

# **INFORMATION PACKET FOR BELATED APPEALS**

**REVISED JULY 2010**

## **UNDERSTANDING THE BELATED APPEAL PROCESS**

In order to understand the process for requesting a belated appeal it is necessary for an individual to first understand certain aspects of the appellate process and their constitutional right to counsel. The following sections will provide you the necessary understanding in those areas.

### **APPEALS**

Pursuant to Section 115 of the Kentucky Constitution an individual within this state is guaranteed one appeal as a matter of right. Generally speaking an appeal may be thought of as a request made to a superior (higher) court for the review of a decision of an inferior (lower) court. In order to view this concept more clearly, it is important to understand the way our court system is set up in Kentucky.

### **APPEALS IN MISDEMEANOR CASES**

In misdemeanor cases original jurisdiction of an action is in the district court. For purposes of appeal there exists a three tiered system of appellate review. For example, if an individual is aggrieved by a judgment of the district court appellate review of that judgment occurs at the circuit court level. If the circuit court affirms the judgment, the aggrieved party may seek further review by filing a Motion for Discretionary Review with the Kentucky Court of Appeals pursuant to CR 76.20(2)(a). Should the Court of Appeals affirm the circuit court's ruling, the party may proceed to the Supreme Court of Kentucky by filing a Motion for Discretionary Review pursuant to CR 76.20(2)(c) requesting that the court reconsider the decision of the Court of Appeals. These appellate steps are always the same in contrast to those encountered in felony cases which may vary depending on the type of order being appealed.

### **DIRECT APPEALS OF FINAL JUDGMENTS OF CONVICTION**

In cases where a circuit court judgment of conviction is appealed, the parties will encounter a two tiered system of appellate review. This two tiered system is comprised of the Kentucky Court of Appeals and/or the Supreme Court of Kentucky. If a circuit court judgment imposes a sentence of less than 20 years and the action is a direct appeal of the conviction, the moving party would perfect their appeal at the Kentucky Court of Appeals level. If aggrieved by the judgment of that court they would proceed to the Supreme Court of Kentucky, filing a Motion for Discretionary Review pursuant to CR 76.20(2)(b). If however the circuit court judgment imposes a sentence of 20 years or more, the appeal would be filed directly with the Supreme Court of Kentucky. See, Section 110(2)(b) of the Kentucky Constitution.

## **APPEALS OF CIRCUIT COURT ORDERS DENYING COLLATERAL RELIEF**

Orders entered by the circuit court not involving the direct appeal of a judgment of conviction are always appealed to the next highest court irrespective of the number of years imposed in the original judgment. Stated differently, when a circuit court order, other than a final judgment of conviction, is appealed, the appeal is always filed with the Kentucky Court of Appeals. An appeal of any adverse decision of the Court of Appeals is then filed at the next highest level, the Supreme Court of Kentucky. These general rules of appellate practice are important to your understanding of the belated appeal process because your belated appeal must be filed in the appellate court that has jurisdiction to hear the appeal.

## **THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL**

Under the Sixth and 14<sup>th</sup> Amendments of the United States Constitution and Section 11 of Kentucky's Constitution, individuals are entitled to the assistance of counsel in all criminal prosecutions even if they are unable to employ them. See generally Powell v. Alabama, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed. 158 (1932); Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963). Where, as in Kentucky, a state provides an individual the right to appeal, principles of due process guarantee the individual the assistance of counsel for purposes of the appeal. See Griffin v. Illinois, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed. 891, reh den 351 U.S. 958, 76 S.Ct. 844, 100 L.Ed. 1480 (1956); Douglas v. California, 372 U.S. 353, 83 S.Ct. 814, 9 L.Ed.2d 811 (1963). Further, whether for purposes of criminal prosecutions or appeal, the Constitution demands that counsel representing a defendant/appellant be effective. See McMann v. Richardson, 397 U.S. 759, 771 n. 14, 90 S.Ct. 1441, 25 L.Ed.2d 763 (1970); Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985); Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). It is important to understand these general rules regarding an individual's right to effective assistance of counsel at the trial and appellate level of the court proceedings since, in a Belated Appeal action, you must demonstrate that your appeal was frustrated as a result of ineffective assistance of counsel.

