order or sentencing minutes	Page 2	Appendix A	
<input type="checkbox"/>	Identify where to file your appeal	Page 2	Page 6-9 for court addresses	
<b>WRITE AND PUT TOGETHER THE FILING:</b>				
<input type="checkbox"/>	Notice of Motion	Page 3	Appendix B	
<input type="checkbox"/>	Affirmation in Support of Motion	Page 3	Appendix B	
<input type="checkbox"/>	Informational Statement	N/A	Appendix D	
<input type="checkbox"/>	Motion for Poor Person Relief	N/A	Appendix F	
<input type="checkbox"/>	Certificate of Disposition or Sentence & Commitment Order or sentencing minutes	N/A	Appendix A OR Appendix C	
<input type="checkbox"/>	Have friend or relative complete the Affidavit of Service and send a copy of the filing to the District Attorney's Office that prosecuted your case	Page 4	N/A	
<input type="checkbox"/>	Ensure you have a copy of the entire filing and the Affidavit of Service for yourself	N/A	N/A	
<input type="checkbox"/>	Send the filing and the Affidavit of Service to the correct appellate court.	Page 5	N/A	

# APPENDIX

## APPENDIX A

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# **APPENDIX A1**

## Certificate of Disposition - Old Style



SUPREME COURT OF THE STATE OF NEW YORK  
QUEENS COUNTY  
125-01 QUEENS BOULEVARD  
KEW GARDENS, NY 11415

FEE:\$10.00

CERTIFICATE OF DISPOSITION INDICTMENT

DATE: 10/27/2022

CERTIFICATE OF DISPOSITION NUMBER: [REDACTED]

PEOPLE OF THE STATE OF NEW YORK  
VS.

CASE NUMBER:  
LOWER COURT NUMBER(S):  
DATE OF ARREST:  
ARREST #:  
DATE OF BIRTH:  
DATE FILED:

[REDACTED]

[REDACTED]

DEFENDANT

I HEREBY CERTIFY THAT IT APPEARS FROM AN EXAMINATION OF THE RECORDS ON FILE IN THIS OFFICE THAT ON [REDACTED] THE ABOVE NAMED DEFENDANT WAS CONVICTED OF THE CRIME(S) BELOW BEFORE JUSTICE ROTKER, SEYMOUR THEN A JUSTICE OF THIS COURT.

[REDACTED]

THAT ON [REDACTED], UPON THE AFORESAID CONVICTION BY PLEA THE HONORABLE ROTKER, S THEN A JUDGE OF THIS COURT, SENTENCED THE DEFENDANT TO

[REDACTED]

PROBATION = 5 YEAR(S)

TOTAL FINE = \$2,000 (PAID)  
SURCHARGE = \$100 (REMITTED)

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL ON THIS DATE [REDACTED].

*Audrey P. Heffer*  
QUEENS COUNTY CLERK  
COURT CLERK

All marijuana convictions under PL 221.05, PL 221.10, PL 221.15, PL 221.20, PL 221.35 or PL 221.40 - including any appearing on this certificate of disposition - are vacated, dismissed, sealed, and expunged. It is an unlawful discriminatory practice for any entity to make any inquiry about such an expunged conviction or to use such an expunged conviction adversely against an individual in any form of application or otherwise - unless specifically required or permitted to do so by statute.

Pursuant to section 70.15 of the Penal Law, any misdemeanor sentence with a jail term of "1 year", "12 months", or "365 days" is, by operation of law, deemed to be a sentence of 364 days. Any Certificate of Disposition indicating a jail sentence of "1 year", "12 months", "52 weeks", or "365 days" for a misdemeanor conviction shall be interpreted as a sentence of 364 days.

# **Appendix A2**

## Certificate of Disposition - New Style





### BRONX SUPREME CRIMINAL

265 East 161st Street, Bronx, NY 10451

# NO FEE

Non-Public  
Version

Court ORI: NY062015J

The People of the State of New York

vs.

#### Certificate of Disposition

Docket Number: IND- [REDACTED]

Legacy Docket Number: [REDACTED]

CJTN: [REDACTED]

NYSID: [REDACTED]

Defendant DOB: [REDACTED]

Arrest Date: [REDACTED]

Arraignment Date: [REDACTED]

THIS IS TO CERTIFY that the undersigned has examined the files of the **Bronx Supreme Criminal** concerning the above entitled matter and finds the following:

Count #	Charge	Charge Weight	Disposition		Disposition Date		
1	PL 220.39 01 BF CSCS-3rd:Narcotic Drug	BF	Covered by (Count #3)		[REDACTED]		
2	PL 220.16 01 BF Cpcs-3rd:Narc Drug Int/Sell	BF	Covered by (Count #3)		[REDACTED]		
Count #	Incident Date	Sentence Charge	Charge Description	Charge Weight	Conviction Type	Conviction n/ Sentence Date	Sentence Highlight
3	[REDACTED]	PL 220.03	Crim Poss Contrl Subst-7th	AM	Pled Guilty	[REDACTED]	<ul style="list-style-type: none"> <li>• Surcharge (MS (\$110.00), CVAFA (\$10.00) - due [REDACTED])</li> <li>• License Suspended (6 Months)</li> <li>• Conditional Discharge (1 Years)</li> </ul>

**A balance remains due and owing for fines, fees and/or surcharges imposed at sentence.**

Charge Weight Key: I=Infraction; V=Violation; AM, BM=Class Misdemeanor; UM=Unclassified Misdemeanor; AF, BF, CF, DF, EF=Class Felony

Dated: March 4, 2022

Chief Clerk/Clerk of the Court

CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT SEAL

All marijuana convictions under PL 221.05, PL 221.10, PL 221.15, PL 221.20, PL 221.35 or PL 221.40—including any appearing on this certificate of disposition—are vacated, dismissed, sealed, and expunged. It is an unlawful discriminatory practice for any entity to make any inquiry about such an expunged conviction or to use such an expunged conviction adversely against an individual in any form of application or otherwise—unless specifically required or permitted to do so by statute. Conviction charges may not be the same as the original arrest charges. Charges may not be the same as the original arrest charges.

