



Juvenile Court and Termination of Parental Rights Appellate Handbook



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Juvenile Court and Termination of Parental Rights Appellate Handbook

In Wyoming, juvenile court matters include abuse and neglect, child in need of supervision (CHINS), and juvenile delinquency cases. Termination of parental rights cases are not filed in juvenile court but are intricately related to juvenile court matters. All of these cases involve issues and orders that may be appealed to the Wyoming Supreme Court.

The Child Protective Services Act, Wyo. Stat. Ann. §§ 14-3-201 through 14-3-216, and the Child Protection Act, Wyo. Stat. Ann. §§ 14-3-401 through 14-3-441, govern abuse and neglect matters. The Children in Need of Supervision Act, Wyo. Stat. Ann. §§ 14-6-401 through 14-6-440, governs CHINS matters. The Juvenile Justice Act, Wyo. Stat. Ann. §§ 14-6-201 through 14-6-252, governs delinquency matters. All of these acts have provisions allowing parties to appeal final orders, judgments, or decrees to the Wyoming Supreme Court. These statutes give any party, including the State, the right to appeal an adverse decision. While these statutes authorize appeals, the WYOMING RULES OF APPELLATE PROCEDURE govern the procedural aspects of the appeal.

Matters concerning termination of parental rights under Wyo. Stat. Ann. § 14-2-309 may also be appealed to the Wyoming Supreme Court. Termination of parental rights actions are civil matters. Similar to appeals arising from cases in juvenile court, the WYOMING RULES OF APPELLATE PROCEDURE govern the procedural process.

The Wyoming Supreme Court treats juvenile court matters as confidential. In July of 2016, the Wyoming Supreme Court held that termination of parental rights matters are not confidential. Because these cases are not confidential, the rules of redaction apply to the record on appeal in termination of parental rights appeals.

This handbook is designed as a basic primer on the process and considerations involved in undertaking an appeal of a decision in a juvenile court or termination of parental rights matter. While this handbook serves as a guide for practitioners, it does not replace a thorough reading and understanding of the [WYOMING RULES OF APPELLATE PROCEDURE](#) and the [Electronic Filing Administrative Policies and Procedures Manual](#) along with competent research of Wyoming law.

1. WHAT IS AN APPEALABLE ORDER?

In termination of parental rights appeals, W.R.A.P. Rule 1.05(a) applies. It defines an appealable order as “[a]n order affecting a substantial right in an action, when such order, in effect, determines the action and prevents a judgment.” In Child Protection Act appeals, W.R.A.P. Rule 1.05(b) applies. It defines an appealable order as “[a]n order affecting a substantial right made in a special proceeding.”

There are numerous cases under Wyoming law discussing what is and is not an appealable order. The Supreme Court has stated that an appealable order must meet three criteria. An appealable order affects a substantial right, determines the merits of the controversy, and resolves all outstanding issues. In termination matters, the final order determining whether parental rights should be terminated is appealable. In juvenile court matters, the Court has stated that appeals from orders of adjudication, disposition, review, and permanency are all appealable when a substantial right is involved, such as the right of a parent to have custody and control of a child. The Court has also accepted appeals involving revocation of consent decrees.

One factor that often comes into play in juvenile court appeals is the doctrine of mootness. The Court typically will not hear and rule on matters when the issue has become moot. Because of the timeframes imposed in juvenile court, an order on appeal may no longer be in effect by the time the appeal matures. In some cases where the order on appeal no longer applies, the Court has opted to consider the appeal based on the concept that the same decision could potentially be made again in the future and guidance on that issue is warranted.

2. WHO IS RESPONSIBLE FOR ADVISING A CLIENT OF THE RIGHT TO AN APPEAL?

The WYOMING RULES OF CRIMINAL PROCEDURE require the juvenile court to advise a minor of the right to appeal in a delinquency matter. However, trial counsel bears the responsibility of advising a client that an order is appealable in all cases. Trial counsel shall advise the client that a particular order is appealable, regardless of whether or not counsel has a personal opinion about whether the client should appeal the matter. Trial counsel must explain to the client what orders are appealable, why they are appealable, and whether or not an appeal is warranted. Ultimately, it is the client’s decision whether or not to appeal.

