



TRAFFIC VIOLATIONS AGENCY APPEALS GUIDE

The City of Rochester Traffic Violations Agency appeal process is governed by the New York State Criminal Procedure Law. You have a right to appeal a conviction and sentence within the timelines set by law. Appeals must be made through a superior court and are not made directly through the agency.

As a courtesy this agency has provided the following as an aid to you. **Our clerks are not permitted to give you legal advice and the agency cannot assist you in the appeals process.** An individual who needs legal assistance may contact the Monroe County Bar Association at (585) 546-1718 for referral to a private attorney. You may also seek guidance at the 7th Judicial District Court Help Center located at the Hall of Justice, 99 Exchange Blvd., 5th Floor, Room 525, Rochester, NY 14614.

To commence an appeal under CPL §460.10 you may:

- 1) Serve and file a Notice of Appeal within 30 days from the date of sentence (CPL §460.10(1)(a) & (b)) **AND** within sixty (60) days after the Appellant receives a transcript of the Court proceedings, must file with such Court an Affidavit of Errors. (CPL §460.10 (3)(a)) **OR**
- 2) File and serve an affidavit of errors only, within 30 days from the date of sentence.



Appealing by Notice of Appeal and Affidavit of Errors:

- Complete an **ORIGINAL** Notice of Appeal and make two (2) copies.
- Serve one copy of the notice of appeal upon the **Prosecution** of the R.T.V.A. (*service must be made by someone who is NOT a party to the action and over the age of 18*)
- Complete the Affidavit of Service
- File the **ORIGINAL** Notice of Appeal along with the Affidavit of Service with the Clerk of the R.T.V.A. – the clerk will stamp your copy and return it to you upon filing.
- You will need to purchase the “Transcript” (minutes) of the court proceedings. To have a transcript produced from an electronically recorded matter, you may contact one of the approved transcription services listed online at <http://www.nycourts.gov/howdoi/transcripts.shtml>. Once transcription services have been retained, the transcriber MUST contact the R.T.V.A. Appeals Clerk via email at rtva@cityofrochester.gov. The transcriber MUST include in their email: (1) name of the motorist (2) case number (3) date of trial and (4) their contact information.
- Within sixty (60) days after you have **received** a transcript of the Court proceedings, you must complete an **ORIGINAL** Affidavit of Errors and make two (2) copies. (An Affidavit of Errors is an affidavit setting forth the alleged errors or defects in the proceedings which are the subject of your appeal)
- File the **ORIGINAL** Affidavit of Errors with the Clerk of the R.T.V.A.
- Serve a copy of the Affidavit of Errors to the Prosecution of the R.T.V.A within three (3) days of filing the original (*service must be made by someone who is NOT a party to the action and is over the age of 18*) (CPL §460.10 (3)(b))
- Complete the Affidavit of Service
- File the Affidavit of Service with the Clerk of the R.T.V.A.

*once all steps are completed the required documentation is submitted to the Monroe County Court Appeals Unit for review



Appealing by Affidavit of Errors only

- Complete an **ORIGINAL** Affidavit of Errors and make two (2) copies. (An Affidavit of Errors is an affidavit setting forth the alleged errors or defects in the proceedings which are the subject of your appeal)
- File the **ORIGINAL** Affidavit of Errors with the Clerk of the R.T.V.A.
- Serve a copy of the Affidavit of Errors to the **Prosecution** of the R.T.V.A within three (3) days of filing the original (*service must be made by someone who is NOT a party to the action and is over the age of 18*) (CPL §460.10 (3)(b))
- Complete the Affidavit of Service
- File the Affidavit of Service with the Clerk of the R.T.V.A.
- An Affidavit of Errors must be filed within 30 days from the date of sentence**
- You will need to purchase the “Transcript” (minutes) of the court proceedings. To have a transcript produced from an electronically recorded matter, you may contact one of the transcription services listed online at <http://www.nycourts.gov/howdoi/transcripts.shtml>. Once transcription services have been retained, the transcriber **MUST** contact the Appeals Clerk at the R.T.V.A. via email at rtva@cityofrochester.gov. The transcriber **MUST** include in their email: (1) name of the motorist (2) case number (3) date of trial and (4) their contact information.

*Once all steps are completed the required documentation is submitted to the Monroe County Court Appeals Unit for review