## **APPENDIX B1**

- Notice of Motion
- Affirmation in Support of Motion - Failure to File



SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK,	:	NOTICE OF MOTION FOR PERMISSION TO FILE LATE NOTICE OF APPEAL AND FOR POOR PERSON
Respondent,	:	RELIEF
-against-	:	
[INSERT YOUR NAME],	:	[INSERT] COUNTY
Defendant-Appellant.	:	Ind. No. [INSERT]

-----x

PLEASE TAKE NOTICE that, upon the annexed affirmation, accompanying exhibit, and all prior proceedings herein, the undersigned will move this Court, at the courthouse at [INSERT COURTHOUSE ADDRESS], at 10:00 a.m. on [INSERT DATE FOR MONDAY THREE WEEKS FROM DATE OF FILING], or as soon thereafter as counsel may be heard, for an order (1) deeming the notice of motion herein a timely-filed notice of appeal pursuant to C.P.L. § 460.30; (2) granting poor person relief; (3) assigning counsel; and (4) granting such other and further relief as may be just and proper.

Any papers filed in opposition to this motion must be served at least seven days before the return date. C.P.L.R. 2214(b).

Dated: [INSERT CITY FROM WHICH YOU ARE FILING], [STATE]  
[INSERT DATE OF FILING]

Respectfully Submitted,

[INSERT YOUR NAME]

---

[INSERT YOUR ADDRESS]  
[INSERT YOUR PHONE NUMBER]  
[INSERT YOUR EMAIL ADDRESS]

TO: Motion Clerk  
Appellate Division, [INSERT] Department  
[INSERT ADDRESS FOR COURT OF FILING]

[INSERT NAME AND ADDRESS OF DISTRICT ATTORNEY'S OFFICE]

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK,	:	
Respondent,	:	AFFIRMATION IN
-against-	:	SUPPORT OF MOTION
[INSERT YOUR NAME],	:	FOR LATE NOTICE OF
Defendant-Appellant.	:	APPEAL PURSUANT TO
	:	CPL § 460.30
	:	[INSERT] County
	:	Ind. No. [INSERT]

-----x

[INSERT YOUR NAME], hereby states under penalty of perjury that the following statements are true, except those made on information and belief, which I believe to be true:

1. I make this affirmation in support of my motion for permission to file a late notice of appeal and for poor person relief and assignment of counsel.
2. On [INSERT DATE], I [entered a guilty plea/was found guilty] before the [Supreme/Criminal] Court, [INSERT] County ([INSERT LAST NAME OF PRESIDING JUDGE], J.) to [INSERT CONVICTION(S) (ex: Criminal Possession of a Weapon in the Third Degree)] (P.L. § [INSERT STATUTE]). On [INSERT DATE], the court imposed a sentence of [INSERT SENTENCE]. (See attached Exhibit).
3. I was represented at my plea and sentencing proceedings by counsel.
4. Despite telling my counsel that I wished to appeal, counsel did not file a notice of appeal on my behalf for the aforementioned conviction.

5. It is well-established that a defense attorney must consult with his client about filing an appeal “when there is reason to think either (1) that a rational defendant would want to appeal . . . , or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (citation omitted).
6. Moreover, the various Appellate Divisions in the State of New York require counsel to advise their clients of the right to appeal in writing after all convictions, as well as the applicable time limitations, manner of instituting an appeal, and right to poor person relief. Critically, counsel *must* file the notice of appeal if requested. See 22 N.Y.C.R.R. §§ 606.5(b)(1) [First Department, counsel must “advise the defendant... in writing of his right to appeal” and “shall... serve and file the necessary notice of appeal”]; 671.3(a) [Second Department, counsel must “give, either by mail or personally, written notice to his client advising him of his right to appeal” and “counsel shall promptly serve and file the necessary formal notice of appeal”]; 821.2(a) [Third Department, counsel must “advise the defendant in writing of his right to appeal” and “shall... serve and file the necessary notice of appeal”]; 1015.7(a) [Fourth Department, counsel must “advise the defendant in writing of the right to appeal” and “shall... file the necessary notice of appeal... with proof of service”].
7. Given those rules, defense counsel was duty-bound to file and serve the notice of appeal in my case because I requested it. If a defendant requests that their defense counsel file a notice of appeal, counsel’s subsequent failure to file the notice constitutes per se ineffective assistance of counsel and violates the Due Process

Clause. People v. Syville, 15 N.Y.3d 391, 397 (2010) (citing Roe v Flores-Ortega, 528 U.S. 470, 477 (2000)). Prejudice is also assumed, even if the defendant signed a valid appeal waiver. Garza v. Idaho, 139 S. Ct. 738, 749 (2019) (“[T]he presumption of prejudice recognized in Flores-Ortega applies regardless of whether a defendant has signed an appeal waiver.”) Counsel’s failure to fulfill duties enumerated by the U.S. Supreme Court and this Court’s rules constituted “improper conduct . . . of the defendant’s attorney” C.P.L. § 460.30(1).

8. Even if I validly waived my right to appeal as part of my plea, “a waiver of the right to appeal is not an absolute bar to the taking of a first-tier direct appeal.” People v. Thomas, 34 N.Y.3d 545, 558 (2019). Specifically, any constitutional or jurisdictional defects in my conviction would survive that waiver. See People v. Lopez, 6 N.Y.3d 248, 257 (2006) (the “record must establish that the defendant understood that the right to appeal is separate and distinct from those rights automatically forfeited upon a plea of guilty”); People v. Hansen, 95 N.Y.2d 227, 230-31 (2000). Accordingly, it is essential that I be allowed to appeal my conviction in order to verify that it was free of such defects, and that the plea was knowing, voluntary, and intelligent. See Boykin v. Alabama, 395 U.S. 238, 242 (1969); People v. Harris, 6 N.Y.2d 9, 17 (1983).
9. I am anxious to appeal the constitutionality of my conviction. No defendant should be denied the opportunity for appellate review because his attorney failed to file a notice of appeal as directed.
10. The attached motion is made within the one-year grace period after the expiration of the original 30-day deadline for filing an appeal, and is therefore timely. See C.P.L. §

460.30(1). I have made this motion as expeditiously as possible after learning of my right to appeal.

11. **[IF CURRENTLY INCARCERATED:]** I am presently incarcerated at **[INSERT NAME OF FACILITY]**.
12. I am indigent and unable to pay the costs, fees, and expenses necessary to prosecute my appeal. See attached Motion for Poor Person Relief.