## **BELATED APPEALS, REINSTATEMENT OF APPEAL, AND BELATED PERFECTION OF APPEAL**

In the case of Commonwealth v. Wine, 694 S.W.2d 689 (Ky. 1985), the Supreme Court of Kentucky established a procedure by which an individual could obtain relief, when his/her appeal had been frustrated through the inadvertence or neglect of counsel. Therein, the Supreme Court of Kentucky held that when an individual's appeal has been frustrated the appropriate remedy would be for the individual to file a Motion for Belated Appeal with the appellate court which has the jurisdiction to hear the appeal. In supporting one's claim of entitlement to appeal, the court required that the individual demonstrate his/her right to appeal was lost or frustrated as a result of ineffective assistance of counsel and not through any fault of his/her own.

In Wine, the Supreme Court actually addressed two ways an appeal might be frustrated and offered guidance on how to proceed in either case. First, the court noted that a belated appeal

situation arises when an appeal is never commenced in a timely fashion. In such circumstances the court held that a Motion for a Belated Appeal was appropriate. Second, the court observed that another situation could arise when, after the appellate process had begun due to counsel's failure to follow appropriate procedures, the appeal is dismissed by the appellate court. Under those circumstances the court stated that a Motion for Reinstatement of Appeal was appropriate when requesting the court to reinstate the dismissed action.

The Wine court found that in either of these situations, unless the conduct of the attorney was condoned by, agreed to or in some way attributable to the client, the appeal must be allowed or reinstated. Additionally, anticipating that factual issues relating to the ineffectiveness of counsel might arise, the Supreme Court of Kentucky stated that in such situations the appellate court might determine the issues of the ineffectiveness of counsel itself or refer the matter to the trial court for findings of fact and conclusions of law. Later case law indicates that if factual findings are necessary those matters will be remanded to the circuit court for a hearing after which the court's factual findings and report will be returned to the appellate court for a final decision. See Jones v. Commonwealth, 714 S.W.2d 490 (Ky. App. 1986).

Subsequent to Wine, the court in Thompson v. Commonwealth, 736 S.W.2d 319 (Ky. 1987) addressed a different situation which also frustrated the appellate process. In Thompson, an appeal, which had been timely commenced, was not perfected in a timely fashion but had not been dismissed. The court observed that since this did not effect the validity of the appeal and although it may have been grounds for dismissal, because the appeal was still pending the defendant needed neither a belated appeal nor a reinstatement of appeal as discussed above. Rather, the court determined that the proper avenue of relief would be to petition the appellate court for an order permitting him/her to perfect the appeal belatedly, i.e., a Motion to Belatedly Perfect Appeal. As with the earlier discussed situations, the appellant must demonstrate that the conduct complained of is the result of ineffective assistance of counsel and was not condoned by, agreed to or in any way attributable to him/her.

### **BELATED APPEALS** **OF CIRCUIT COURT ORDERS DENYING COLLATERAL RELIEF**

In Moore v. Commonwealth, 199 S.W.3d 132 (Ky. 2006), the Kentucky Supreme Court addressed whether an appellate court may permit a criminal defendant to file a belated appeal from the denial of a collateral attack against a conviction or sentence and, if so, under what circumstances. Moore held that when incompetence of counsel, especially state-appointed counsel, costs an indigent defendant a statutory right of appeal, that defendant out to be entitled at least to a reinstated or belated appeal. Moore thereby made Wine applicable to appeals from circuit court orders denying collateral relief.

### **CONCLUSION**

In summation, under Section 115 of Kentucky's Constitution there exists the right to appeal an adverse decision of a lower court to a higher court. In this appellate process an individual is entitled to the effective assistance of counsel. If counsel fails to adequately represent the interests of the individual and an appeal is not timely commenced, not timely perfected and/or subsequently dismissed by the appellate court relief may be sought by filing a

Motion for Belated Appeal, a Motion for Reinstatement of Appeal or a Motion to Belatedly Perfect Appeal. The motion must be filed with the appellate court that has the jurisdiction to hear the appeal. The moving party must assert their right to appeal and demonstrate that the failure to properly appeal was the result of ineffective assistance of counsel and through no fault of their own. To assist and guide you in preparing the appropriate motion(s) examples of the above referenced pleadings are attached.