3. WHAT IS THE TIMEFRAME FOR FILING AN APPEAL?

Pursuant to W.R.A.P. 2.01, a party must file a NOTICE OF APPEAL with the trial court within thirty (30) days of entry into the court record of the order to be appealed. This requirement is jurisdictional. If the NOTICE OF APPEAL is not filed within thirty (30) days, the Court may dismiss the appeal.

4. HOW IS AN ORDER APPEALED?

A party appeals an order by filing a NOTICE OF APPEAL with the district/juvenile court. A NOTICE OF APPEAL is a technical document with very specific requirements under W.R.A.P. 2.07. Contemporaneous to filing the NOTICE OF APPEAL, a party should request in writing that the court reporter in the trial court prepare the necessary transcripts. For appeals of

juvenile court orders, W.R.A.P. 3.02(a) states that transcripts in juvenile matters shall consist of **all** proceedings.

The NOTICE OF APPEAL must include an appendix listing specific documents delineated in W.R.A.P. 2.07(b). In civil cases, including juvenile neglect cases, **do not** attach those documents to the NOTICE OF APPEAL; the Court removed that requirement in a rule change effective 2022. Failure to comply with this rule may result in monetary sanctions.

If a party is appealing an order from a termination of parental rights case, there are additional requirements for the NOTICE OF APPEAL. Along with the NOTICE OF APPEAL, the appellant must include a W.R.A.P. 3.02(b) statement describing which portions of the transcript the appellant intends to use (unless the entire transcript is to be used) and a statement of the issues the appellant intends to appeal. See W.R.A.P. Rule 3.02(b) for further details.

A party **must** serve a copy of the NOTICE OF APPEAL on the Clerk of the Supreme Court, the Wyoming Attorney General's Office, the Wyoming Office of Guardian ad Litem, the County Attorney in the underlying matter, and any other parties to the underlying matter. Failure to provide a timely copy of the NOTICE OF APPEAL to the Supreme Court may result in a dismissal of the matter, or monetary sanctions.

5. HOW CAN AN INDIGENT PARTY OBTAIN REPRESENTATION FOR AN APPEAL?

Indigent parties can obtain representation for an appeal by requesting *in forma pauperis* status by filing a motion and affidavit of indigency with the trial court. The motion for *in forma pauperis* should specifically include two requests: the waiving of fees and costs associated with the appeal and the appointment of counsel. Once the trial court grants *in forma pauperis* status, the party may be appointed an attorney and allowed to proceed without paying filing fees or the costs of transcripts. Trial counsel should assist the client with a request for *in forma pauperis* status by filing the necessary motion and affidavit. Because a party must file the NOTICE OF APPEAL within thirty (30) days of entry of the final order, a party should file this motion early enough to have a decision from the trial court before the expiration of the thirty (30) days.

6. WHAT IS THE ROLE OF TRIAL COUNSEL IN AN APPEAL?

Trial counsel bears the responsibility of advising the client of the right to appeal, filing the motion and affidavit for *in forma pauperis* status if necessary, and filing the NOTICE OF APPEAL. Counsel should not avoid advising clients of the right to appeal or avert filing notices of appeal for fear of appointment in the appellate matter. Trial counsel has an ethical responsibility to inform the client of his or her right to appeal. There is no requirement that a party have the same attorney at the trial level and the appellate level. Most judges will not appoint counsel to an appeal if they are not comfortable handling the appellate matter; however, a trial court cannot appoint appellate counsel if the trial attorney does not file the necessary paperwork to commence an appeal. Most judges, however, appreciate trial counsel's efforts to identify an attorney willing to handle the appellate matter.

7. WHAT IS THE ROLE OF APPELLATE COUNSEL IN AN APPEAL?

Appellate counsel bears the responsibility of representing the client on appeal and following the appropriate appellate process. This includes communicating with the client throughout the appeal, thoroughly reviewing the record to identify appropriate appealable issues, drafting professional and well-thought-out briefs, filing all necessary documents after entry of the NOTICE OF APPEAL, and attending and representing the client at oral argument when applicable.