WHEREFORE, it is respectfully requested that the Court deem the notice of motion herein a timely-filed notice of appeal of **[INSERT COURT NAME]**, case number **[INSERT INDICTMENT NUMBER IF APPLICABLE, OTHERWISE PROVIDE DOCKET NUMBER]** pursuant to C.P.L. § 460.30, grant poor person relief, assign appellate counsel, and grant such other and further relief as may be just and proper.

Dated: **[CITY FROM WHICH YOU ARE FILING], [STATE]**  
**[INSERT DATE OF FILING]**

---

**[INSERT YOUR NAME]**

## **APPENDIX B2**

- Notice of Motion
- Affirmation in Support of Motion - No Advice

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK,	:	NOTICE OF MOTION FOR PERMISSION TO FILE LATE NOTICE OF APPEAL AND FOR POOR PERSON
Respondent,	:	RELIEF
-against-	:	
[INSERT YOUR NAME],	:	[INSERT] COUNTY
Defendant-Appellant.	:	Ind. No. [INSERT]

-----x

PLEASE TAKE NOTICE that, upon the annexed affirmation, accompanying exhibit, and all prior proceedings herein, the undersigned will move this Court, at the courthouse at [INSERT COURTHOUSE ADDRESS], at 10:00 a.m. on [INSERT DATE FOR MONDAY THREE WEEKS FROM DATE OF FILING], or as soon thereafter as counsel may be heard, for an order (1) deeming the notice of motion herein a timely-filed notice of appeal pursuant to C.P.L. § 460.30; (2) granting poor person relief; (3) assigning counsel; and (4) granting such other and further relief as may be just and proper.

Any papers filed in opposition to this motion must be served at least seven days before the return date. C.P.L.R. 2214(b).



Dated: [INSERT CITY FROM WHICH YOU ARE FILING], [STATE]  
[INSERT DATE OF FILING]

Respectfully Submitted,

[INSERT YOUR NAME]

---

[INSERT YOUR ADDRESS]  
[INSERT YOUR PHONE NUMBER]  
[INSERT YOUR EMAIL ADDRESS]

TO: Motion Clerk  
Appellate Division, [INSERT] Department  
[INSERT ADDRESS FOR COURT OF FILING]

[INSERT NAME AND ADDRESS OF DISTRICT ATTORNEY'S OFFICE]

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK,	:	
Respondent,	:	AFFIRMATION IN
-against-	:	SUPPORT OF MOTION
[INSERT YOUR NAME],	:	FOR LATE NOTICE OF
Defendant-Appellant.	:	APPEAL PURSUANT TO
	:	CPL § 460.30
	:	[INSERT] County
	:	Ind. No. [INSERT]

-----x

[INSERT YOUR NAME], hereby states under penalty of perjury that the following statements are true, except those made on information and belief, which I believe to be true:

1. I make this affirmation in support of my motion for permission to file a late notice of appeal and for poor person relief and assignment of counsel.
2. On [INSERT DATE], I [entered a guilty plea/was found guilty] before the [Supreme/Criminal] Court, [INSERT] County ([INSERT LAST NAME OF PRESIDING JUDGE], J.) to [INSERT CONVICTION(S) (ex: Criminal Possession of a Weapon in the Third Degree)] (P.L. § [INSERT STATUTE]). On [INSERT DATE], the court imposed a sentence of [INSERT SENTENCE]. (See attached Exhibit).
3. I was represented at my plea and sentencing proceedings, and counsel did not file a notice of appeal on my behalf for the aforementioned conviction.
4. My attorney did not discuss with me my right to appeal, did not discuss with me the benefits and costs of filing a notice of appeal, or provide me with any documents

explaining how to file an appeal. I was unaware that I could appeal my conviction until I learned that I could on [INSERT DATE]. Upon learning of my right to file a late notice of appeal, I acted with due diligence in preparing and filing this motion.

5. It is well-established that a defense attorney must consult with his client about filing an appeal “when there is reason to think either (1) that a rational defendant would want to appeal . . . , or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (citation omitted).
6. Moreover, the various Appellate Divisions in the State of New York require counsel to advise their clients of the right to appeal in writing after all convictions, as well as the applicable time limitations, manner of instituting an appeal, and right to poor person relief, and file the notice of appeal if requested. See 22 N.Y.C.R.R. §§ 606.5(b)(1) [First Department, counsel must “advise the defendant... in writing of his right to appeal” and “shall... serve and file the necessary notice of appeal”]; 671.3(a) [Second Department, counsel must “give, either by mail or personally, written notice to his client advising him of his right to appeal” and “counsel shall promptly serve and file the necessary formal notice of appeal”]; 821.2(a) [Third Department, counsel must “advise the defendant in writing of his right to appeal” and “shall... serve and file the necessary notice of appeal”]; 1015.7(a) [Fourth Department, counsel must “advise the defendant in writing of the right to appeal” and “shall... file the necessary notice of appeal... with proof of service”].
7. Given those rules, defense counsel was duty-bound to proactively advise me not only how to file a notice of appeal but, more importantly, about the risks and benefits of an

appeal and what conviction the appeal would encompass in order to determine whether to file a formal notice. Had defense counsel done so, I would have indicated my desire for a timely notice of appeal to be filed. Counsel's failure to fulfill duties enumerated by the U.S. Supreme Court and this Court's rules constituted "improper conduct . . . of the defendant's attorney" C.P.L. § 460.30(1).

8. Even if I validly waived my right to appeal as part of my plea, "a waiver of the right to appeal is not an absolute bar to the taking of a first-tier direct appeal." People v. Thomas, 34 N.Y.3d 545, 558 (2019). Specifically, any constitutional or jurisdictional defects in my conviction would survive that waiver. See People v. Lopez, 6 N.Y.3d 248, 257 (2006) (the "record must establish that the defendant understood that the right to appeal is separate and distinct from those rights automatically forfeited upon a plea of guilty"); People v. Hansen, 95 N.Y.2d 227, 230-31 (2000). Accordingly, it is essential that I be allowed to appeal my conviction in order to verify that it was free of such defects, and that the plea was knowing, voluntary, and intelligent. See Boykin v. Alabama, 395 U.S. 238, 242 (1969); People v. Harris, 6 N.Y.2d 9, 17 (1983).
9. I am anxious to appeal the constitutionality of my conviction. No defendant should be denied the opportunity for appellate review because his attorney failed to fully advise him of the right to appeal.
10. The attached motion is made within the one-year grace period after the expiration of the original 30-day deadline for filing an appeal, and is therefore timely. See C.P.L. § 460.30(1). I have made this motion as expeditiously as possible after learning of my right to appeal.

