

809.30 Rule (Appeals in criminal, ch. 48, 51, 55, and 938 cases). (1) DEFINITIONS.
In this subchapter:

(a) “Final adjudication” means the entry of a final judgment or order by the circuit court in a ch. 48, 51, 55, or 938 case, other than a termination of parental rights case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7).

(b) “Person” means any of the following:

1. A defendant seeking postconviction relief in a criminal case.
2. A party, other than the state, seeking postdisposition relief in a case under ch. 48, other than a termination of parental rights case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7).
3. A party, other than the state, seeking postdisposition relief in a case under ch. 938.
4. A subject individual or ward seeking postdisposition relief in a case under ch. 51 or 55.
5. Any other person who may appeal under ss. 51.13 (5), 51.20 (15) or 55.06 (18).

(c) “Postconviction relief” means an appeal or a motion for postconviction relief in a criminal case, other than an appeal, motion, or petition under ss. 302.113 (7m), 302.113 (9g), 973.19, 973.195, 974.06 or 974.07 (2).

(d) “Postdisposition relief” means an appeal or a motion for postdisposition relief from a circuit court’s final adjudication.

(e) “Prosecutor” means a district attorney, corporation counsel, or other attorney authorized by law to prosecute a criminal case or a case under ch. 48, 51, 55, or 938.

(f) “Sentencing” means the imposition of a sentence, a fine, or probation in a criminal case.

(2) APPEAL; POSTCONVICTION OR POSTDISPOSITION MOTION. (a) *Appeal procedure; counsel to continue.* A person seeking postconviction relief in a criminal case; a person seeking postdisposition relief in a case under ch. 48 other than a termination of parental rights case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7); or a person seeking postdisposition relief in a case under ch. 51, 55, or 938 shall comply with this section. Counsel representing the person at sentencing or at the time of the final adjudication shall continue representation by filing a notice under par.

(b) if the person desires to pursue postconviction or postdisposition relief unless counsel is discharged by the person or allowed to withdraw by the circuit court before the notice must be filed.

(b) *Notice of intent to pursue postconviction or postdisposition relief.* Within 20 days after the date of sentencing or final adjudication, the person shall file in circuit court and

serve on the prosecutor and any other party a notice of intent to pursue postconviction or postdisposition relief. The notice shall include all of the following:

1. The case name and number.
2. An identification of the judgment or order from which the person intends to seek postconviction or postdisposition relief and the date on which the judgment or order was entered.
3. The name and address of the person and his or her trial counsel.
4. Whether the person's trial counsel was appointed by the state public defender and, if so, whether the person's financial circumstances have materially improved since the date on which his or her indigency was determined.
5. Whether the person requests the state public defender to appoint counsel for purposes of postconviction or postdisposition relief.
6. Whether a person who does not request the state public defender to appoint counsel will represent himself or herself or will be represented by retained counsel. If the person has retained counsel to pursue postconviction or postdisposition relief, counsel's name and address shall be included.

(c) *Clerk to send materials.* Within 5 days after a notice under par. (b) is filed, the clerk of circuit court shall:

1. If the person requests representation by the state public defender for purposes of postconviction or postdisposition relief, send to the state public defender's appellate intake office a copy of the notice that shows the date on which it was filed or entered, a copy of the judgment or order specified in the notice that shows the date on which it was filed or entered, a list of the court reporters for each proceeding in the action in which the judgment or order was entered, and a list of those proceedings in which a transcript has been filed with the clerk of circuit court.
2. If the person does not request representation by the state public defender, send or furnish to the person, if appearing without counsel, or to the person's attorney if one has been retained, a copy of the judgment or order specified in the notice that shows the date on which it was filed or entered, a list of the court reporters for each proceeding in the action in which the judgment or order was entered, and a list of those proceedings in which a transcript has been filed with the clerk of circuit court.

(d) *Indigency redetermination.* Except as provided in this paragraph, whenever a person whose trial counsel is appointed by the state public defender files a notice under par. (b) requesting public defender representation for purposes of postconviction or postdisposition relief, the prosecutor may, within 5 days after the notice is served and filed, file in the circuit court and serve upon the state public defender a request that the person's indigency be redetermined before counsel is appointed or transcripts are requested. This paragraph does not apply to a child or juvenile who is entitled to be represented by counsel under s. 48.23 or 938.23.

(e) *State public defender appointment of counsel; transcript and circuit court case record request.* Within 30 days after the state public defender appellate intake office receives the materials from the clerk of circuit court under par. (c), the state public defender shall appoint counsel for the person and request a transcript of the reporter's notes and a copy of the circuit court case record, except that if the person's indigency must first be determined or redetermined the state public defender shall do so, appoint counsel, and request transcripts and a copy of the circuit court case record within 50 days after the state public defender appellate intake office receives the material from the clerk of circuit court under par. (c).

