

**MECHANICS OF APPEALS:  
COURTS OF RECORD  
AND  
NON COURTS OF RECORD**

Pamela Harrell Liston  
The Liston Law Firm, P.C.

Prepared for the Texas Municipal Courts Education Center for the  
17th Annual Municipal Prosecutor's Conference

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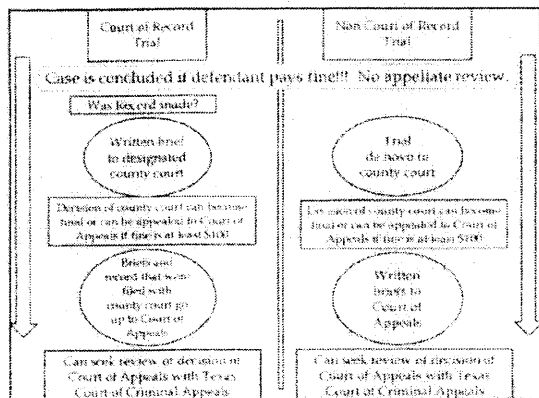
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NOTE: Appeal may be prosecuted by city attorney or deputy city attorney with consent of county attorney

**Perfection of Appeals**  
Record (Reporter's Record)

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>• Record of the trial must be requested for record to be made</li> <li>• The judge or either party can request record to be made</li> <li>• Courts of Record must have recording device in courtroom</li> </ul>	<ul style="list-style-type: none"> <li>• No Record</li> <li>• If appealed, trial is a trial de novo</li> </ul>

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6/9/2010

**Perfection of Appeals**  
Record (Reporter's Record), cont'd

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>▪ Court can elect to have a certified court reporter in courtroom</li> <li>▪ If no Reporter's Record is made, no meaningful review of evidence presented or merits of the case can be held (review is still possible of errors that appear in Clerk's Record)</li> </ul>	

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**Perfection of Appeals**  
Motion for New Trial

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>▪ MNT must be made before Notice of Appeal can be filed</li> <li>▪ MNT is timely within 10 days of judgment (the court may extend deadline for good cause up to 90 days from original filing date)</li> </ul>	<ul style="list-style-type: none"> <li>▪ MNT is not necessary for case to be appealed but may be filed</li> <li>▪ If MNT is filed, it must be filed within 1 day of judgment</li> </ul>

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**Perfection of Appeals**  
Motion for New Trial, cont'd

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>▪ All points of error raised in brief (to be filed later) must first be raised in MNT</li> <li>▪ MNT is deemed overruled by operation of law if not ruled on within 30 days</li> <li>▪ State is not entitled to a New Trial</li> </ul>	<ul style="list-style-type: none"> <li>▪ MNT can be granted within 10 days</li> <li>▪ Overruled by operation of law if not ruled on within 11 days</li> <li>▪ State is not entitled to a New Trial</li> </ul>

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### Perfection of Appeals

#### Notice of Appeal / Appeal Bond

##### COURTS OF RECORD

- NOA must be filed with the trial court within 10 days of the ruling on the MNT
- An appeal bond must also be filed with the trial court for appeal to be perfected
- Appeal bond is for not less than twice the amount of the fine and costs assessed

##### NON COURTS OF RECORD

- Appeal bond must be filed within 10 days of judgment for appeal to be perfected along with NOA
- Appeal bond is for not less than twice the amount of the fine and costs assessed
- "§27.14 Letters" bypass municipal court to appellate court in trial de novo

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### Record on Appeal

##### COURTS OF RECORD

- Appellant must pay for Reporter's Record to be produced by a certified court reporter
- Appellant must file the Reporter's Record with the municipal clerk within 60 days of NOA

##### NON COURTS OF RECORD

- Municipal court clerk sends copy of original papers in the case and appeal bond to appellate court

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### Record on Appeal, cont'd

##### COURTS OF RECORD

- Appellant must file written list of items to be included in record within 60 days of NOA
- If State wants certain items included in record on appeal, State must also file written list of items to be included within 60 days of NOA

##### NON COURTS OF RECORD

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### Record on Appeal, cont'd

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>▪ The municipal judge shall approve the record on appeal</li> <li>▪ The municipal court clerk shall send the entire record on appeal to the appellate court</li> </ul>	

