

“Notice of Appointment—Appeal”

This means that my appointment as your court appointed attorney is to represent you in your “direct appeal” of your conviction and punishment. An attorney on a direct appeal is limited to raising errors that occurred at the trial, which are found in the “record” of the case. Any errors raised in the direct appeal MUST find support in the official Trial Court record.

The record consists of two things: (1) the “Court Clerk’s Record” which is prepared by the County Clerk, and (2) the “Reporter’s Record” which is prepared by court reporters typing down what is happening in your case when your case is being heard by the fact finder—either the Judge or the jury. For a direct appeal, the court reporters will type up an original Reporters Record and file it with the Court of Appeals. Under the Texas Rules of Appellate Procedure, the court reporter has 60 days from the date of sentence in which to file the Reporter’s Record with the Court of Appeals. Court reporters have the right to file a motion for extension of time to file the Reporter’s Record and frequently do. The Court Clerk’s Record and the Reporters Record become the official record of the Trial Court proceeding, which is then sent up to the Appellate Court for review.

Normally, in reviewing court reporter’s records to develop issues to raise in a direct appeal, lawyers will look to see if the trial attorney made an objection to evidence “coming in” or to evidence that was “kept out” of the record. As a general rule, unless evidence is objected to at the trial court level, it cannot be raised for the first time on direct appeal because it is considered “waived”—or given up or abandoned.

Please remember that the record I use to prepare your appeal is on loan from the Court; it’s not mine to keep, and copies are expensive! If you would like your own copy, the Court Clerk can usually explain how you can get one.