

**COURT OF COMMON PLEAS
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA : _____ CR _____
 :
 v. :
 :
 :
 :
 _____,
 Defendant

WRITTEN APPELLATE RIGHTS
(Conviction After Trial)

I. Oral Motion for Extraordinary Relief

Under extraordinary circumstances, when the interests of justice require, the court may, before sentencing, hear an oral motion in arrest of judgment, for a judgment of acquittal, or for a new trial. This motion must be decided before imposition of sentence and shall not delay the sentencing proceedings. A Motion for Extraordinary Relief shall have no effect on the preservation or waiver of issues for post-sentence consideration or appeal.

II. Post-Sentence Motion Addressed to Trial Court

You must file a Post-Sentence Motion if you wish to challenge either the weight or sufficiency of the evidence or any discretionary aspect of the sentence. With the exception of these two issues, it is not necessary to file a Post-Sentence Motion with the trial court in order to be able to appeal to a higher court. However, you have the right to file such a motion if you choose to do so. If you do file a Post-Sentence Motion with the trial court, the following provisions apply:

1. A post-sentence motion must be in writing and comply with the Pennsylvania Rules of Criminal Procedure.
2. A post-sentence motion must be filed with the Clerk of Court for the county within (10) days of the date of sentencing.

Date

Defendant

Attorney for Defendant

3. A post-sentence motion must state “with specificity and particularity” the grounds for the relief requested. The relief could include a request for judgment of acquittal, for arrest of judgment, for a new trial and/or for modification of sentence.
4. The relief requested may be based on any issue which was preserved by motion or objection before trial, during trial or at the sentencing hearing.
5. It is not necessary to include in a post-sentence motion all the issues you may wish to raise on appeal to a higher court. (For example, if 5 issues have been preserved by motion or objection, one of those issues could be raised in a post-sentence motion and then if there is a later appeal, all 5 issues could be raised on appeal.)
6. If you financially qualify, a post-sentence motion may be filed without payment of costs (in forma pauperis), and there is the same right to assigned counsel as has existed throughout the case.
7. If a post-sentence motion is filed, the trial judge must render a decision on the motion within 120 days (unless that deadline is extended by the Court for a maximum of 30 additional days on request of the defendant for good cause). If the decision on a post-sentence motion is not rendered within this time period, the post-sentence motion will automatically be deemed denied and the sole potential remedy would be through appeal to a higher court.
8. If the maximum sentence is 2 years or longer, the filing of a post-sentence motion will ordinarily not delay commencement of sentence, although the judge does have discretion to allow bail pending appeal to a higher court. If the maximum sentence imposed is less than 2 years, the defendant has the same right to bail as before sentencing pending the outcome of any post-sentence motion or appeal to a higher court.

III. Appeal to a Higher Court

1. Appeals to a higher court following the imposition of a sentence are taken to the Pennsylvania Superior Court (except in capital cases where the appeal is taken directly to the Pennsylvania Supreme Court). The appeal is initiated by the filing of a Notice of Appeal with the Clerk of the Court at the County Courthouse, with notice to the trial judge, the Court Reporter and the Prosecutor.

Date

Defendant

Attorney for Defendant

2. If a post-sentence motion was filed, the appeal to the higher court cannot be commenced until disposition of the post-sentence motion. The disposition of the post-sentence motion occurs when the trial judge rules on the motion or when the motion has been automatically deemed denied because the trial judge did not rule on the motion within the time limits described above. The Notice of appeal must be filed within thirty (30) days of the disposition of the post-sentence motion.
3. If no post-sentence motion was filed, the Notice of Appeal must be filed within thirty (30) days of the date of sentencing.
4. Challenges to the weight or sufficiency of the evidence or any discretionary aspect of sentence must first have been raised in a post-sentence motion. For all other matters, it is not necessary that issues raised on appeal were also raised in a post-sentence motion. Any issue can be raised on appeal which had been preserved by motion or objection before trial, during trial or at the sentencing hearing. Also the defendant may raise issues of whether the sentence constitutes an abuse of discretion, whether the sentence is illegal or whether the Court lacks jurisdiction.
5. If you financially qualify, an appeal may be filed without payment of costs (in forma pauperis), and there is the same right to assigned counsel as existed throughout the case.
6. If the maximum sentence is 2 years or longer, the filing of an appeal to a higher court will ordinarily not delay the commencement of sentence, although the Court does have discretion to allow bail pending appeal to a higher court. If the maximum sentence imposed is less than 2 years, the defendant has the same right to bail as before verdict, pending the outcome of any appeal to a higher court.

I acknowledge receiving a copy of the above document, consisting of 3 pages, and have read it.

Date

Defendant

I certify that I have reviewed the above procedures with my client, have provided my client an opportunity to ask me questions regarding the above procedures, and have answered any such questions to the best of my ability.

Date

Attorney for Defendant