(f) *Person not represented by public defender; transcript and circuit court case record request.* A person who does not request representation by the state public defender for purposes of postconviction or postdisposition relief shall request a transcript of the reporter's notes, and may request a copy of the circuit court case record, within 30 days after filing a notice under par. (b). A person who is denied representation by the state public defender for purposes of postconviction or postdisposition relief shall request a transcript of the reporter's notes, and may request a copy of the circuit court case record, within 90 days after filing a notice under par. (b).

(fm) *Transcript and circuit court case record request in chs. 48 and 938 proceedings.* A child or juvenile who has filed a notice of intent to pursue relief from a judgment or order entered in a ch. 48 or 938 proceeding shall be furnished at no cost a transcript of the proceedings or as much of the transcript as is requested, and may request a copy of the circuit court case record. To obtain the transcript and circuit court case record at no cost, an affidavit must be filed stating that the person who is legally responsible for the child's or juvenile's care and support is financially unable or unwilling to purchase the transcript and a copy of the circuit court case record.

(g) *Filing and service of transcript and circuit court case record.*

1. The clerk of circuit court shall serve a copy of the circuit court case record on the person within 60 days after receipt of the request for the circuit court case record.
2. The court reporter shall file the transcript with the circuit court and serve a copy of the transcript on the person within 60 days of the request for the transcript. Within 20 days after the request for a transcript of postconviction or postdisposition proceedings brought under sub. (2) (h), the court reporter shall file the original with the circuit court and serve a copy of that transcript on the person. The reporter may seek an extension under s. 809.11 (7) for filing and serving the transcript.

(h) *Notice of appeal, postconviction or postdisposition motion.* The person shall file in circuit court and serve on the prosecutor and any other party a notice of appeal or motion seeking postconviction or postdisposition relief within 60 days after the later of the

service of the transcript or circuit court case record. The person shall file a motion for postconviction or postdisposition relief before a notice of appeal is filed unless the grounds for seeking relief are sufficiency of the evidence or issues previously raised. A postconviction or postdisposition motion under this section may not be accompanied by a notice of motion and is made when filed. A notice of appeal filed under this section shall conform to the requirements set forth in s. 809.10.

(i) *Order determining postconviction or postdisposition motion.* Unless an extension is requested by a party or the circuit court and granted by the court of appeals, the circuit court shall determine by an order the person's motion for postconviction or postdisposition relief within 60 days after the filing of the motion or the motion is considered to be denied and the clerk of circuit court shall immediately enter an order denying the motion.

(j) *Appeal from judgment and order.* The person shall file in circuit court and serve on the prosecutor and any other party a notice of appeal from the judgment of conviction and sentence or final adjudication and, if necessary, from the order of the circuit court on the motion for postconviction or postdisposition relief within 20 days of the entry of the order on the postconviction or postdisposition motion. A notice of appeal filed under this section shall conform to the requirements set forth in s. 809.10. Appeals in cases under chs. 48, 51, 55, and 938 are subject to the docketing statement requirements of s. 809.10 (1) (d) and may be eligible for the expedited appeals program in the discretion of the court.

(k) *Transmittal of record.* Except as otherwise provided in ss. 809.14 (3) and 809.15 (4) (b) and (c), the clerk of circuit court shall transmit the record on appeal to the court of appeals as soon as prepared but in no event more than 40 days after the filing of the notice of appeal. Subsequent proceedings in the appeal are governed by the procedures for civil appeals.

(L) An appeal under s. 974.06 or 974.07 is governed by the procedures for civil appeals.

(3) APPEALS BY STATE OR OTHER PARTY; APPOINTMENT OF COUNSEL. In a case in which the state of Wisconsin, the representative of the public, any other party, or any person who may appeal under s. 51.13 (5), 51.20 (15) or 55.06 (18) appeals and the person who is the subject of the case or proceeding is a child or claims to be indigent, the court shall refer the person who is the subject of the case or proceeding to the state public defender for the determination of indigency and the appointment of legal counsel under ch. 977.

(4) MOTION TO WITHDRAW AS APPOINTED COUNSEL. (a) If postconviction, postdisposition, or appellate counsel appointed for the person under ch. 977 seeks to withdraw from the case, counsel shall serve a motion to withdraw upon the person and upon the appellate division intake unit in the Madison appellate office of the state public defender. If the motion is filed before the notice of appeal is filed, the motion shall be filed in circuit court. If the motion is filed after a notice of appeal has been filed, the motion shall be filed in the court of appeals. Service of the motion to withdraw on the

state public defender is not required when the motion is filed by an assistant state public defender or when a no-merit report is filed with the motion.

(b) Within 20 days after receipt of the motion under par. (a), the state public defender shall determine whether successor counsel will be appointed for the person and shall notify the court in which the motion was filed of the state public defender's determination.

(c) Before determining the motion to withdraw, the court shall consider the state public defender's response under par. (b) and whether the person waives the right to counsel.

(d) When the motion to withdraw is filed in circuit court, appointed counsel shall prepare and serve a copy of the order determining counsel's motion to withdraw upon the person and the appellate division intake unit in the Madison appellate office of the state public defender within 14 days after the court's determination.