

Step-by-Step Appellate Procedure Guide

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Step-by-Step Appellate Procedure Guide

State of Florida v. Marquis Anthony Delcampo

****Current Legal Posture:**** Post-conviction (convicted, sentenced 20 years)

****Appeal Deadline (reported):**** May 10, 2026

****Priority:**** EXTREME -- deadlines are hard cutoffs

PHASE 1: DETERMINE CURRENT STATUS (DO THIS FIRST)

Step 1A: Obtain the Sentencing Order

- * Get certified copy of Judgment and Sentence from Seminole County Clerk
- * Note the exact date sentence was rendered (filed with clerk = "rendition date")
- * Calculate: Rendition date + 30 days = deadline for Notice of Appeal

Step 1B: Was a Direct Appeal Filed?

- * Search 5th DCA docket (www.5dca.org -> case search)
- * Search Seminole County Clerk records for Notice of Appeal filing
- * If YES: obtain appeal docket, determine status, identify issues raised
- * If NO: calculate whether 30-day window has passed -> if expired, proceed to Phase 3

Step 1C: Determine Enhancement Basis

- * Obtain sentencing scoresheet
- * Identify how 20-year sentence was calculated (standard max for 2nd degree felony = 15 years)
- * Was habitual offender finding made? 10-20-Life? Other enhancement?
- * Obtain prosecutor's notice of intent to seek enhanced penalty

Step 1D: Obtain Trial Record

- * Order complete trial transcript from court reporter
 - * Obtain all filed motions and orders
 - * Get the complete discovery file
 - * Obtain jury instructions given and rejected
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PHASE 2: DIRECT APPEAL (if still available)

Step 2A: File Notice of Appeal

- * ****WHERE****: Seminole County Clerk of the Circuit Court
- * ****WHEN****: Within 30 days of rendition of sentence
- * ****FORM****: Written document stating defendant appeals the judgment and sentence
- * ****FEE****: File with Clerk (fee waiver if indigent)

Step 2B: Designate Record on Appeal

- * File Designation of Record within 10 days of filing notice
- * Must include:
 - * Complete trial transcript
 - * All motions and orders
 - * Jury instructions
 - * Sentencing documents
 - * Discovery filings

Step 2C: Prepare Initial Brief

- * ****DUE****: 70 days after record is filed in 5th DCA
- * ****FORMAT****: Rule 9.210 compliant
- * ****ISSUES TO RAISE**** (all preserved errors):

Issue 1: Sufficiency of Evidence

- * Did the State prove beyond a reasonable doubt that self-defense did not apply?
- * Standard: Jackson v. Virginia, 443 U.S. 307 (1979)

Issue 2: Self-Defense Jury Instructions

- * Were proper self-defense instructions given?
- * Was the no-duty-to-retreat (SYG) instruction included?
- * Were lesser included offense instructions given?

Issue 3: Evidentiary Errors

- * Were relevant evidence items improperly excluded?
- * Was prejudicial evidence improperly admitted?
- * Were hearsay objections properly ruled?

Issue 4: Discovery Violations

- * Were Richardson hearing requirements met?
- * Was Brady/Giglio material withheld?

Issue 5: Sentencing Error

- * Was the 20-year sentence legal?
- * Was the enhancement properly noticed and proven?
- * Was the scoresheet correctly calculated?

Issue 6: SYG Immunity (if hearing was held and denied)

- * Was the correct clear-and-convincing standard applied? (Dennis v. State)
- * Were the trial court's findings supported by competent substantial evidence?

Step 2D: Answer Brief from State

- * Due 20 days after service of initial brief
- * Review and prepare reply

Step 2E: Reply Brief (Optional but Recommended)

- * Due 20 days after answer brief
- * Address any new arguments raised by State

Step 2F: Oral Argument

- * Request oral argument in initial brief

- * Prepare to highlight key issues

Step 2G: Decision & Post-Decision

- * Wait for opinion from 5th DCA
- * If REVERSED: case remanded for new trial/resentencing
- * If AFFIRMED:
 - * Motion for rehearing within **15 days**
 - * If denied: Motion for certification to FL Supreme Court (if great public importance issue)
 - * If FL Sup. Ct. denies: Certiorari to SCOTUS within **90 days**
 - * Mandate issues -> Rule 3.850 clock starts (2 years)

PHASE 3: RULE 3.850 POSTCONVICTION RELIEF

Step 3A: Time Calculation

- * Conviction becomes "final" when:
 - * Direct appeal mandate issues, OR
 - * Time for direct appeal expires (30 days after sentencing if none filed)
 - * Rule 3.850 must be filed within **2 years** of conviction becoming final

Step 3B: Prepare Comprehensive Motion

File EVERY possible claim in the FIRST motion (successive motions face strict bars):

CLAIM 1: Ineffective Assistance of Counsel -- Failure to File SYG Motion

- * Under Dennis v. State, defendant was entitled to pretrial immunity hearing
- * If counsel never filed SYG motion -> deficient performance
- * Prejudice: reasonable probability that SYG hearing would have resulted in dismissal
- * Evidence: occupied vehicle doctrine (§ 776.013), driver's route deviation, circumstances of confrontation

CLAIM 2: IAC -- Failure to Investigate

- * Did counsel investigate the Uber ride data (GPS, route deviation)?
- * Did counsel interview eyewitnesses?
- * Did counsel obtain the driver's complaint/disciplinary history?
- * Did counsel consult experts (use-of-force, accident reconstruction)?