### **DISCLAIMER AND NOTICE**

Be sure to read this material again and familiarize yourself with the belated appeal information. Realize case law that may pertain to belated appeal can come from the Kentucky courts when others raise such issues in court. Some laws change over time. This handout is not a substitute for an attorney nor it is intended to be a substitute for individual legal advice. It is intended to be a starting point to prepare one's belated appeal.

SUPREME COURT OF KENTUCKY  
CASE NO. 0000000  
JEFFERSON CIRCUIT COURT  
96-CR-00000

JOHN DOE

MOVANT

VS.

MOTION FOR BELATED APPEAL

COMMONWEALTH OF KENTUCKY

RESPONDENT

Comes now the movant, John Doe, by counsel, and moves this Honorable Court to grant him a belated appeal from the Jefferson Circuit Court conviction under Indictment No. 96-CR-00000. As grounds for this motion, movant sates the following:

1. Movant is currently serving a sentence of 50 years imprisonment at the Kentucky State Reformatory pursuant to his convictions as follows: 96-CR-00000, Assault 1<sup>st</sup> Degree -- 20 years enhanced to 50 years by PFO I.
2. Movant's trial jury returned its guilty verdict on July 9, 1997. Movant waived his PSI report and was final sentenced on July 10, 1997. (See attachments, Copy of Judgment of conviction entered July 11, 1997).
3. Movant was represented at trial by the Hon. John Smith.
4. At final sentencing the court did not advise movant of his constitutional right to a direct appeal nor does the final judgment address movant's right to appeal his conviction. (See Attachment: Copy of Final Judgment of conviction entered July 11, 1997 and refer to Jefferson Circuit Court Video \_\_\_\_\_ VCR \_\_\_\_\_ at 13:09:00-13:15:00).

5. Movant's trial counsel failed to discuss with movant his right to a direct appeal.

6. Kentucky Criminal Rule 11.02(2) provides:

After imposing sentence in a case tried on a plea of not guilty, the court shall advise the defendant of his right to appeal and of the right of a person who is unable to pay the cost of an appeal, unable to employ counsel, to apply for leave to appeal in forma pauperis and to have the continued assistance of counsel to perfect and prosecute the appeal. If the defendant is proceeding without counsel and so requests, the clerk of the court shall prepare a notice of appeal for the defendant's signature and shall file the notice forthwith."

7. Movant wants to appeal his convictions under Jefferson Circuit Court Indictment No. 96-CR-00000. Movant has wanted to appeal his conviction from the time that he was advised of his right to appeal. He relied on his trial attorney for his legal advice. Movant never told his lawyer that he did not want to appeal his conviction, nor did he ever sign any sort of waiver of right to appeal.

8. Movant's trial counsel failed to ensure that movant's conviction would be appealed. This failure to advise movant of his right to appeal and to file a notice of appeal in movant's case has denied movant the effective assistance of counsel and his right to appeal. Movant's constitutional right to due process and equal protection of the law as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Section Eleven of the Kentucky Constitution has been violated. Movant's right to an appeal under Section 115 of the Kentucky Constitution has been denied.

9. The United States Supreme Court has held that an indigent appellant in a criminal case must be supplied with an attorney and that due process requires that attorney to render effective assistance of counsel on appeal. Evitts v. Lucey, 469 U.S. 387, 83 L.Ed.2d 821, 105 S.Ct. 830 (1985).



10. Kentucky's highest court has established appropriate procedures to be followed when an appellant's constitutional right to appeal has been frustrated as the result of ineffective assistance of counsel. In Commonwealth v. Wine, Ky., 694 S.W.2d 689, 695 (1985), the Kentucky Supreme Court declared that:

"...State rules of procedure...cannot be allowed to frustrate an appeal of an indigent defendant who has been denied effective assistance of counsel."

The court in Wine further explained by stating that:

"...it cannot be doubted that the failure of counsel to file an appellate brief which results in the dismissal of an appeal constitutes ineffective assistance. It is as if no appeal had been taken. In such a case, the appeal must be reinstated unless the conduct of counsel has been condoned by, agreed to, or is in some way attributable to the client." Wine, at 695. (Emphasis added).

