

APPELLATE REPRESENTATION AT ALCORN GOERING & SAGE

Because of our diversity and experience, we have successfully handled numerous appeals in state and federal courts. As part of our extensive law practice, we dedicate significant time and resources to representing clients in civil cases at the state and federal appellate levels. We understand the frustration you may be feeling due to an unsatisfactory trial outcome. We can also analyze your case based on appellate law.

However, the appellate process is complex. We understand how to evaluate your trial, recognize judicial errors and represent your appeal to the state or federal appellate level. We will provide open communication for every stage of an appeal. In some cases the outcome of litigation is unacceptable. When stakes are at their highest and an appeal is the only alternative, you should consult with experienced appellate attorneys.

Our appellant team members receive appellate referrals from all over Indiana, from small, single-issue appeals to multimillion-dollar verdicts involving lengthy trials and multiple complex issues. Our services include: Lead counsel on appeal; Evaluation of any case for appeal; Consultation and advice during appeal; Editing and technical briefing advice to trial counsel; Oral argument presentation; Challenging or defending a Court of Appeals' opinion on transfer; Interlocutory appeals

General Information Regarding Appeals

People hire an **appeal lawyer** when they want to challenge the decision of the trial court. The appellate process is governed by specific rules and procedures that must be abided by. This is one reason most people hire attorneys when they want to argue against the decision of a trial court. An appeal lawyer will be skilled in both the procedure and in understanding the grounds upon which the case may be challenged. In most cases, the courts that hear these cases do not re-try the case based on the facts. Instead, if they feel errors have been found in the lower court process, they will send the case back to the court with instructions on how to re-try the matter.

What is the Court of Appeals?

The Court of Appeals is Indiana's second-highest court. Most legal cases appealed from Indiana's trial courts go to the Court of Appeals. The Court does not re-try cases, but it does clarify questions of law raised by trial court decisions.

What kinds of cases are appealed by the Court of Appeals?

The Court of Appeals hears both civil and criminal appeals. It does not hear appeals of criminal cases if the sentence is death or life-without-parole, nor does it hear cases involving taxation or attorney discipline. Most other cases are appealed first to the Court of Appeals. The Court issues more than 2,500 opinions annually. Because the Indiana

Supreme Court accepts approximately 100 cases per year on average from all lower courts, the Court of Appeals has final jurisdiction in most appellate cases in Indiana.

What is an appeal?

A defendant who is found guilty in criminal cases in some or all charges is entitled to an appeal to at least one level of appellate court. There are several levels of courts to appeal to; an example would be appealing to the circuit court of appeals first and then up to the next level. This can potentially continue on until it reached the Supreme Court of the United States. An appeal is a formal request that a higher court reviews the decisions or actions of a lower court. The defendant is found guilty in the lower court usually makes an appeal. Some grounds for an appeal may include insufficient evidence, violation of rights or possible mistakes made by the judge or even how the jury handled the case.

What are the chances that my conviction will be reversed?

Appeal judges generally resist overruling trial court judgments and prefer to give trial judges wide discretion in the conduct of trials. As many appellate courts have said, defendants are not guaranteed “perfect” trials. Normally an appellate court will overturn a guilty verdict only if the trial court made an error of law that significantly contributed to the outcome. Put differently, an error by the trial judge will not lead to a reversal of a conviction as long as the error can reasonable be considered harmless. Not surprisingly, most errors are deemed “harmless”, and consequently few convictions are reversed. However, some types of errors are so grievous that they are presumed harmful, such as the use of a coerced confession in violation of the 14th Amendment.

Sentences are different matter. When the trial judge is given discretion over the sentence, the appellate court will rarely interfere. However, if the law requires a particular sentence and the judge gets it wrong, the appellate court will usually send the case back for resentencing.

Potential Post-Conviction Remedies

Convicted defendants can take a number of steps to challenge guilty verdicts and/or to correct violations of constitutional rights, including motions, appeals, and writs. The following list illustrates these steps.

- **Motion for acquittal.** Request that the judge decide that there is not enough evidence to convict the defendant.
- **Motion for a new trial.** Request that trial judge declare a mistrial and grant a new trial.
- **Petition for rehearing to state appeals court.** Requests that appeals court judges change their own decision.
- **State Supreme Court appeal.** Requests that highest court in the state review and overturn the decision of the mid-level appeals court.

- **U.S. Supreme Court appeal.** Requests that highest court in the nation intervene to correct an error on the part of the state courts that violated the U.S. Constitution.
- **Federal habeas corpus petition.** Requests the federal trial court to order the jail or prison holding the defendant to release the defendant because the defendant is being held in violation to the U.S. Constitution.

How long will an appeal take?

It usually takes at least six months for all briefs to be filed and the full review process to take place. There is no time limit for Court of Appeals judges to issue a decision in a case, but the Court strives to be timely.

How are cases assigned to judges?

Cases are randomly assigned to each judge. Judges of the Court may not pick and choose their cases.

Does the Court of Appeals issue a written opinion in each case, or does it simply “affirm” or “reverse” the lower court?

The Court of Appeals writes a full opinion for each case. In other states, intermediate appellate judges often issue one-word decisions (“affirmed” or “reversed”), but our Court will issue a written opinion.

Once the Court receives a case on appeal, how long before it hands down a decision?

The Court will usually issue a decision within four months of receiving a case, though often a decision is handed down sooner.