

The Candela Law Firm has the necessary experience to handle your criminal appeal in either the state or federal appellate courts. Over the past 20 years, Candela Law Firm has filed briefs, and successfully argued appeals in the State appellate courts (Second, Fourth, and Fifth District Courts of Appeal and the Florida Supreme Court). The Candela Law Firm has also handled criminal appeals at the 11th Circuit Court of Appeal (federal). The Candela Law Firm also has experience in appealing certain family law and civil matters.

Additionally, the Candela Law Firm has extensive experience in filing the following extraordinary remedies which include writs of habeas corpus, prohibition, mandamus, or certiorari. There are not a lot of attorneys that have both the experience in filing a writ and/or understand the value of these extraordinary remedies to assist the accused. For instance, if the trial court denies a motion for bond without a sufficient reason, the appellate court may grant release via a writ of habeas corpus. On the other hand, if the trial court denies a motion to dismiss based on a speedy trial violation, the proper remedy may be a writ of prohibition to prevent the court from going forward. If the trial court denies a motion requesting immunity under “stand your ground,” the next step is usually a writ of prohibition challenging the ruling. These are some of the many examples.

APPEAL PROCESS
Direct Criminal Appeal (Florida State System)
Circuit Court to District Court¹
Typical Progression

See Florida Rules of Criminal Procedure/Florida Rules of Appellate Procedure

- The person wanting to appeal was **convicted** – regardless of whether it was a withhold of adjudication or adjudicated/prison or supervision or both
- 30 days to file notice of appeal with trial court (this begins the appellate process)/belated appeal.
- File the necessary paperwork (designations to court reporter for preparation of transcripts and directions to clerk for complete record).
- Record is prepared and transmitted.
- Review the record to determine if there were (a) any sentencing errors that need to be raised in a Fla. R. Crim. P. 3.800; or (b) supplement the record with other documents, transcripts of hearings, evidence (like a video recording)...etc.
- Draft and file Fla. R. Crim. R. 3.800 (if necessary).
- Notice the appellate court.
- Wait for ruling on 3.800.
- Record will be supplemented by design.
- Review record for potential errors and issues (*i.e.*, improper introduction of evidence, denial of motion to suppress evidence/statement, denial of judgment of

¹ Appeals to Florida Supreme Court or United States Supreme Court are slightly different.

acquittal/directed verdict, jury selections, jury instructions, improper arguments...etc.)²

- Research issues.
- Draft initial brief on the merits (no longer than 50 pages with exclusions).
- Review initial brief.
- Revise and format.
- Finalize.
- **E-file the initial brief on the merits and serve on the parties.**
- Oral argument needed? File proper documentation for oral argument.
- Wait.
- Read and review **Appellee (State's) Answer brief.**
- Review responses and issues.
- Research and review record regarding the issues/responses raised by in Appellee's brief.
- Draft Reply brief.
- Revise and format.
- **File Reply brief (stricter 20-day time limit) (15-page page limit).**
- Wait for assignment for oral argument or notice dispensing with oral argument.
- Wait.
- Ruling.
- Depending on the nature of the concluding ruling – written opinion, unpublished table opinion, memorandum opinion, per curiam affirmed (“PCA”) without written opinion – there may be options for further appeals that may be taken.
- Determine if rehearing or clarification is necessary and/or possible.
- File the necessary documents if permitted and possible.
- Wait.
- Mandate – case is concluded.

If matter needs to be appealed to the Florida Supreme Court, there are strict rules on what cases the Florida Supreme Court will/will not hear. If the Florida Supreme Court is vaguely interested, the appealing party will be requested to file a jurisdictional brief discussing why the Florida Supreme Court can hear the matter. If the Florida Supreme Court decides it will hear the matter, then it will issue a briefing schedule to the parties.

If the issue appealed to the Florida Supreme Court is a federal constitutional issue, then the matter may be appealed by either party after the Florida Supreme Court rules to the United States Supreme Court. The rules for the United States Supreme Court accepting certiorari are stringent and exacting

Any appeal taken to the Florida Supreme Court and/or the United States Supreme Court is a new appeal and requires a new contract/attorney's fee.

² Appellate errors must be properly preserved (with limited exceptions). If the error is not properly preserved, the error may be able to be raised in a collateral attack regarding effective assistance of counsel. Fla. R. Crim. P. 3.850.

The typical criminal appeal from circuit court to district court takes approximately 12 to 18 months from start to mandate (finish). The time frames are provided for convenience of understanding and are not hard time frames.

Appellate representation from the circuit court to the district court starts at \$16,000.00, plus costs. The \$16,000.00 includes 1 or 2 issues briefed/argued to the appellate court. The \$16,000.00 fee includes oral argument. Every additional issue over 2 (so a third, fourth, fifth issues ...etc.) is an addition \$2000 minimum per issue.

Appellate representation from the district court to the Florida Supreme Court starts at \$25,000.00, plus travel and costs. The initial \$5,000.00 includes the jurisdictional brief and/or response to jurisdictional brief. If the Florida Supreme Court does not accept jurisdiction, then the fee is just the initial \$5,000.00 with no further costs.

Appellate representation from the Florida Supreme Court to the United States Supreme Court starts at \$45,000.00, plus costs and travel. There are several jurisdictional matters that may need to be addressed before the United States Supreme Court accepts the petition for certiorari. The petition for certiorari is \$15,000. If certiorari is accepted, then the remainder of the \$30,000.00 is due; if certiorari is not accepted, then no further fee is due.

In any of the above, 1/2 of the fee must be put down and ***the fee must be paid before the initial brief on the merits is filed. After the notice of appeal is filed***, there is a lag of 3 to 6 months while the record is completed before the initial brief is required to be filed.

There are no guarantees regarding the outcome of any appeal.

Further, to properly preserve an issue for review in federal court if the matter needs to be decided in federal court on 18 U.S.C. §2254, the Defendant/Appellant will need to stay within all the applicable time frames and exhaust all the possible state remedies before a federal district court will entertain the habeas corpus petition. In other words, the Defendant/Appellant needs to continually appeal as high as need be and then pursue all collateral matters as high as need be before the federal court will entertain.

State Post-Conviction Relief: a petition for relief under 3.850 would have to proceed next. You have up to two (2) years from the date of the mandate in your case.

Federal Post-Conviction Relief: a petition for federal habeas corpus under 18 U.S.C. § 2254 has a strict one (1) year statute of limitations (with limited exceptions) from the date of the conviction (or mandate if there was an appeal). The applicable time frames run at the same time from the final disposition the case (which is usually the mandate from the appeal) but would be tolled (or stopped temporarily) while you pursued any relief pursuant to Fla. R. Crim. P. 3.850.

The Candela Law Firm, P.A., has successfully researched, briefed, and argued close to a hundred criminal appeals (including extraordinary relief) over the past 20 years. We

have the experience to successfully navigate and guide you through this often-misunderstood legal labyrinth.