Appellate counsel should ensure that they are listed as counsel of record with the Supreme Court and confirm that all contact information in the electronic filing system is current to receive the appropriate notices and paperwork. Appellate counsel must also ensure that they are an e-filer or they will not receive service of orders or briefs.

8. HOW DOES AN APPEAL PROCEED IN THE WYOMING SUPREME COURT?

After a party files a timely NOTICE OF APPEAL, the court reporter must prepare the requested transcripts within sixty (60) days (unless the court finds good cause to extend the time). Once the court reporter has prepared the transcripts and filed them with the district/juvenile court, the court reporter will notify the Supreme Court and the parties that they have filed the transcripts.

In termination of parental rights cases, once counsel has received notice from the court reporter that the transcript is completed, it is the obligation of counsel to make sure any necessary redactions are made. Counsel are responsible for reviewing the transcript for all personal data identifiers required by law and by Court Rules to be redacted. Please see the Wyoming Rules Governing Access to Case Records, Rule 7(g) for information relating to the redaction requirements and timelines

Within three (3) working days after the record is complete, the Clerk of the District Court must notify the Clerk of the Supreme Court that the record has been completed. Once the Supreme Court receives this notice, it docket the appeal and establishes a briefing schedule. Parties must strictly comply with the briefing schedule set out by the Court. For cases involving juvenile matters (abuse and neglect, CHINS, and delinquency) or the termination of parental rights, the Court **will not** entertain a motion to extend briefing by any party pursuant to W.R.A.P. 7.06(e). Once the parties file their briefs with the Court, the Court will determine if oral arguments are necessary.

9. WHAT IS THE ROLE OF THE GUARDIAN AD LITEM IN A CHILD WELFARE APPEAL?

In every termination of parental rights and abuse and neglect appeal, a Guardian ad Litem (GAL) will be a part of the appeal. There may or may not be a GAL in a CHINS or delinquency appeal. The GAL is a party to the appeal. As a party, the GAL is entitled to file a brief on the issues which the GAL must submit on or before the scheduled briefing date for the party they support. The GAL may side with either party in an appeal. If the GAL does not support either party, he or she may only file a brief with the permission of the Court.

The GAL may only participate in oral arguments with permission of the Court and only for extraordinary reasons. If the Court grants a GAL permission to participate in oral argument, the Court will add ten (10) minutes to the original time allotment.

10. HOW DO I FILE DOCUMENTS WITH THE SUPREME COURT?

The Wyoming Supreme Court requires practitioners to file documents with the Court electronically using the C-Track Electronic Filing System. The Court first published the [ELECTRONIC FILING ADMINISTRATIVE POLICIES AND PROCEDURES MANUAL](#) in December 2007 and it routinely updates this manual. You can find it and other filing information at <https://www.courts.state.wy.us/supreme-court/clerk-of-court-efiling/> The Court mandates that all parties strictly comply with these policies and procedures in all appeals in Wyoming unless the Court issues an order otherwise. Practitioners should review this manual and be familiar with the requirements of electronic filing. Only counsel registered as e-filers will receive electronic service of appellate filings.

Electronic filing does not completely eliminate the need for filing paper copies. Counsel must still file an original and six (6) paper copies of documents with the Court in accordance with W.R.A.P. 1.01.

11. WHAT ARE THE REQUIREMENTS FOR A BRIEF?

WYOMING RULES OF APPELLATE PROCEDURE Rule 7.01 provides specific requirements for the initial brief of the appellant. While practitioners have some discretion in writing style and presentation, all briefs must comply with W.R.A.P. Rule 7.01. Failure to comply with this rule may result in dismissal, or monetary sanctions. Practitioners must also follow specific formatting requirements for briefs under W.R.A.P. Rule 7.05. These requirements include everything from font size to how paper briefs must be bound. Practitioners must familiarize themselves with the requirements of these rules before filing a brief.

Numerous resources exist to assist practitioners in drafting an effective and professional brief. Practitioners should ensure that their briefs are well organized, adequately identify the issues to be appealed, and are concise. All briefs must include citations to relevant statutes, rules, and case law, as well as citations to the record on appeal.

