

Sixth District Department of Correctional Services POLICY	Issue Date 06/08/92	Effective Date 07/10/17	Policy Number 414-17
Subject APPEALS OF JUDGMENT AND SENTENCE		Review Month September	Author 0344 (CFR)
Rescinds 414-16	References Rule 2.24 Motions After Trial; 2.26 (2)(c) Stay of Execution; Rule 2.73 Appeals; and Iowa Code 602.4102 (1), (2)-Iowa Court Rules, Chapter 6, Rules of Appellate Procedure, Iowa Code Chapter 814 Appeals from the District Court		

POLICY:

When an offender appeals the Judgment and Sentence Order, the Agent seeks judicial guidance prior to initiating or continuing probation supervision. Under Iowa Rules of Criminal Procedure 2.26(2)(c), an order placing the defendant on probation may be stayed if an appeal is taken. If not stayed, the Court specifies when the term of probation commences. If the order is stayed, the Court fixes the terms of the stay.

DEFINITION:

1. Notice of Appeal - An official notice prepared by the offender and submitted to the Court which notifies the State, the Trial Court, and the Iowa Supreme Court of an appeal of judgment and sentence.
2. Procedendo - A document issued by the Clerk of the Iowa Supreme Court after the appeal is decided, which directs the Trial Court to proceed as specified by the Appellate Court.

PROCEDURE:

1. The Agent verifies via Iowa Courts Online if the offender has filed a timely Notice of Appeal relative to the offense which effected probation supervision. If convicted of a crime other than a simple misdemeanor, by either a jury or a judge, a person must appeal within thirty (30) days of conviction or the person loses the right to appeal.
2. If the offender has not filed a timely Notice of Appeal, supervision commences.
3. If the offender refuses to sign the Probation Agreement (402A), a Report of Violation (411A) is filed.
4. If the Court has entered an order staying probation supervision, the Agent does not effect supervision until the judgment and sentence is affirmed and a procedendo issued by the Appellate Court or until otherwise notified by court order.

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PROCEDURE: (continued)

5. If the Court has not stayed the order placing the offender on probation and after consultation with the Supervisor, the Agent sends Appellate Letter (ICON ► Reports ► Templates ► PB Appellate Letter to the defendant's appellate counsel.
6. If an order staying the probation or setting a hearing is not received within two (2) weeks of the date the letter was sent to the offender's attorney, the Agent attempts to effect supervision. If the offender fails to cooperate, the Agent submits a Report of Violation.

BY ORDER OF:

Bruce Vander Sanden, District Director