



Judicial Council of California

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Subject Details (With Text)

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Title: Rules and Forms | Appellate Procedure: Notice of Appeal After Plea or Admission of Probation Violation (Action Required)

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10/1/2021	1	Judicial Council	approved	Pass

Title

Rules and Forms | Appellate Procedure: Notice of Appeal After Plea or Admission of Probation Violation (Action Required)

Summary

The Appellate Advisory Committee recommends amending the rule that governs initiating an appeal in a felony case after a plea of guilty or nolo contendere or after an admission of a probation violation. The amendments would reorganize the rule, simplify procedures, and eliminate the onus on the clerk to make a legal decision regarding whether the notice of appeal should be filed.

Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2022, amend rule 8.304 of the California Rules of Court to:

1. Distinguish between appeals that require a certificate of probable cause and those that do not;
2. Provide that if a notice of appeal is filed without a request for a certificate of probable cause or the trial court denies the request, the appeal may proceed on noncertificate issues;
3. Add the district appellate projects to the list of persons and entities that receive notification of the filing of a notice of appeal, and include in the notification information regarding whether the appeal is limited to noncertificate issues and whether the defendant requested a certificate of probable cause; and
4. Update the advisory committee comment to reflect the changes to the rule and to include references to Supreme Court cases analyzing circumstances in which no certificate of probable cause for an appeal is required.