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Mr. Daniel Brewington
Inmate # 223028
Reception Diagnostic Center
737 Moon Road
Plainfield, IN 46168

RE: Appeal of Criminal Conviction and/or Sentence

Dear Mr. Brewington:

I've been notified by the court staff I'm appointed to represent you in your appeal of your criminal conviction and/or sentence from Dearborn Superior Court No. 2.

The appeal process is much different from the trial process. I have also found that it is generally much different than what my clients think it is. First and foremost, the appeal process is not a "re-trial" or "second chance" to argue all the issues or arguments that were made at the trial level. For most appeals, the entire case is handled in writing. Only a few appeal cases are granted the opportunity to allow the attorneys to make oral arguments to the Appeals Court or the Supreme Court. For those that are granted oral arguments, an incarcerated criminal defendant is not in attendance at the argument before the court.

The appeal process is also not an opportunity to present additional evidence to the Appeals Court. The only evidence that will be considered by the Appeals Court has already been established at the trial level. A record for appeal will include all written pleadings and orders from the trial level, all exhibits admitted as evidence, and written transcripts of hearings that were conducted at the trial level.

My experience has been that most criminal appeals generally involve a handful of issues to argue that are based on "errors" that were made by the trial judge, trial attorneys, or the jury. For example, maybe the trial judge allowed admission of prejudicial evidence that your trial attorney objected to and that should not have been admitted. Another example might be that you were improperly sentenced by the trial judge based on Indiana sentencing law.

Most of my clients want to argue every issue that comes to mind in sort of a "shotgun" or "no stone left unturned" approach. My strategy is generally to pick a handful of the best arguments to make, so that the Appeals Court doesn't lose sight of these best arguments scattered amongst a bunch of not-so-good arguments. Please understand I will value, respect and request your insight and opinion on issues to raise in the appeal; however, I will draft all final appeal documents in a manner I feel is in your best interests given my experience as an appellate attorney and criminal defense attorney, and even though you might ultimately disagree with my opinion or the appeal documents I submit.

The timeline for an appeal is generally a process of several months from the time the notice of appeal is filed until we receive a written decision from the Appeals Court. After the notice of appeal has been filed, the trial court clerk has 30 days to complete the record for appeal, and the trial court reporter has 90 days to prepare transcripts of hearings. Notice of appeal was filed in your case on October 24, 2011. Therefore, transcripts of hearings will not be complete until around January 24, 2012.

I have 30 days after the completion of the transcripts to prepare and file the initial appeal brief. Therefore, the first significant filing I will prepare in your case will not be filed until approximately February 24, 2012. The Attorney General will then file a reply brief on behalf of the State approximately 30 days after that, and I will file a final response 15 days after the Attorney General files the reply brief. That will put us around April 2012 before the Appeals Court starts to review the case for a decision. It generally takes 1-2 months to receive a written decision from the Appeals Court. Thus, I would not anticipate your appeal case being decided until approximately May 2012.

I will generally do very little to prepare a case for the appeal prior to receiving the transcripts. I often try to contact my client's trial counsel to get his/her opinion on potential issues for the appeal. I also request that you write me a letter explaining issues you think should be brought up in the appeal. I will also generally try to schedule one teleconference with my client prior to preparing a final draft of the initial appeal brief. If you cannot read or write and are reviewing this letter with assistance from someone, please try to notify me somehow and I will try to schedule an earlier teleconference to explain the case to you.

It is my pleasure to assist you. I will do my best in handling your appeal.

Sincerely,

Jeffrey E. Stratman