CLAIM 3: IAC -- Failure to Present Adequate Self-Defense

- * Was a thorough self-defense case put on?
- * Were expert witnesses called?
- * Was the occupied vehicle / false imprisonment theory developed?

CLAIM 4: IAC -- Failure to Challenge Evidence / Discovery

- * Were Brady violations raised?
- * Were Richardson hearings requested for discovery violations?
- * Were improper evidence items challenged?

CLAIM 5: IAC -- Failure to Challenge Sentence Enhancement

- * Was the habitual offender enhancement properly noticed by the State?
- * Were prior convictions properly proven?
- * Was the 5-year window correctly calculated?

CLAIM 6: Brady Violation -- Suppressed Evidence

- * Any evidence favorable to self-defense not disclosed
- * Uber ride data, driver history, witness statements
- * 911 call timing, body camera footage

CLAIM 7: Due Process -- Evidence Spoliation

- * Was Uber ride data preserved?
- * Was vehicle evidence preserved?
- * Was 911 audio preserved?
- * Were body camera recordings preserved?

CLAIM 8: Illegal Sentence (also via Rule 3.800(a))

- * If sentence exceeds statutory maximum -> illegal
- * If scoresheet was miscalculated -> illegal
- * If enhancement was improperly applied -> illegal

CLAIM 9: Newly Discovered Evidence

- * Any evidence discovered post-trial that would probably produce a different result
- * This is ongoing -- as investigation reveals new facts, they can be added

Step 3C: Huff Hearing

- * Court will schedule a Huff hearing (Huff v. State)
- * Attorney argues legal sufficiency of each claim
- * If claims are facially sufficient -> court orders evidentiary hearing

Step 3D: Evidentiary Hearing

- * Present live testimony and evidence
- * Call witnesses: trial counsel, investigators, experts
- * Present suppressed evidence, new evidence

Step 3E: Post-Hearing

- * File proposed findings of fact and conclusions of law
- * If GRANTED: conviction vacated, new trial ordered
- * If DENIED: Appeal to 5th DCA within **30 days**

PHASE 4: APPEAL OF 3.850 DENIAL

Step 4A: File Notice of Appeal

- * Within **30 days** of order denying 3.850
- * File with Seminole County Clerk

Step 4B: Brief in 5th DCA

- * Raise all preserved issues from 3.850 proceedings
- * Standard of review varies by claim type

Step 4C: Decision

- * If REVERSED: remand with instructions
- * If AFFIRMED: proceed to federal habeas

PHASE 5: FEDERAL HABEAS (28 U.S.C. § 2254)

Step 5A: Timing

- * 1-year AEDPA statute of limitations from when conviction becomes "final" in state court
- * Tolloed while state postconviction proceedings are pending

Step 5B: File in M.D. Florida

- * U.S. District Court, Middle District of Florida (Orlando Division)
- * File § 2254 petition with memorandum of law
- * Raise all federal constitutional claims exhausted in state court

Step 5C: Magistrate Report & Recommendation

- * Magistrate judge reviews and issues R&R
- * File objections within 14 days

Step 5D: District Judge Decision

- * If GRANTED: writ issues, conviction vacated, State may retry
- * If DENIED: request Certificate of Appealability (COA)

Step 5E: 11th Circuit Appeal

- * Must obtain COA on each issue
- * Brief and argue before 11th Circuit panel

PARALLEL TRACK: CIVIL & ANCILLARY PROCEEDINGS

Uber Civil Litigation

- * After criminal case resolved (per Heck v. Humphrey)
- * Negligent hiring/supervision, vicarious liability
- * Preserve evidence NOW for future civil use

§ 1983 Civil Rights

- * After conviction overturned (Heck barrier)
- * Against officers/department for constitutional violations
- * Municipal liability under Monell

Public Records Actions

- * Mandamus under § 119.11 if records requests denied
- * File immediately -- don't wait

CRITICAL DEADLINES TRACKER

| Action | Deadline | Status |

|-----|-----|-----|

| Obtain Judgment & Sentence | IMMEDIATELY | [] |

| Determine if direct appeal was filed | IMMEDIATELY | [] |

| File Notice of Appeal (if window open) | 30 days from sentencing | [] |

- | File Rule 3.850 | 2 years from conviction final | |
 - | File Rule 3.800(a) -- illegal sentence | NO DEADLINE | |
 - | Order trial transcript | ASAP | |
 - | File public records requests | IMMEDIATELY | |
 - | Send preservation/litigation hold letters | IMMEDIATELY | |
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This guide is the master roadmap. Every action should be tracked here. Missing a deadline is malpractice.