In representing the appellant, counsel must file the initial appellant brief. The opposing parties will then file briefs in response, the briefs of the appellee(s). After the appellees have filed their briefs, an appellant may file a reply brief, if the situation warrants. Reply briefs are governed by W.R.A.P. Rule 7.03 and should comply with the requirements of that rule. Reply briefs are limited to responding to **new** issues and arguments raised by the appellee and should not be used to re-argue issues addressed in the appellant's initial brief.

12. WHAT SHOULD BE FILED WITH A BRIEF?

All appellant briefs should include an appendix with a copy of the order being appealed, a copy of the trial court's decision letter or any other written/oral reason for the

judgment, and the statement of costs required by W.R.A.P. 10.01. Appellee briefs **shall not** include any document(s) already appended to the appellant's brief.

Concurrent to filing the above-listed documents with the Supreme Court, a party must file its designation of the record on appeal with the Clerk of District Court in the trial court. Parties must provide a copy of the designation of record to the Supreme Court. Failure to file a designation of the record on appeal and provide a copy to the Supreme Court may result in monetary sanctions.

13. WHAT IS THE RECORD AND HOW DO I DESIGNATE IT?

The record consists of the documents from the trial court's case file that counsel wants the Supreme Court to consider on appeal. The record can include any document filed with the trial court and transcripts of any of the proceedings that occurred at the trial court level. After a party files its brief, counsel must designate which portions of the record they want the Clerk of District Court to send to the Supreme Court for review. A party does this through a designation of the record on appeal under W.R.A.P. Rule 3.05. In juvenile court and termination of parental rights appeals, parties **shall not** designate an entire file. Parties must designate specific portions of the file for submission to the Supreme Court.

It is important to note that the Supreme Court will only have the designated portions of the record to review in making its decision. Thus, it is important to designate everything from the record that is relevant to determining the issues on appeal. Be sure to designate whole documents instead of single pages within a document. For example, if you are citing to a particular page in an order (i.e. 52), but the whole document is several pages (i.e. 50-55), include the entire document in your designation. Another commonly overlooked item in designating the record is the inclusion of other files that the trial court has taken judicial notice of. For example, in a termination of parental rights case, if the trial court took judicial notice of a parent's juvenile case and criminal case, a party must also designate those cases if the party wants the Supreme Court to have that information in making its decision.

In termination of parental rights appeals, the designated record transmitted to the Wyoming Supreme Court should be the unredacted record. The record on appeal is not publicly available at the Supreme Court level and therefore not scanned. Juvenile court appeals are confidential, so the record does not need to be redacted.

14. WHAT HAPPENS AFTER THE BRIEFS ARE FILED?

After the parties file their briefs, the District Court Clerk prepares the designated portions of the record and transmits them on request to the Supreme Court. The Court may set the matter for oral argument or place it on the brief only docket. If the Court sets the matter for oral argument, the Supreme Court Clerk electronically serves counsel with an ORAL ARGUMENT RECEIPT ACKNOWLEDGEMENT FORM. Parties must complete this form and return it to the Clerk's office by email (to sckkerks@courts.state.wy.us), not through e-filing, no later than two (2) weeks before the oral argument date. The Court typically schedules oral arguments five (5) to six (6) weeks in advance of the argument.

15. WHAT HAPPENS AT ORAL ARGUMENT?

The Court has outlined specific requirements for oral argument in the [PRACTITIONER'S GUIDE TO ORAL ARGUMENT BEFORE THE WYOMING SUPREME COURT](#). Parties should review this guide (found at the above link or it can be downloaded from the Wyoming Supreme Court website). This guide is the best source of information regarding oral arguments.

It is very important for parties to arrive at least fifteen (15) minutes before the argument's scheduled start time on the day of a scheduled oral argument.

The Court audio streams oral arguments over the internet so that other practitioners and the general public can listen to the court proceedings. Juvenile court appeals, including abuse and neglect, CHINS, and delinquency, are confidential. The Court will clear the courtroom before argument in those matters. The Court permits only the parties, their counsel, and staff of the counsel's firm in the courtroom during argument and it does not livestream the matter on the Court's website. Termination of parental rights appeals are open to the public and broadcast on the Court's website.

