

CONFINEMENT AFTER VERDICT OF NOT GUILTY BY REASON OF INSANITY

(Penal Code § 1026 et seq.)

NOTICE OF APPEAL

Forms: The attached forms are for use in an appeal in the Court of Appeal, Fourth Appellate District, from one of a variety of orders after a finding of not guilty by reason of insanity. In such appeals an indigent party has the right to court-appointed counsel. The forms include:

- [Notice of Appeal](#). The notice of appeal should be filled out completely and must be signed by either you or your trial counsel.
- [Motion for Appointment of Counsel on Appeal](#). If you cannot afford to retain an attorney on appeal, the motion for appointment of counsel at the bottom of the notice of appeal should be filled out and signed by you (preferably) or trial counsel. If you have no income and are not in custody, you must explain how living expenses are met.
- [Instructions for Filling Out Notice of Appeal](#).
- [Background Information](#). This information helps to ensure that your appeal is processed correctly and that you are properly represented on appeal. Please file with page 1. It is not confidential.
- [Change of Address](#). Detach and keep the change of address form for use as needed. It is critical you keep the Court of Appeal, Appellate Defenders, Inc., and your appellate attorney informed of your current address at all times.

When: A notice of appeal must be filed within **60 days** from the date of the order being appealed.

What: A person found not guilty by reason of insanity may appeal such decisions as the initial judgment of commitment, later orders affecting the commitment or other substantial rights of the person, denial of a petition alleging restoration of sanity under Penal Code section 1026.2, and an extended commitment under Penal Code section 1026.5 after the maximum term of the initial commitment has expired.

Authorities and examples of appeals from such decisions include: Initial judgment – Penal Code § 1237, subd. (a); *People v. Zichko* (2004) 118 Cal.App.4th 1055. Later orders – Penal Code § 1237, subd. (b); *People v. Michael W.* (1995) 32 Cal.App.4th 1111; *People v. Sword* (1994) 29 Cal.App.4th 614; *People v. De Anda* (1980) 114 Cal.App.3d 480. Denial of a restoration of sanity petition under Penal Code § 1026.2 – *People v. Woodson* (1983) 140 Cal.App.3d 1. Extended commitment under Penal Code § 1026.5 – *People v. Juarez* (1986) 184 Cal.App.3d 570.

Where: A notice of appeal must be filed with the appeals section of the superior court where the decision being appealed was made. The main courthouses handling these cases in each county of the Fourth Appellate District are listed on Appellate Defenders Inc. website [here](#) and e-filing information is listed [here](#). If you do not have access to the website, or are unsure if you have the correct address, please check with your trial attorney or a court clerk for the filing location. You can also call the on-duty attorney at Appellate Defenders, Inc. (619) 696-0282 to confirm the address.

For assistance: Contact Appellate Defenders, Inc., a firm of appellate attorneys that manages the entire system of court-appointed counsel in the Fourth Appellate District Court of Appeal: 555 West Beech Street, Suite 300, San Diego, CA, 92101. Telephone: (619) 696-0282. Website with e-mail contacts, forms, ADI California Criminal Appellate Practice Manual, and multiple other resources: <http://www.adi-sandiego.com>

INSTRUCTIONS ON PAGE 2. This Notice of Appeal must be filed within 60 days of the decision being appealed, in the county superior court where the decision was made. File the [background information form](#) (p. 3) along with it.

(1) Name of appellant: _____

Address (include I.D. No. if in custody): _____

City _____ State _____ Zip _____

Phone (if applicable): _____ Date of birth: _____

For Court Use Only

SUPERIOR COURT OF THE STATE OF CALIFORNIA,

COUNTY OF (2) _____

PEOPLE v. _____)

(3) Superior Court No. _____

NOTICE OF APPEAL

**(Judgment or Order After Finding
Of Not Guilty by Reason of Insanity)**

(4) _____)
Print name of appellant)

(5) Type of proceeding: This appeal is from a judgment or order after a finding of not guilty by reason of insanity (Penal Code § 1026). *Check one of these boxes:*

- Commitment upon finding of not guilty by reason of insanity (Penal Code §§ 1026, 1237(a)).
- Order after judgment affecting the commitment or other substantial rights of the appellant (Penal Code § 1237(b)).
- Denial of petition alleging restoration of sanity (Penal Code § 1026.2).
- Extended commitment (Penal Code § 1026.5).
- Other (*describe*): _____

(6) Date of decision being appealed: _____

(7) Signature (required): _____
Signature of Appellant or Trial Counsel (with State Bar no.) Date of Signature

The filing of a notice of appeal by counsel is not an undertaking to handle the appeal. (Penal Code § 1240.1, subd. (b).)

(8) MOTION FOR APPOINTMENT OF COUNSEL

The appellant requests the Court of Appeal appoint an attorney for appeal. The appellant does not have sufficient means to hire an attorney. The appellant and his or her spouse (if applicable) have the following combined income and property:

| | |
|---|---|
| Take-home pay from job (monthly): \$ _____ | Trial attorney was: (Check one.) |
| Other income (monthly): \$ _____ | <input type="checkbox"/> A public defender or court-appointed attorney. |
| Money in bank at this time: \$ _____ | <input type="checkbox"/> An attorney paid for by appellant. |
| Home ownership? (Check one.) <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Other: _____ |

I declare under penalty of perjury under the laws of the State of California that this information is true and correct:

_____ Date

_____ Signature of Appellant (Preferred) or Trial Counsel

INSTRUCTIONS FOR FILLING OUT NOTICE OF APPEAL

Please follow these instructions carefully. If you have any questions, ask your trial attorney or Appellate Defenders, Inc., for help.

A notice of appeal must be filed within **60 days** of the decision being appealed. It is filed in the **county superior court** where the decision was made.