11. **[IF CURRENTLY INCARCERATED:]** I am presently incarcerated at **[INSERT NAME OF FACILITY]**.
12. I am indigent and unable to pay the costs, fees, and expenses necessary to prosecute my appeal. See attached Motion for Poor Person Relief.

WHEREFORE, it is respectfully requested that the Court deem the notice of motion herein a timely-filed notice of appeal of **[INSERT COURT NAME]**, case number **[INSERT INDICTMENT NUMBER IF APPLICABLE, OTHERWISE PROVIDE DOCKET NUMBER]** pursuant to C.P.L. § 460.30, grant poor person relief, assign appellate counsel, and grant such other and further relief as may be just and proper.

Dated: **[CITY FROM WHICH YOU ARE FILING], [STATE]**  
**[INSERT DATE OF FILING]**

---

**[INSERT YOUR NAME]**

## **APPENDIX B3**

- Notice of Motion
- Affirmation in Support of Motion - Misadvice

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK,	:	NOTICE OF MOTION
	:	FOR PERMISSION TO
Respondent,	:	FILE LATE NOTICE
	:	OF APPEAL AND FOR
-against-	:	POOR PERSON
	:	RELIEF
[INSERT YOUR NAME],	:	[INSERT] COUNTY
	:	Ind. No. [INSERT]
Defendant-Appellant.	:	

-----x

PLEASE TAKE NOTICE that, upon the annexed affirmation, accompanying exhibit, and all prior proceedings herein, the undersigned will move this Court, at the courthouse at [INSERT COURTHOUSE ADDRESS], at 10:00 a.m. on [INSERT DATE FOR MONDAY THREE WEEKS FROM DATE OF FILING], or as soon thereafter as counsel may be heard, for an order (1) deeming the notice of motion herein a timely-filed notice of appeal pursuant to C.P.L. § 460.30; (2) granting poor person relief; (3) assigning counsel; and (4) granting such other and further relief as may be just and proper.

Any papers filed in opposition to this motion must be served at least seven days before the return date. C.P.L.R. 2214(b).

Dated: [INSERT CITY FROM WHICH YOU ARE FILING], [STATE]  
[INSERT DATE OF FILING]

Respectfully Submitted,

[INSERT YOUR NAME]

---

[INSERT YOUR ADDRESS]  
[INSERT YOUR PHONE NUMBER]  
[INSERT YOUR EMAIL ADDRESS]

TO: Motion Clerk  
Appellate Division, [INSERT] Department  
[INSERT ADDRESS FOR COURT OF FILING]

[INSERT NAME AND ADDRESS OF DISTRICT ATTORNEY'S OFFICE]



SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: [INSERT] DEPARTMENT

-----x

THE PEOPLE OF THE STATE OF NEW YORK,	:	
Respondent,	:	AFFIRMATION IN
-against-	:	SUPPORT OF MOTION
[INSERT YOUR NAME],	:	FOR LATE NOTICE OF
Defendant-Appellant.	:	APPEAL PURSUANT TO
	:	CPL § 460.30
	:	[INSERT] County
	:	Ind. No. [INSERT]

-----x

[INSERT YOUR NAME], hereby states under penalty of perjury that the following statements are true, except those made on information and belief, which I believe to be true:

1. I make this affirmation in support of my motion for permission to file a late notice of appeal and for poor person relief and assignment of counsel.
2. On [INSERT DATE], I [entered a guilty plea/was found guilty] before the [Supreme/Criminal] Court, [INSERT] County ([INSERT LAST NAME OF PRESIDING JUDGE], J.) to [INSERT CONVICTION(S) (ex: Criminal Possession of a Weapon in the Third Degree)] (P.L. § [INSERT STATUTE]). On [INSERT DATE], the court imposed a sentence of [INSERT SENTENCE]. (See attached Exhibit).
3. I was represented at my plea and sentencing proceedings, and counsel did not file a notice of appeal on my behalf for the aforementioned conviction.
4. My attorney told me I could not appeal my conviction because I signed a waiver of appeal as a condition of my plea. I had no reason to doubt my attorney's incorrect

advice, and so did not take any additional steps to appeal my conviction. I learned that I could appeal my conviction on [INSERT DATE], and after learning I could still appeal I acted with due diligence in preparing and filing this motion.

5. It is well-established that a defense attorney must consult with his client about filing an appeal “when there is reason to think either (1) that a rational defendant would want to appeal . . . , or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (citation omitted).
6. Moreover, the various Appellate Divisions in the State of New York require counsel to advise their clients of the right to appeal in writing after all convictions, as well as the applicable time limitations, manner of instituting an appeal, and right to poor person relief, and file the notice of appeal if requested. See 22 N.Y.C.R.R. §§ 606.5(b)(1) [First Department, counsel must “advise the defendant... in writing of his right to appeal” and “shall... serve and file the necessary notice of appeal”]; 671.3(a) [Second Department, counsel must “give, either by mail or personally, written notice to his client advising him of his right to appeal” and “counsel shall promptly serve and file the necessary formal notice of appeal”]; 821.2(a) [Third Department, counsel must “advise the defendant in writing of his right to appeal” and “shall... serve and file the necessary notice of appeal”]; 1015.7(a) [Fourth Department, counsel must “advise the defendant in writing of the right to appeal” and “shall... file the necessary notice of appeal... with proof of service”].
7. Given those rules, defense counsel was duty-bound to proactively advise me not only how to file a notice of appeal but, more importantly, about the risks and benefits of an

appeal and what conviction the appeal would encompass in order to determine whether to file a formal notice. Had defense counsel done so, I would have indicated my desire for a timely notice of appeal to be filed. Counsel's failure to fulfill duties enumerated by the U.S. Supreme Court and this Court's rules constituted "improper conduct . . . of the defendant's attorney" C.P.L. § 460.30(1). Counsel certainly was not permitted to misadvise me by telling me my appeal waiver blocked any ability to appeal.