It is wise to listen to or attend oral arguments before presenting an oral argument, particularly if counsel has never given or attended an oral argument before.

16. CAN I USE PRESENTATION EQUIPMENT DURING ORAL ARGUMENTS?

Yes. The Wyoming Supreme Court has presentation equipment available for use during oral arguments, including: video presentation system, HDMI connection, document camera, wireless microphone, and assisted listening (<https://www.courts.state.wy.us/supreme-court/appellate-info-for-attorneys/information-for-appellate-advocacy/>). Parties should indicate on the Oral Argument Receipt Acknowledgment Form an intent to use one of the Court's systems. If a party intends to use any of the Court's equipment, they should contact the Clerk's office well in advance of an oral argument to ensure that the necessary equipment is available. Parties are responsible for bringing their own cables and adapters. Additionally, to ensure counsel has the appropriate knowledge to use any intended equipment, the clerks will provide a demonstration if arrangements are made before a scheduled argument.

17. WHAT HAPPENS IF THE CASE ISN'T SET FOR ORAL ARGUMENT?

In some cases, the Court will order that the appeal be placed on the brief only docket. When this happens, the Court will not hear oral arguments on the case and will make its decision based on the parties' briefs and the record on appeal. While this does not occur frequently in child welfare cases, practitioners should not worry if the Court opts not to hear oral arguments in a matter, as this is a procedural course that the Court sometimes follows. No later than fifteen (15) days after the case has been assigned to the brief only docket, a party may request, with good cause shown, that the case be reassigned to the argument docket.

18. WHAT HAPPENS AFTER ORAL ARGUMENT?

After oral arguments, the Court will take the matter under advisement. Once the Court has made a decision, it will issue a written opinion on the matter. The Court's opinion becomes law in Wyoming. Counsel will receive an email through the electronic filing system as notification that the Court has issued an opinion. The Clerk's office will also call counsel just before publishing the opinion.

If the Court affirms the decision of the district court, then the Order stands. If the Court reverses and remands the matter for further proceedings, then the Order is overturned, and the district court will have to recommence matters in the underlying case. If the Court simply reverses, then the Order is overturned.

19. WHAT IF I HAVE OTHER QUESTIONS?

The following resources are available for download from the Wyoming Supreme Court website at www.courts.state.wy.us.

[WYOMING RULES OF APPELLATE PROCEDURE](#)

[RULES GOVERNING ACCESS TO CASE RECORDS](#)

[ELECTRONIC FILING ADMINISTRATIVE POLICIES AND PROCEDURES MANUAL](#)

[PRACTITIONER'S GUIDE TO ORAL ARGUMENT BEFORE THE WYOMING SUPREME COURT](#)

[ANATOMY OF A WYOMING APPEAL](#)

If you have any other questions related to an appeal, you should not hesitate to contact the Clerk of the Supreme Court's office at (307) 777-7316. While they cannot provide legal advice, the Clerk's office is more than willing to answer questions and assist practitioners with procedural issues and are the experts in this area. The earlier you contact the Clerk's office with your questions, the better!

List of Attachments

- Notice of Appeal
- In Forma Pauperis Affidavit
- Order in Forma Pauperis
- Designation of the Record

State of Wyoming In the [District or Juvenile] Court
County of [County] [Number] Judicial District

[INSERT CASE HEADING]

AFFIDAVIT OF [CLIENT NAME]

COMES NOW, [Client Name], [Client Role], after first being duly sworn upon [his/her] oath, states and swears as follows:

1. My name is [Client Name].
2. I am the [Client Role] in this matter.
3. I previously filed a financial affidavit for appointment of counsel in this matter.
4. My financial situation has not changed since the filing of that affidavit. OR While my financial situation has changed since the filing of that affidavit, my current financial situation does not allow me to retain counsel or pay for the costs of an appeal for the following reasons: [I have attached a new financial affidavit for appointment of appellate counsel.]
5. I am respectfully requesting that the court allow me to proceed on appeal *in forma pauperis* and appoint counsel to represent me on appeal.

