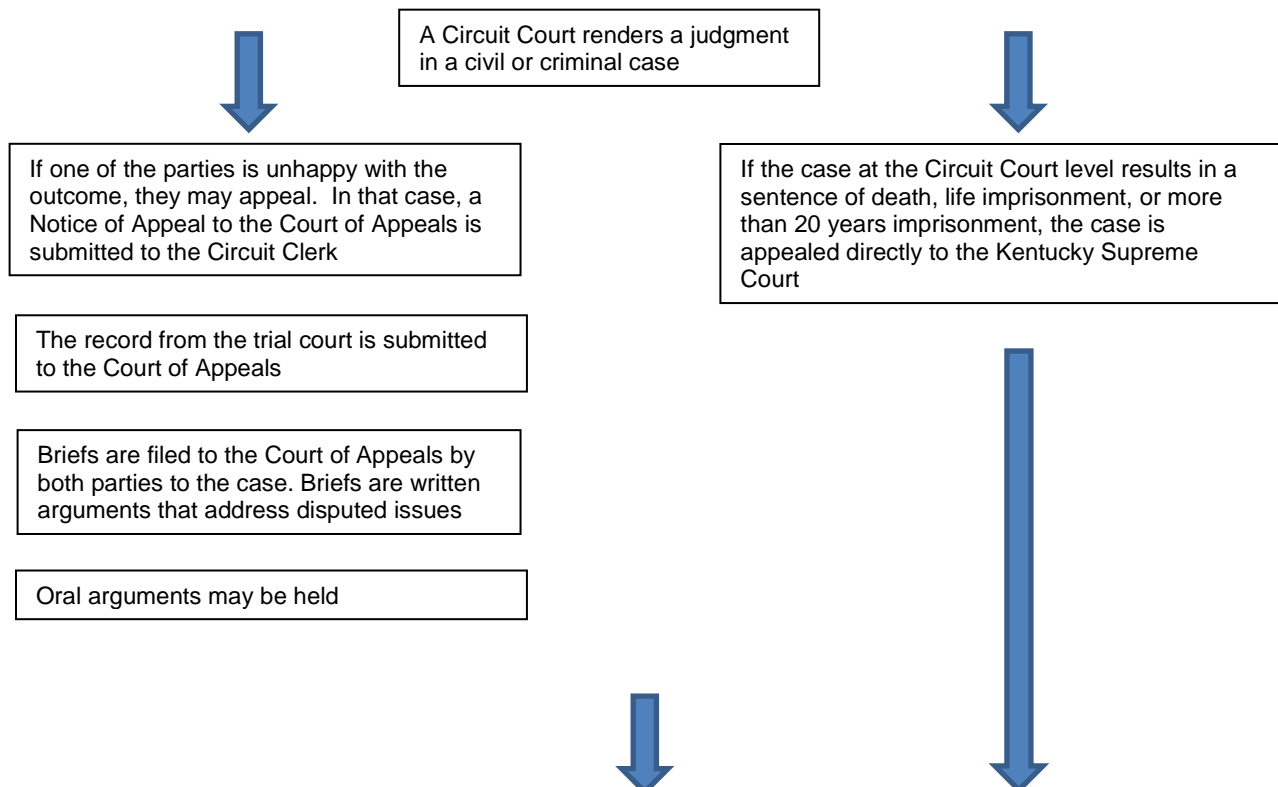


The Appellate Process in the Kentucky Court of Justice

Office for Policy Studies on Violence Against Women

The Kentucky Constitution affords litigants in civil and criminal cases, as a matter of right, at least one appeal (Kentucky Constitution § 115). The party who files an appeal (the appellant) must show that the trial court made a legal error that affected the decision in the case. The appellant prepares a formal brief discussing the legal arguments. The Kentucky Rules of Civil Procedure govern the form and content of the brief to be filed in the Court of Appeals (CR 76.12(4)(c)). In the brief, the appellant argues that the trial court made errors, and that its decision should be reversed. The opposing party (the appellee), may also file a brief to respond to the appellant’s arguments. In briefs submitted to the Court, the parties cite previous court cases that support their point of view. The Court of Appeals does not receive additional evidence or hear witnesses; rather the judges make their decision based on the certified record of the case in the trial court, the briefs submitted by the parties, and in about 20 percent of cases, oral arguments made by the parties. After review of the case, the Court of Appeals may affirm (agrees and lets the trial court decision stand), remand, or vacate the decision of the trial court. The term "vacated" means that the Court reviewed the lower court's decision, found error, and overturned it. The term "remanded" means that the appellate court sent the case back to the lower court to decide the case again using the rulings of the appellate court as a guide. Final decisions of the Court of Appeals may be reviewed by the Kentucky Supreme Court. If a case is reviewed by the Supreme Court of Kentucky and an unfavorable decision is rendered, the case may be appealed to the U.S. Supreme Court.

The Appellate process begins:



The Appellate process continues:



The Court of Appeals renders a written decision or opinion. The Court designates the opinion as to be published or unpublished

The party who loses at the Court of Appeals level may ask the Court to rehear the case or may ask the KY Supreme Court to review the decision issued by the Court of Appeals

If the KY Supreme Court agrees to review the lower court's decision, the record is submitted and both parties file briefs

The KY Supreme Court shall review the criminal appeals described above



Oral arguments may be held

The KY Supreme Court renders a written decision or opinion

The party who loses at the KY Supreme Court may ask the Court to rehear the case

In some cases, a party may ask the U.S. Supreme Court to review a decision of the KY Supreme Court