8. Even if I validly waived my right to appeal as part of my plea, "a waiver of the right to appeal is not an absolute bar to the taking of a first-tier direct appeal." People v. Thomas, 34 N.Y.3d 545, 558 (2019). Specifically, any constitutional or jurisdictional defects in my conviction would survive that waiver. See People v. Lopez, 6 N.Y.3d 248, 257 (2006) (the "record must establish that the defendant understood that the right to appeal is separate and distinct from those rights automatically forfeited upon a plea of guilty"); People v. Hansen, 95 N.Y.2d 227, 230-31 (2000). Accordingly, it is essential that I be allowed to appeal my conviction in order to verify that it was free of such defects, and that the plea was knowing, voluntary, and intelligent. See Boykin v. Alabama, 395 U.S. 238, 242 (1969); People v. Harris, 6 N.Y.2d 9, 17 (1983).
9. I am anxious to appeal the constitutionality of my conviction. No defendant should be denied the opportunity for appellate review because his attorney failed to fully advise him of the right to appeal.
10. The attached motion is made within the one-year grace period after the expiration of the original 30-day deadline for filing an appeal, and is therefore timely. See C.P.L. §

460.30(1). I have made this motion as expeditiously as possible after learning of my right to appeal.

11. **[IF CURRENTLY INCARCERATED:]** I am presently incarcerated at **[INSERT NAME OF FACILITY]**.
12. I am indigent and unable to pay the costs, fees, and expenses necessary to prosecute my appeal. See attached Motion for Poor Person Relief.

WHEREFORE, it is respectfully requested that the Court deem the notice of motion herein a timely-filed notice of appeal of **[INSERT COURT NAME]**, case number **[INSERT INDICTMENT NUMBER IF APPLICABLE, OTHERWISE PROVIDE DOCKET NUMBER]** pursuant to C.P.L. § 460.30, grant poor person relief, assign appellate counsel, and grant such other and further relief as may be just and proper.

Dated: **[CITY FROM WHICH YOU ARE FILING], [STATE]**  
**[INSERT DATE OF FILING]**

---

**[INSERT YOUR NAME]**

## **APPENDIX C1**

Uniform Sentence & Commitment Order (UCS-854)

UNIFORM SENTENCE & COMMITMENT

UCS-854 (9/2010)

STATE OF NEW YORK

COURT, COUNTY OF

Court Part:

Court Reporter:

Superior Ct. Case #:

PRESENT: HON

Form containing defendant information: The People of the State of New York -vs- Defendant, SEX, D.O.B., NYSID NUMBER, CRIMINAL JUSTICE TRACKING NUMBER.

Accusatory Instrument Charge(s): Law/Section & Subdivision:

Grid for Accusatory Instrument Charge(s) with numbered rows 1-4.

Date(s) of Offense: To

THE ABOVE NAMED DEFENDANT HAVING BEEN CONVICTED BY [ PLEA OR VERDICT ], THE MOST SERIOUS OFFENSE BEING A [ FELONY OR MISDEMEANOR OR VIOLATION ], IS HEREBY SENTENCED TO:

Table with columns: Crime, Count No., Law Section and Subdivision, SMF, Hate or Terror, Minimum Term, Maximum Term, Definite/Determinate, Post-Release Supervision.

\*\* NOTE: For each DETERMINATE SENTENCE imposed, a corresponding period of POST-RELEASE SUPERVISION MUST be indicated [PL § 70.45].

- Counts shall run CONCURRENTLY with each other
Sentence imposed herein shall run CONCURRENTLY with
A period of [ PROBATION OR CONDITIONAL DISCHARGE ] with an Ignition Interlock Device condition to run CONSECUTIVELY to any term of imprisonment imposed herein and to commence upon the defendant's release from imprisonment [PL § 60.21]
Conviction includes: WEAPON TYPE: and/or DRUG TYPE:
Charged as a JUVENILE OFFENDER — age at time crime committed: years
Adjudicated a YOUTHFUL OFFENDER [CPL § 720.20]
Execute as a sentence of PAROLE SUPERVISION [CPL § 410.91]
Re-sentenced as a PROBATION VIOLATOR [CPL § 410.70]
Court certified the Defendant a SEX OFFENDER [Cor. L § 168-d]
CASAT ordered [PL § 60.04(6)]
SHOCK INCARCERATION ordered [PL § 60.04(7)]

As a: Second Violent, Second Drug, Second Drug w/prior VFO, Predicate Sex Offender, Predicate Sex Offender w/prior VFO, Second Child Sexual Assault, Persistent Violent, FELONY OFFENDER

Table for fees: Paid, Not Paid, Deferred. Columns include Mandatory Surcharge, Fine, DNA Fee, DWI/Other, Crime Victim Assistance Fee, Restitution, Sex Offender Registration Fee, Supplemental Sex Off. Victim Fee.

THE DEFENDANT SHALL BE AND HEREBY IS COMMITTED TO THE CUSTODY OF THE:

- NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older not presently in the custody of NYSDOCS, the [ COUNTY SHERIFF OR NEW YORK CITY DEPARTMENT OF CORRECTION ] is directed to deliver the defendant to the custody of NYSDOCS as provided in 7 NYCRR Part 103.
NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older presently in the custody of NYSDOCS, defendant shall remain in the custody of NYSDOCS.
NYS Office of Children and Family Services in accordance with the law, being a person less than sixteen (16) years of age at the time the crime was committed.
County Jail/Correctional Facility

TO BE HELD UNTIL THE JUDGMENT OF THIS COURT IS SATISFIED.

REMARKS:

Pre-Sentence Investigation Report Attached: YES NO Amended Commitment:
Order of Protection Issued: YES NO Original Sentence Date
Order of Protection Attached: YES NO

Commitment, Order of Protection & Pre-Sentence Report received by Correctional Authority as indicated. Official Name, Shield No.

Date Clerk of the Court Signature Title



## **APPENDIX D1**

### Informational Statement - Criminal Cases

**Supreme Court of the State of New York**  
**Appellate Division : First**  **Judicial Department**  
**Informational Statement - Criminal Cases**

**Instructions:** Use a separate copy of this form for each judgment, sentence or order appealed from. Multiple convictions under different accusatory instruments, even if the judgments were rendered in the same court on the same day, require the completion of separate copies of this form. Please type or print and answer

all questions.

Attach a copy of the notice of appeal. If the appeal is from an order, attach a copy. If the appeal is from a judgment or sentence, attach a copy of the commitment order or an extract of the clerk's minutes.

