

**IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

STATE OF OREGON,) Case No. _____
Plaintiff)
v.) DA No. _____
Defendant)

NOTICE AND ADVICE OF RIGHT TO A

NOTICE AND ADVICE OF RIGHT TO APPEAL

As required by ORS 137.020 (5), the court is advising you of your right to appeal this court's judgment and of the procedure for protecting such right as set out in ORS 138.005 to ORS 138.115.

RIGHTS TO APPEAL & LIMITATIONS

1. If you were found guilty after a jury trial, a trial to the judge, or a stipulated facts trial, you may appeal legal errors that appear on the record in the decisions, orders and proceedings of the court, including intermediate decisions of the court. ORS 138.105(1),(2),(3).
2. If you entered a plea of guilty or no contest, you may not appeal the conviction unless you reserved an issue for appeal through a conditional plea under ORS 135.335(3); or, you can identify a colorable claim of error* that the court erred in not merging counts unless the separate entry is a result of an agreement. ORS 138.105(5).
3. You may appeal any sentence to determine whether the trial court failed to comply with the law in imposing or failing to impose a sentence, except you may not appeal:
 - a. In felonies committed after November 1, 1989, a sentence within the presumptive sentence prescribed by the Oregon Criminal Justice Commission or a sentence in which an alternative disposition is permitted without a departure (ORS 138.105(8)); or
 - b. Any part of a sentence resulting from a stipulated sentencing agreement between the state and defendant in which the parties agree in advance to a specific sentence or a specific component used to calculate the sentence such as a particular Sentencing Guidelines grid block. ORS 138.105(9); *State v. Rusen*, 369 Or 677, 695-696 (2022).
4. You may appeal a judgment or order extending probation, imposing a new or modified condition of probation, or imposing a sentence upon revocation of probation if you identify a colorable claim of error that is reviewable under ORS 138.105, except that you may not appeal any part of a sentence resulting from a stipulated agreement made at the time of the original sentencing. ORS 138.035(3); ORS 138.085(2); ORS 138.105(9); *State v. Thomas*, 312 Or App 527 (2021); *State v. Wheeler*, 320 Or App 273 (2022); *State v. Neill*, 324 Or App 608 (2023).

*A colorable claim of error is an argument that is plausible, grounded in the facts of the case, and reasonable under current law or a reasonable extension or modification of current law. ORS 138.005(3).

PROCEDURES FOR PROTECTING YOUR RIGHT TO APPEAL

The Oregon Revised Statutes and Oregon Rules of Appellate Procedure control your appeal. You could lose your right to appeal by not following them. These authorities and forms for appeals may be accessed at <http://courts.oregon.gov>.

Within **30 DAYS** from the entry date of this court's judgment in the court register, you must:

1. Prepare a written signed Notice of Appeal that complies with ORS 19.250, and if applicable, ORS 138.085.
2. Serve copies of your Notice of Appeal on all Parties, including the District Attorney as set out in ORS 19.260. You must also serve the trial court administrator. If you want the Court of Appeals to consider a transcript, you must serve the office of the trial court administrator, "Attention: Transcript Coordinator."
3. File the signed original Notice of Appeal and each proof of service listed in No. 2 above, with the Court of Appeals, State Court Administrator, Records Section, 1163 State Street, Salem, Oregon 97310. You may wish to contact the Court of Appeals to determine the current filing fee for the type of offense you are appealing. The phone number is (503) 986-5555.

If you are without funds for an attorney and transcript on appeal, you may ask the trial court to appoint a lawyer to represent you and to provide a transcript for the purposes of appeal. The court will decide whether you qualify for this help. To request the court to review your eligibility for an appointed attorney to handle your appeal, contact the Office of Public Defense Services Appellate Division. The phone number is (503) 378-3349. If you qualify, an attorney will be appointed.

While your case is on appeal, the trial court, if you ask, may release you from jail or stay your financial obligations.

Signature acknowledges receipt of form:

Defendant

Date

Defense Attorney

Date _____