11. In the instant case, movant is in the same position as was the defendant in Wine. Through no fault of his own, movant's constitutional right to direct appeal has been frustrated. Neither clerk error, mishandling of the mails, nor attorney negligence must be allowed to stifle movant's constitutional right to appeal. Movant should therefore be granted a belated appeal.

WHEREFORE, movant respectfully requests this Court to enter an order granting movant's request for a belated appeal. Appoint the Department of Public Advocacy as counsel for appellant, and grant all other relief deemed appropriate by the Court.

Should this Court require further evidence before reaching its decision, however, movant respectfully requests that this matter be remanded to the trial court for findings of fact and conclusions of law relating to the issue of ineffective assistance of movant's counsel. Jones v. Commonwealth, Ky. App., 714 S.W.2d 490 (1986).

Respectfully submitted,

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MOVANT

VERIFICATION

John Doe, after being duly sworn, states that he has read this "Motion For Belated Appeal" and all the statements it contains are true and correct to the best of hi knowledge and belief.

\_\_\_\_\_  
MOVANT

## MOVANT

VS.

## COMMONWEALTH OF KENTUCKY

RESPONDENT

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1. That movant is currently serving a sentence of seven (7) years imprisonment at the Kentucky State Reformatory pursuant to his convictions of Forgery Second Degree and Second Degree Persistent Felony Offender in the Logan Circuit Court under Indictment No. .

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sentenced movant on to two (2) years for Forgery Second Degree and enhanced that term of incarceration to seven (7) years on Second Degree Persistent Felony Offender which is in lieu of the sentence for the principal offense; judgment was entered (See, Appendix: Copy of Logan Circuit Court Final Judgment and Sentence of Imprisonment in Indictment No. entered )

3. That movant was represented at trial by appointed counsel, ,

4. That at the conclusion of his trial and with the return of the jury verdict finding him guilty, movant advised trial counsel of his desire to appeal his conviction. (See, Appendix: Affidavit of

5. That in accord with movant's request, defense counsel initiated the appellate process by filing a timely Notice of Appeal on or about (See, Appendix: Notice of Appeal filed

6. That after filing the Notice of Appeal, the Commonwealth Attorney of Logan County, tendered to this court a "Motion to Dismiss Appeal" based upon defense counsel's failure to perfect movant's appeal. (See, Appendix: Motion to Dismiss Appeal filed

7. That after receiving no response to said motion to dismiss, the Court of Appeals, dismissed movant's appeal on (See, Appendix: Order of Kentucky Court of Appeals Dismissing Appeal.)

8. That trial counsel's failure to timely perfect movant's appeal has denied movant the effective assistance of counsel, his right to appeal, due process and equal protection of the law as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Section 11 and 115 of the Kentucky Constitution.

9. That the record reflects that at no time did movant's trial counsel ever file a motion to withdraw as counsel from movant's case, nor was substitute counsel ever appointed to represent movant. Since trial counsel was never relieved of his appointment to movant's case, it is clear that trial counsel alone had full responsibility to insure that his client's appeal was properly litigated.

10. That Kentucky's highest court has recently established appropriate procedures to be followed in cases where an appellant's appeal has been dismissed due to the lack of effective assistance of counsel. See, generally, Commonwealth v. Wine, Ky., \_\_\_\_ S.W.2d \_\_\_\_, (1985). (Kentucky Supreme Court Slip Opinion Rendered May 23, 1985.) In Wine, the Kentucky Supreme Court reviewed the leading decisions of the United States Supreme Court dealing with

the indigent criminal defendant's appellate rights. The Kentucky Supreme Court declared that:

"...State rules of procedure... cannot be allowed to frustrate an appeal of an indigent defendant who has been denied effective assistance of counsel. Commonwealth v. Wine, supra, Slip Opinion at 11.