<b>Case Title:</b> <p style="text-align: center;"><b>The People of the State of New York,</b> <b>vs.</b></p>	<b>For Appellate Division Use Only</b>
	<b>Case No.:</b> 
	<b>File Opened:</b> 

**Appellate Division Status:** Place a  in the appropriate box to indicate the Appellate Division status of the parties.

Plaintiff	<input type="checkbox"/> Appellant	<input type="checkbox"/> Respondent
Defendant	<input type="checkbox"/> Appellant	<input type="checkbox"/> Respondent

**Type of Crime:** If this is an appeal from a judgment of conviction, a sentence or an order granting or denying post-conviction relief, place a  mark in up to five of the following boxes to indicate the type of crime or crimes of which the defendant was convicted. If the conviction was for more than five crimes, check the five most serious charges. Check the  to indicate that the conviction was for an substantive crime and check the  to indicate that the conviction was for an attempt to commit that crime. In the event that the precise crime of which the defendant was convicted does not appear on the following list, check the box comparable to the article of the Penal Law in which the substantive crime is set forth. If this is an appeal by the People from an Interlocutory order, check up to five boxes to indicate the crimes of which the defendant has been charged.

= Substantive Crime       = Attempt to Commit Crime

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> 1 Arson<br><input type="checkbox"/> 2 Assault & Related Offenses<br><input type="checkbox"/> 3 Bribery, Not Public Servant & Related Offenses<br><input type="checkbox"/> 4 Bribery, Public Servants & Related Offenses<br><input type="checkbox"/> 5 Burglary & Related Offenses<br><input type="checkbox"/> 6 Children & Incompetents, Offenses Affecting<br><input type="checkbox"/> 7 Computer Offenses<br><input type="checkbox"/> 8 Conspiracy<br><input type="checkbox"/> 9 Controlled Substances, Possession<br><input type="checkbox"/> 10 Controlled Substances, Sale<br><input type="checkbox"/> 11 Controlled Substances, Other<br><input type="checkbox"/> 12 Criminal Facilitation<br><input type="checkbox"/> 13 Criminal Mischief & Related Offenses<br><input type="checkbox"/> 14 Criminal Possession of Stolen Property<br><input type="checkbox"/> 15 Criminal Solicitation<br><input type="checkbox"/> 16 Enterprise Corruption<br><input type="checkbox"/> 17 Escape & Offenses Relating to Custody | <input type="checkbox"/> 18 False Written Statements - Offenses Involving<br><input type="checkbox"/> 19 Firearms & Dangerous Weapons, Possession<br><input type="checkbox"/> 20 Firearms & Dangerous Weapons, Use<br><input type="checkbox"/> 21 Firearms & Dangerous Weapons, Other<br><input type="checkbox"/> 22 Forgery & Related Offenses<br><input type="checkbox"/> 23 Frauds on Creditors<br><input type="checkbox"/> 24 Frauds, Other<br><input type="checkbox"/> 25 Gambling Offenses<br><input type="checkbox"/> 26 Homicide, Abortion<br><input type="checkbox"/> 27 Homicide, Criminally Negligent<br><input type="checkbox"/> 28 Homicide, Manslaughter<br><input type="checkbox"/> 29 Homicide, Murder<br><input type="checkbox"/> 30 Homicide, Vehicular Manslaughter<br><input type="checkbox"/> 31 Insurance Fraud<br><input type="checkbox"/> 32 Kidnapping, Coercion & Related Offenses<br><input type="checkbox"/> 33 Larceny<br><input type="checkbox"/> 34 Marijuana Offenses | <input type="checkbox"/> 35 Marital Relationship, Offenses Affecting<br><input type="checkbox"/> 36 Motor Vehicle, Operating Under Influence<br><input type="checkbox"/> 37 Motor Vehicle, Other<br><input type="checkbox"/> 38 Obscenity & Related Offenses<br><input type="checkbox"/> 39 Offenses Relating to Judicial & other Proceedings<br><input type="checkbox"/> 40 Official Misconduct, Obstruction of Public Servants<br><input type="checkbox"/> 41 Perjury & Related Offenses<br><input type="checkbox"/> 42 Privacy, Offenses Against<br><input type="checkbox"/> 43 Prostitution Offenses<br><input type="checkbox"/> 44 Public Order, Offenses Against<br><input type="checkbox"/> 45 Public Sensibilities, Offenses Against<br><input type="checkbox"/> 46 Robbery<br><input type="checkbox"/> 47 Sex Offenses, Rape<br><input type="checkbox"/> 48 Sex Offenses, Sexual Abuse<br><input type="checkbox"/> 49 Sex Offenses, Sodomy<br><input type="checkbox"/> 50 Theft Offenses, Other<br><input type="checkbox"/> 51 Other |
|--|---|---|

**Original Court Information** (Use another Form B for additional appeals):

**Appeal From** (Check one only):  Judgment     Order     Sentence     Amended Judgment     Amended Order     Amended Sentence  
 Resettled Order     Decision     Other (specify):

<b>Date or Rendered:</b>	<b>Indictment or Superior Court Information No.:</b>
<b>Court:</b>	<b>County:</b> --
<b>Stage:</b> <input type="checkbox"/> Interlocutory <input type="checkbox"/> Final <input type="checkbox"/> Post-Final	<b>Judge</b> (name in full):
<b>Conviction:</b> <input type="checkbox"/> Plea of Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Nonjury Trial <input type="checkbox"/> Not Applicable	
<b>Codefendants:</b> Were there any codefendants under this accusatory instrument? <input type="checkbox"/> Yes <input type="checkbox"/> No Names of codefendants convicted under this accusatory instrument:	
<b>Defendant Information</b> (Please supply any available information):	<b>NYSIS No.:</b>
<b>Prisoner Identification No.:</b>	<b>FBI No.:</b>
<b>Address:</b>	



# **APPENDIX E1**

## Affidavit of Service

\_\_\_\_\_ Court of the State of New York

*Tribunal del estado de Nueva York*

County of \_\_\_\_\_  
*Condado de*

People of the State of New York  
*El Estado de Nueva York*

-against-  
-contra-

Affidavit of Service

*Declaración de Presentación  
de Aviso de Apelación*

Indictment No. \_\_\_\_\_  
*No. de Acusación*

\_\_\_\_\_  
Defendant-Appellant  
*Nombre de Acusado/a-Apelante*

State of New York; County of \_\_\_\_\_ s.s.:  
*Estado de Nueva York; Condado de*