The notice of appeal form is designed to be completed easily by checking boxes or filling in the blanks with your case information. Wherever you see a line like this, _____, fill the blank in with the appropriate information. The numbers below refer to the numbers on the notice of appeal form:

- (1) **Name and other information:** Print your name. Give your address at the time you file the notice of appeal. (Use the change of address form for later changes.) Provide phone number and identification number if applicable and date of birth.
- (2) **County:** Show the county where the decision in your case was made.
- (3) **Superior court number:** Show the case number(s) on the notice of appeal form. Ask your attorney if you do not know your superior court number(s). If you were involved in more than one case at the same time, include all of the case numbers you want to appeal.
- (4) **Your name:** Print your name in the blank.
- (5) **Type of proceeding:** Check the box that applies to your case.
 - **Commitment upon finding of not guilty by reason of insanity:** Check this box if you are appealing a commitment after you were found not guilty by reason of insanity.
 - **Order after judgment affecting the commitment or other substantial rights of the appellant:** Check this box if you are appealing an order after the commitment affecting your substantial rights, such as the terms of confinement and other matters.
 - **Denial of petition alleging restoration of sanity:** Check this box if you are appealing an order denying a petition claiming your sanity has been restored. (Penal Code § 1026.2.)
 - **Extended commitment:** Check this box if you are appealing an order extending your commitment after the maximum term of the first commitment has expired. (Penal Code § 1026.5.)
 - **Other:** Check this box if you are appealing some other order after you were found not guilty by reason of insanity, and describe the order.
- (6) **Date:** Enter in this blank the date on which the court made the order you are appealing. If you are not sure, check with your attorney or write, "On or about" and the closest date that you can recall.
- (7) **Signature:** Your signature or your attorney's signature is required.
- (8) **Motion for appointment of counsel:** You are entitled to court-appointed counsel on appeal if you do not have the funds to retain an attorney. Fill out the form at the bottom of the notice of appeal.

REMEMBER:

- The notice of appeal must be filed with the superior court no later than **60 days** from the date of the decision being appealed. If possible, keep some proof of mailing or filing.
- Send the notice of appeal to the **superior court** of the county where your case took place.
- Be sure to complete and file **all sections** of the notice of appeal, motion for appointment of counsel, and background information form.
- Detach and keep the **change of address** form for use as needed. It is critical to keep the Court of Appeal, Appellate Defenders, Inc., and your appellate attorney informed of your current address at all times.

BACKGROUND INFORMATION

To be filed along with [Notice of Appeal](#) (page 1)

THE INFORMATION ON THIS FORM WILL BE A PART OF THE PUBLIC RECORD AND IS NOT CONFIDENTIAL.

Name: _____ Date of birth: _____ Superior court no.: _____

Current address: _____

City _____ State _____ Zip _____

If applicable: Phone: _____ A.K.A : _____

* IMPORTANT: YOU MUST TELL APPELLATE DEFENDERS, INC., THE COURT OF APPEAL, OR YOUR APPELLATE ATTORNEY WHENEVER YOUR ADDRESS CHANGES. IF YOU FAIL TO DO THIS, YOUR CASE MAY BE DELAYED OR LOST. [CHANGE OF ADDRESS FORMS](#) ARE ATTACHED.

Family member or friend who will always know your address:

Name and relationship: _____ Phone: _____

Address: _____ City _____ State _____ Zip _____

Trial attorney:

Name: _____ Phone: _____

Address: _____ City _____ State _____ Zip _____

Type of proceeding appealed from:

- Commitment upon finding of not guilty by reason of insanity.
- Order after judgment affecting the commitment or other substantial rights of the appellant.
- Denial of petition alleging restoration of sanity.
- Extended commitment (Penal Code § 1026.5).
- Other (*describe*):

Please provide any additional information that may be helpful in understanding the proceedings:

Did you need an interpreter in court? Yes No. If yes, in what language? _____

Do you have now, or have you ever had, any related appeals, writs or other proceedings before this or any other California appellate court? Yes No. If yes, give case title, number, and dates, and describe proceedings:

Possible issues on appeal (These are only suggestions. The attorney on appeal will make the final decision on which issues to raise.):

Arrangements for counsel on appeal: Have you *hired* an attorney for your appeal? Yes No. If yes:

Name: _____ Address and phone: _____

If you cannot afford to hire an attorney, you have the right to have the Court of Appeal appoint one for you. Please fill out and sign the [request for counsel](#) on the bottom of the notice of appeal (page 1).

NOTIFICATION OF CHANGE OF ADDRESS

- DETACH FROM NOTICE OF APPEAL AND KEEP FOR USE AS NEEDED -

Once a notice of appeal is filed, it is important that the Court of Appeal, your appellate attorney, and Appellate Defenders, Inc., know your current address at all times while the appeal is pending. It is your responsibility to provide your correct address. If you fail to do that, your appeal may be delayed or dismissed.

You do not have to use the forms below, but they may make it easier to provide the information.

CHANGE OF ADDRESS

Appeal Number (if known): _____ Date: _____

Your Name: _____ I.D. # (if in custody): _____

New Address: _____

City _____ State _____ Zip _____

Mail to: Appellate Defenders, Inc.
555 West Beech Street, Suite 300
San Diego, CA 92101-2939

Be sure to notify your attorney, too, if an attorney has been appointed to your case.

(DETACH HERE)

CHANGE OF ADDRESS

Appeal Number (if known): _____ Date: _____

Your Name: _____ I.D. # (if in custody): _____

New Address: _____

City _____ State _____ Zip _____

Mail to: Appellate Defenders, Inc.
555 West Beech Street, Suite 300
San Diego, CA 92101-2939

Be sure to notify your attorney, too, if an attorney has been appointed to your case.