FURTHER AFFIANT SAYETH NAUGHT.

DATED this _____ of [Month], [Year].

[Client Name]

STATE OF WYOMING

COUNTY OF [County]

The within and foregoing Affidavit was subscribed and sworn to before me by
[Client Name] on this _____ day of [Month], [Year].

Witness my hand and official seal.

Notary Public

State of Wyoming In the [District or Juvenile] Court
County of [County] [Number] Judicial District

[INSERT CASE HEADING]

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS

THIS MATTER having come before this Court on the [Client Role]'s Motion to Proceed *in forma pauperis*; the Court, being fully advised in the premises:

IT IS HEREBY ORDERED that the [Client's Role] be allowed to proceed on appeal *in forma pauperis*, as to all costs and fees associated with the appeal, including attorney's fees, court costs, and costs of the record and transcript on appeal. [Attorney Appointed for Appeal] is hereby appointed to represent the [Client Role] on appeal.

DATED this ____ day of [Month], [Year].

[District/Juvenile Court Judge]

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ____ day of [Month], [year], [he/she] caused a true and correct copy of the foregoing to be served upon the following via first class United States mail, postage prepaid.

Clerk of the Supreme Court
Wyoming Supreme Court
Office
Supreme Court Building
2301 Capitol Avenue
Cheyenne, Wyoming 82002

Attorney General
Wyoming Attorney General's

109 State Capitol
Cheyenne, Wyoming 82002

County Attorney in Underlying Case

Other Parties

[Add Signature Block]

State of Wyoming In the [District or Juvenile] Court
County of [County] [Number] Judicial District

[INSERT CASE HEADING]

NOTICE OF APPEAL

COMES NOW [Client Name], by and through [his/her] undersigned counsel, [Attorney Name], and pursuant to Rule 2.01 of the Wyoming Rules of Appellate Procedure, hereby gives notice of [his/her] intention to appeal to the Wyoming Supreme Court the [Order being Appealed] rendered [Date], and signed by the Honorable [Judge Name], District Judge, [District Number] Judicial District on [Date Recorded]. The appendix required by W.R.A.P. Rule 2.07(b) is attached.

The undersigned hereby certifies pursuant to W.R.A.P. Rule 2.05(a) that on the ____ day of [Month], [Year], a transcript of [hearings requested] in the aforementioned case were requested by sending a letter, postage prepaid, to the court reporter who transcribed the proceedings, requesting that said transcript be prepared.

DATED this ____ day of [Month], [Year].

[Insert Signature Block]

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ____ day of [Month], [year], [he/she] caused a true and correct copy of the foregoing to be served upon the following via email and by first class United States mail, postage prepaid.

Clerk of the Supreme Court
Wyoming Supreme Court
Office
Supreme Court Building
2301 Capitol Avenue
Cheyenne, Wyoming 82002

Attorney General
Wyoming Attorney General's

109 State Capitol
Cheyenne, Wyoming 82002

County Attorney in Underlying Case
Litem

Wyoming Office of Guardian ad

Other Parties

[Add Signature Block]

State of Wyoming In the [District or Juvenile] Court
County of [County] [Number] Judicial District

[INSERT CASE HEADING]

}

DESIGNATION OF THE RECORD ON APPEAL

COMES NOW the [Client Role], [Client Name], by and through
[his/her] undersigned counsel, [Attorney Name], and pursuant to Rule 3.05(c),
hereby designates the following pages of the Record on Appeal:

Pages	Document

DATED this ____ day of [Month], [Year].

[Insert Signature Block]

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ____ day of [Month], [year], [he/she] caused a true and correct copy of the foregoing to be served upon the following via email and by first class United States mail, postage prepaid.

Clerk of the Supreme Court
Wyoming Supreme Court
Office
Supreme Court Building
2301 Capitol Avenue
Cheyenne, Wyoming 82002

Attorney General
Wyoming Attorney General's

109 State Capitol
Cheyenne, Wyoming 82002

County Attorney in Underlying Case
Litem

Wyoming Office of Guardian ad

Other Parties

[Add Signature Block]