\_\_\_\_\_ being duly sworn, deposes and says:  
*(Name of person serving document) debidamente juramentado depone y dice:*  
*(Nombre de la persona entregando personalmente)*

1. I am not a party to this action, am over the age of 18 years and reside at the following  
*Yo no soy partido en esta acción, tengo mas de 18 años de edad y la dirección de mi*

address: \_\_\_\_\_  
*domicilio es:*

2. On, \_\_\_\_\_, 20\_\_\_\_\_, I served the within NOTICE OF APPEAL  
*(Fecha) El (año), yo serví el AVISO de APELACIÓN, sobre el*

upon the District Attorney located at \_\_\_\_\_ by:  
*fiscal ubicado en \_\_\_\_\_ por la siguiente manera:*

[ ] (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York;  
*(Correo de Primera Clase) Deposité una copia verdadera de la misma en un sobre pago de los Estados Unidos dentro dvel Estado de Nueva York;*

envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York;  
*debidamente en una oficina de correos bajo el cuidado exclusivo y la custodia del Servicio Postal*

Service within the State of New York;  
*de los Estados Unidos dentro dvel Estado de Nueva York;*

[ ] (PERSONAL SERVICE) personally delivering a true copy of the same; OR  
*(Servicio Personal) Entregué personalmente una copia verdadera de la misma; O*

[ ] (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.  
*(Correo Certificado, RECIBO DE DEVOLUCIÓN SOLICITADO) Deposité una copia verdadera de la misma en un sobre pago debidamente en una oficina de correos bajo el cuidado exclusivo y la custodia del Servicio Postal de los Estados Unidos dentro del Estado de Nueva York por correo certificado, y solicité un recibo de devolución.*

same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.  
*de la misma en un sobre pago debidamente en una oficina de correos bajo el cuidado exclusivo*

custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.  
*y la custodia del Servicio Postal de los Estados Unidos dentro del Estado de Nueva York por correo*

return receipt requested.  
*certificado, y solicité un recibo de devolución.*

Dated: \_\_\_\_\_  
*Fecha*

\_\_\_\_\_  
*Signature of Person Providing Service*  
*(Firma de la persona entregando personalmente)*

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_  
*Jurado ante mi este día de 20*

\_\_\_\_\_  
**Notary Public**  
*Notario (firma de notario)*

(File this completed form with the Court along with the Notice of Appeal)  
*(Presente esta petición completada ante el tribunal junto con el aviso de apelación)*

***Affidavit of Service for Notice of Appeal (page 2 of 2)***

# **APPENDIX F1**

## Motion for Poor Person Relief

SUPREME COURT OF THE STATE OF NEW YORK  
TRIBUNAL SUPREMO DEL ESTADO DE NUEVA YORK

APPELLATE DIVISION - \_\_\_\_\_ DEPARTMENT  
DIVISION DE APELACIÓN DEPARTAMENTO

People of the State of New York  
El Estado de Nueva York

-against-  
-contra-

Affidavit in Support of  
Motion to Proceed as a  
Poor Person & Assignment  
of Counsel

*Declaración de apoyo para  
la petición de proceder como  
persona sin recursos y la  
asignación de abogado*

Indictment No. \_\_\_\_\_  
Numero de Acusación

\_\_\_\_\_  
Defendant-Appellant  
Nombre de Acusado/a-Apelante

State of New York; County of \_\_\_\_\_ s.s.:  
Estado de Nueva York; Condado de

\_\_\_\_\_ being duly sworn, deposes and says:  
debidamente juramentado depone y dice:  
Defendant-Appellant  
Numero de Acusación

1. I am the defendant-appellant in the above-captioned case, and I make this affidavit in support of my  
*Yo soy el acusado/a-apelante en el caso mencionado anteriormente y yo hago esta declaración en apoyo de*

motion to proceed in forma pauperis.  
*mi petición para continuar in forma pauperis (forma pauperis se refiere a su capacidad, como persona sin recursos, de continuar en el tribunal sin tener que pagar cargos asociados con su apelación).*

2. I was convicted pursuant to a judgment of the Supreme Court, \_\_\_\_\_ County,  
*Yo fui condenado en virtud de una sentencia en el tribunal Supremo, Condado,*

rendered on \_\_\_\_\_, convicting me of \_\_\_\_\_  
*en (fecha) condenándome de*

\_\_\_\_\_ and sentencing me to \_\_\_\_\_  
*y sentenciándome a*

3. I am unable because of my indigence to pay the costs, fees, and expenses necessary to  
*Debido a mi indigencia no puedo pagar los cargos del tribunal, y los cargos requeridos para continuar con*

prosecute this appeal. I am currently earning approximately \$ \_\_\_\_\_ per week in income.  
*esta apelación. Actualmente estoy ganando aproximadamente \_\_\_\_\_ por semana en ingresos.*

4. I own \$ \_\_\_\_\_ worth of real property.  
*Tengo bienes valoradas en \$*

5.  I do own a car.  I do **not** own a car.  
*Yo soy dueño de un auto. Yo **no** soy dueño de un auto.*

6. I have \_\_\_\_\_ \$ in savings.  
*Yo tengo \$ \_\_\_\_\_ en cuentas de ahorros.*

7.  I do collect unemployment.  I do **not** collect unemployment.  
*Yo colecto desempleo. Yo **no** colecto desempleo.*

8.  I do collect alimony or support.  I do **not** collect alimony or support.  
*Yo colecto pensión alimenticia o Yo **no** colecto pensión alimenticia o*  
*manutención de menores manutención de menores*

9.  I do collect a pension.  I do **not** collect a pension.  
*Yo colecto una pensión. Yo **no** colecto una pensión.*

10.  I do have other sources of income.  I do **not** have other sources of income.  
*Yo tengo otras fuentes de ingresos. Yo **no** tengo otras fuentes de ingresos.*

11.  I was represented in the Supreme Court by a court-appointed attorney from a legal  
*Fui representado en el tribunal Supremo por un abogado asignado de un proveedor*

services provider:  
*de servicios legal:*

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OR / O

A member of the 18-b Assigned Counsel Plan  
*Un miembro de un panel de abogados asignado (18-b)*