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### Appellate Court

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>▪ Appellate court is the county criminal court, county criminal court of appeal, or municipal court of appeal.</li> <li>▪ If there is no CCC, CCCA, or MCA, the county court at law has jurisdiction of the appeal</li> </ul>	<ul style="list-style-type: none"> <li>▪ Appellate court is county court</li> </ul>

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### Appellate Court, cont'd

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>▪ Check for specific statutes for your county in Chapter 25 of the Texas Government Code</li> <li>▪ In Dallas County, for example, a special statute designates that all appeals (Court of Record written appeals AND Non Court of Record de novo appeals) are to the "County Criminal Court of Appeals of Dallas County."</li> </ul>	

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### State's Appeals

State Can Appeal in Limited Circumstances

COURTS OF RECORD | NON COURTS OF RECORD

If State appeals, the NOA MUST have signature of District or County Attorney or statement of DA or CA consent

- The State can appeal an order that:
  - dismisses a complaint or any part of a complaint
  - arrests or modifies a judgment
  - grants a new trial
  - sustains a claim of former jeopardy
  - grants a motion to suppress evidence, a confession, or an admission if jeopardy has not attached and the prosecuting attorney certifies that appeal is not for purposes of delay.

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### Briefs (in COR) Trial de novo (in NCOR)

COURTS OF RECORD | NON COURTS OF RECORD

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| <ul style="list-style-type: none"> <li>▪ Appellant's brief is due 15 days after the record on appeal is filed</li> <li>▪ Appellee's brief is due 15 days after the filing of the appellant's brief</li> <li>▪ Each party must provide a copy of their brief to the municipal court judge</li> </ul> | <ul style="list-style-type: none"> <li>▪ No briefs in trial de novo, simply retry the case</li> <li>▪ If defect in complaint was not raised at municipal court, cannot be raised at county court</li> <li>▪ Witnesses attached in municipal court remain attached in county court</li> </ul> |
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### Briefs (in COR), cont'd

COURTS OF RECORD | NON COURTS OF RECORD

- The county court brief is your only brief ever!
- If further appeal is taken, the briefs filed in the county court go up on appeal to the Court of Appeals
- The Code is silent on reply briefs

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**Appeal to Court of Appeals**

Appeal from county court to Court of Appeals, cont'd

COURTS OF RECORD	NON COURTS OF RECORD
<p> </p>	<ul style="list-style-type: none"> <li>• Appellant's brief is due to the court within 30 days of the latest of the filing of clerk's record or reporter's record</li> <li>• Appellee's brief is due within 30 days of the filing of Appellant's brief</li> <li>• Reply briefs are allowed</li> </ul>

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**Appeals to Court of Appeals**

Contents of Brief (See Tex. R. App. P. 38.1 and 38.2)

COURTS OF RECORD	NON COURTS OF RECORD
<div style="border: 1px solid black; padding: 5px; width: fit-content;">           Brief can be no longer than 50 pages         </div>	<ul style="list-style-type: none"> <li>■ Table of Contents</li> <li>■ Index of Authorities</li> <li>■ Statement of Case</li> <li>■ Statement regarding Oral Argument (optional, but if oral argument is requested, request should also be on cover of brief)</li> <li>■ Issues Presented</li> <li>■ Statement of Facts</li> <li>■ Summary of Argument</li> <li>■ Argument</li> <li>■ Prayer</li> </ul>

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**Appeal to Texas Court of Criminal Appeals**

COURTS OF RECORD	NON COURTS OF RECORD
<ul style="list-style-type: none"> <li>■ Appellate review is discretionary and may be sought by following Rule 66 of the Texas Rules of Appellate Procedure</li> <li>■ Petition for review must be filed</li> <li>■ Court may or may not grant review</li> <li>■ If review is granted, then briefing begins</li> </ul>	

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### Habeas Corpus

COURTS OF RECORD

NON COURTS OF RECORD

- Collateral Attack and can invoke appellate review
- For misdemeanors, governed by 11.09 and 11.14 of the Texas Code of Criminal Procedure
- Applicant must be confined or restrained for writ to be granted
- Application can be dismissed or it can be granted and the defendant discharged

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