The Wine, supra, opinion explained "what constitutes ineffective assistance of counsel in the constitutional sense" by stating that:

"...it cannot be doubted that the failure of counsel to file an appellate brief which results in the dismissal of an appeal constitutes ineffective assistance. It is as if no appeal had been taken. In such a case, the appeal must be reinstated unless the conduct of counsel has been condoned by, agreed to, or is in some way attributable to the client." Wine, supra, Slip Opinion at 11.

11. That, in the case at bar, movant is in the same position as Respondent Wine in that, through no fault of his own, his direct appeal has been frustrated. Movant's appeal should, therefore, be reinstated.

WHEREFORE, movant requests this Honorable Court to redocket the original appeal and enter an order granting a reasonable time for appellate to file his brief, and for all other relief that this Court deems appropriate.

Should this court require further evidence before reaching its determination, however, movant requests that

this matter be placed on the appellate docket for such purpose or in the alternative to remand this matter to the trial court for findings of fact and conclusions of law relating to the issue of the ineffectiveness of counsel.

Respectfully submitted,

MOVANT

COUNSEL FOR MOVANT

VERIFICATION

after being duly sworn, states that he has read this Motion for Reinstatement of Direct Appeal from Logan Circuit Court Action No. and that the allegations and statements it contains are true and correct to the best of his knowledge and belief.

MOVANT

NOTARY STATEMENT

Subscribed and sworn to before me by  
on this 1<sup>st</sup> day of September, 1985.

Linda Pulliam (Buckholt)  
NOTARY PUBLIC  
STATE AT LARGE, KENTUCKY

My Commission Expires: 3-24-1987

NOTICE

Please take notice that the foregoing Motion for Reinstatement of Direct Appeal from Logan Circuit Court Action No. \_\_\_\_\_ was filed by mailing it first-class, certified postage prepaid to John C. Scott, Clerk of the Kentucky Court of Appeals, 403 Wapping Street, Frankfort, Kentucky 40601 on this 18<sup>th</sup> day of September, 1985 to be filed upon receipt and considered at the convenience of the Court.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Reinstatement of Direct Appeal from Logan Circuit Court Action No. \_\_\_\_\_ has been mailed via



first-class postage prepaid to Hon.

Commonwealth Attorney,

and Hon.

Kentucky Attorney General,

Capitol Building, Frankfort, Kentucky 40601, all on this

18<sup>th</sup> day of September, 1985.

COMMONWEALTH OF KENTUCKY  
SCOTT CIRCUIT COURT  
CASE NO. 00-CA-00111

JOHN DOE

APPELLANT

VS.

MOTION TO BELATEDLY PERFECT APPEAL  
OF SCOTT DISTRICT COURT CASE NO. \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

APPELLEE

Comes the Appellant, John Doe, by counsel, and respectfully moves this Honorable Court to allow movant to belatedly perfect his appeal from his Scott District Court conviction for Terroristic Threatening under Case Number \_\_\_\_\_. As grounds therefore movant states:

1. Appellant is presently incarcerated at the Luther Lockett Correctional Complex located in LaGrange, Kentucky, for service of a fifty (50) year sentence pursuant to convictions for offenses unrelated to the case at bar. (See Appendix: Resident Record Card of John Doe).

2. That prior to Appellant's conviction for the offense of Terroristic Threatening as charged in Scott District Court Case No. \_\_\_\_\_ Appellant had been confined for offense committed in Franklin and Fayette Counties. However, Appellant was paroled on those offenses.

3. Subsequently, movant was arrested for the offense of Terroristic Threatening as charged in Scott District Court Case No. \_\_\_\_\_.

4. In relation to that charge movant retained as counsel \_\_\_\_\_ and thereafter entered a plea of not guilty to said offenses.

5. This matter was subsequently set for trial and on \_\_\_\_\_ the jury returned its verdict finding movant guilty of the charged offense. A sentence of sixty (60) days in the county jail and a fine of \$250 was imposed.

6. On \_\_\_\_\_ Appellant's retained counsel filed Appellant's Notice of Appeal in relation to that conviction. (See Appendix: Notice of Appeal, Scott District Court Case No. \_\_\_\_\_).