OR / O

- other assigned counsel (explain),  
*Otro abogado asignado (explique),*

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OR / O

- retained counsel (explain retainer).  
*Contrate un abogado privado (explique acuerdo de retención).*

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12. During the trial proceedings, I (check one box):  
*Durante el procedimiento del juicio, yo (marque la respuesta que corresponde):*

- was incarcerated.  
*estaba encarcelado.*

OR / O

- was released on my own recognizance.  
*estaba libre bajo palabra.*

OR / O

- was released on bail in the sum of \$ \_\_\_\_\_, which was posted by (fill  
*fui liberado bajo fianza en la suma \$ \_\_\_\_\_ y fue pago por (explique*  
  
*in details)*  
*los detalles)*

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13. I am currently  at liberty OR  in custody.  
*Actualmente estoy libre O bajo custodia.*

Wherefore, I respectfully ask for an order permitting me to prosecute this appeal as a poor  
*Por medio de la presente, respetuosamente pido una orden permitiéndome de procesar esta*

person and I be furnished with the stenographic transcript of this action without fee and  
*apelación como una persona sin recursos y que me proporcionen una transcripción estenográfica*

that I be assigned an attorney to represent me on appeal and for such other and further  
*de esta acción sin cargos y que me asignen un abogado para representarme en esta apelación y para*

relief as may be proper and equitable.  
*cualquier otra ayuda adecuada y equitativa.*

---

Defendant-Appellant *(signature)*  
 Nombre de Acusado/a-Apelante *(firma)*

**Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20**  
*Jurado ante mi                      este día de                      20*

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**Notary Public**  
*Notario (firma de notario)*



SUPREME COURT OF THE STATE OF NEW YORK  
TRIBUNAL SUPREMO DEL ESTADO DE NUEVA YORK

APPELLATE DIVISION - \_\_\_\_\_ DEPARTMENT  
DIVISION DE APELACIÓN DEPARTAMENTO

People of the State of New York  
*El Estado de Nueva York*

-against-  
-contra-

Affidavit of Service of Motion  
to Proceed as a Poor Person &  
Assignment of Counsel

*Declaración de Presentación  
de la petición de proceder como  
persona sin recursos y la asignación  
de abogado*

Indictment No. \_\_\_\_\_  
No. de Acusación

\_\_\_\_\_  
Defendant-Appellant  
*Nombre de Acusado/a-Apelante*

State of New York; County of \_\_\_\_\_ s.s.:  
*Estado de Nueva York; Condado de*

\_\_\_\_\_ being duly sworn, deposes and says:  
*(Name of person serving document) debidamente juramentado depone y dice:*  
*(Nombre de la persona entregando personalmente)*

1. I am not a party to this action, am over the age of 18 years and reside at the following  
*Yo no soy partido en esta acción, tengo mas de 18 años de edad y la dirección de mi*

address: \_\_\_\_\_  
*domicilio es:*

2. On, \_\_\_\_\_, 20\_\_\_\_\_, I served the within Motion to Proceed as a Poor Person  
*(Fecha) El (año), yo serví la petición de proceder como persona*

& Assignment of Counsel upon the District Attorney located at \_\_\_\_\_  
*sin recursos y la asignación de abogado sobre el fiscal ubicado en*

by:  
*por la siguiente manera:*

***Affidavit of Service for Motion for Poor Person's  
Relief (page 1 of 2)***

[ ] (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed  
(*Correo de Primera Clase*) *Deposité una copia verdadera de la misma en un sobre pago*

envelope at a post office under the exclusive care and custody of the United States Postal  
*debidamente en una oficina de correos bajo el cuidado exclusivo y la custodia del Servicio Postal*

Service within the State of New York;  
*de los Estados Unidos dentro del Estado de Nueva York;*

[ ] (PERSONAL SERVICE) personally delivering a true copy of the same; OR  
(*Servicio Personal*) *Entregué personalmente una copia verdadera de la misma; O*

[ ] (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the  
(*Correo Certificado, RECIBO DE DEVOLUCIÓN SOLICITADO*) *Deposité una copia verdadera*

same in a post-paid properly addressed envelope at a post office under the exclusive care and  
*de la misma en un sobre pago debidamente en una oficina de correos bajo el cuidado exclusivo*

custody of the United States Postal Service within the State of New York by certified mail,  
*y la custodia del Servicio Postal de los Estados Unidos dentro del Estado de Nueva York por correo*

return receipt requested.  
*certificado, y solicité un recibo de devolución.*

Dated: \_\_\_\_\_  
*Fecha*

\_\_\_\_\_  
(*Signature of Person Providing Service*)  
(*Firma de la persona entregando personalmente*)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_  
*Jurado ante mi este día de 20*

\_\_\_\_\_  
**Notary Public**  
*Notario (firma de notario)*

(File this completed form with the Court along with the Motion  
to Proceed as a Poor Person & Assignment of Counsel)  
(*Presente esta petición completada ante el tribunal junto con la petición  
de proceder como persona sin recursos y la asignación de abogado*)

## ***Affidavit of Service for Motion for Poor Person's Relief (page 2 of 2)***

# CHECKLIST

## FAQ: FILING A LATE NOTICE OF APPEAL OF NEW YORK CITY CRIMINAL CONVICTIONS



- .....  Request and obtain Certificate of Disposition or Sentence & Commitment Order or sentencing minutes (see page 2 for instructions and Appendix A for examples)



- .....  Identify where to file your appeal (see page 2 for instructions and pages 6-9 for court addresses)

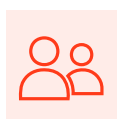


- ..... Write and put together the filing:
  - Notice of Motion (see page 3 for instructions and Appendix B for samples)
  - Affirmation in Support of Motion (see page 3 for instructions and Appendix B for samples)
  - Informational Statement, if you are including (see Appendix D for sample)
  - Motion for Poor Person Relief, if you would like to get a lawyer assigned to the case (see Appendix F for samples)
  - Certificate of Disposition or Sentence & Commitment Order or sentencing minutes (see Appendix A for examples)



- .....  Have a friend or relative send a copy of the filing to the District Attorney's Office that prosecuted your case and complete the Affidavit of Service (see page 4 for instructions and addresses)

- Ensure you have a copy of the entire filing and the Affidavit of Service for yourself



- .....  Send the filing and the Affidavit of Service to the correct appellate court. (see page 5 for instructions)