7. On that same date Appellant's counsel addressed correspondence to the Hon. \_\_\_\_\_, Judge, Scott District Court. Therein counsel advised the court that his representation "at this point is for the limited purpose of preserving defendant's right to appeal." Counsel further requested, because of his client's indigency, that the court "appoint the Public Defender's Office to represent him on this appeal." (See Appendix: Correspondence of \_\_\_\_\_ from \_\_\_\_\_).

8. Appellant was advised of the action taken by his attorney in correspondence dated \_\_\_\_\_ enclosed therewith was a copy of the Notice of Appeal and the correspondence as discussed in Section 7 supra. (See Appendix: Correspondence of \_\_\_\_\_).

9. Based upon the contents of those writings, Appellant at all times believed that the Public Defender's Office had been appointed to represent him on appeal. (See Appendix: Affidavit of \_\_\_\_\_)

10. The record reflects that subsequent to the filing of Appellant's Notice of Appeal no further action transpired. Appellant's appeal has not been dismissed and is presently pending in this court.

11. Recently, addressing a factually similar situation, in the case of Thompson v. Commonwealth, 736 S.W.2d 319 (Ky. 1987), the Supreme Court of Kentucky found that:

Thompson timely filed a notice of appeal. His failure to perfect the appeal in timely fashion did not affect the validity of the appeal, although it may have been grounds for dismissal of the appeal pursuant to CR 73.02(2). In fact, the appeal has never been dismissed. It is still pending.

The Court continued by distinguishing Thompson's situation from those previously addressed in Commonwealth v. Wine, 694 S.W.2d 689 (Ky. 1985) and held:

Thompson does not need either a belated appeal nor the reinstatement of his appeal. The proper avenue of relief is a petition to this court for an order permitting him to perfect his appeal belatedly.

Thompson, supra.

12. Appellant has the Constitutional Right to appeal pursuant to Section 115 of the Kentucky Constitution, his appeal has failed to be perfected through no fault of his own. Appellant has never knowingly nor intelligently forgone perfection of his appeal and has at all times believed that his appeal was being perfected by a public defender.

13. Appellant presents this motion to this Honorable Court in its appellate capacity, under the authority provided in Wine, supra, at 694, and request that he be afforded his constitutional right to appeal. See also Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985); Gilbert v. Sowders, 646 F.2d 1146 (6<sup>th</sup> Cir. 1981); Cleaver v. Bordenkircher, 634 F.2d 1010 (6<sup>th</sup> Cir. 1980).

WHEREFORE, Appellant respectfully requests this Honorable Court to enter an order granting Appellant leave to belatedly perfect his appeal of Scott District Court conviction for Terroristic Threatening, charge in Case No. \_\_\_\_\_ and appoint the Department of Public Advocacy to represent Appellant on Appeal. In the alternative, should this Court require

further evidence, Appellant requests that an evidentiary hearing be scheduled and Appellant's presence be required.

Should this Honorable Court overrule Appellant's motion, Appellant respectfully request that findings of fact and conclusions of law be entered.

Respectfully submitted,

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VERIFICATION

John Doe, after being duly sworn, states that he has read this "Motion to Belatedly Perfect Appeal of Scott District Court Case No. \_\_\_\_\_" and that the allegations and statements it contains are true and correct to the best of his knowledge and belief.

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NOTARY STATEMENT

Subscribed and sworn to before me by John Doe on this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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NOTARY PUBLIC  
STATE AT LARGE, KENTUCKY  
My Commission Expires:\_\_\_\_\_

NOTICE

Please take notice that the foregoing “Motion to Belatedly Perfect Appeal of Scott District Court Case No. \_\_\_\_\_” was mailed via first-class certified postage to \_\_\_\_\_, Clerk of the Scott Circuit Court, Scott County Courthouse, Main Street, Georgetown, Kentucky 40324 on this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ to be filed immediately upon receipt and considered at the convenience of the Court.

\_\_\_\_\_

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was mailed via first-class postage to the Hon. \_\_\_\_\_, Scott County Attorney, Scott County Courthouse, P.O. Box \_\_\_\_\_, Georgetown, Kentucky 40324 and to the Hon. \_\_\_\_\_, Scott County Commonwealth Attorney, Main Street, P.O. Box \_\_\_\_\_, Versailles, Kentucky 40383 all on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_