

Index

ABANDONMENT OF APPEAL

Briefs, § 77.7

ACCOMPLICES

Jury instructions, consideration of and weight to be given testimony, § 38.25

ACQUITTAL

Memorandum in support of motion for acquittal, § 13.1.8

Post-verdict motion for judgment of acquittal, § 13.1 et seq.

AFFIDAVITS

Amicus curiae, affidavit in support of motion for leave to appear, form, § 8.20

Co-Defendants and Co-Appellants (this index)

Court-appointed counsel, form of affidavit of indigency, § 1.8

Excessive bail, affidavit in support of motion for reduction, form, § 14.7

Expungement of record, affidavit in support of motion to order, § 8.11

Guilty plea withdrawal, form of affidavit in support of motion for leave of court, § 128.22

In forma pauperis, form of affidavit in support of petition for order permitting defendant to appeal conviction and authorizing expenditure of public funds for costs and expenses, § 34.8

Judicial misconduct, form of affidavit for judge's disqualification on ground of bias and prejudice, § 109.5

AFFIDAVITS—Cont'd

Search warrant affidavit, attacking for lack of probable cause to search particular residence, § 123.11

Severance of actions, form of affidavit in support of motion for, § 122.6

Suppression of evidence. **Evidence** (this index)

Witnesses (this index)

ALCOHOLIC BEVERAGES

Intoxication (this index)

AMENDMENTS

Judgment, § 179.5

Notice of appeal, § 28.50

Petition for writ of habeas corpus, § 133.14.50

AMICUS CURIAE

Affidavit in support of motion for leave to appear, form, § 8.20

Appellate courts. Leave, *infra*

Briefs, generally, § 8.15 et seq.

Consent in federal court of parties to filing amicus curiae brief, form, § 8.21

Federal court

Motion and notice for permission to appear, file brief and make oral argument, form, § 8.16

Parties' consent in Court of Appeals to filing amicus curiae brief, form, § 8.21

Hearsay use by prosecutor denying right of confrontation, § 101.9

Leave

Affidavit in support of motion for leave to appear, form, § 8.20

AMICUS CURIAE—Cont'd

Leave—Cont'd

Appellate court

Motion for leave to file brief and for enlargement of time, form, § **8.18**

Motion for leave to file brief on issues of paramount importance, form, § **8.17**

Oral argument, form of motion for leave of court to participate in, § **8.19**

Order granting leave to appear as amicus curiae and reciting need, form, § **8.22**

Motions

Affidavit in support of motion for leave to appear, form, § **8.20**

Appellate court

Motion for leave to file brief and for enlargement of time, form, § **8.18**

Motion for leave to file brief on issues of paramount importance, form, § **8.17**

Federal court, form of motion and notice for permission to appear, file brief and make oral argument, § **8.16**

Oral argument, form of motion for leave to participate, § **8.19**

Oral argument

Federal court, motion and notice for permission to make oral argument, § **8.16**

Leave to participate, form of motion for, § **8.19**

Orders

Hearing on motion to participate in oral argument by amicus curiae, form of order setting date, § **8.19**

Leave to appear, form of order granting and reciting need, § **8.22**

AMPOULES

Intoxication, preservation of breathalyzer test ampoules, § **123.3**

ANDERS STANDARD

Audio evidence, use of, § **139.20**

Defendant's response to Anders brief, § **139.50**

Determination of drug quantity, § **139.10**

Discovery violation issue, analysis of, § **139.20**

Ineffective assistance of counsel, § **139.20**

No merit appeal, § **139.30**

Sample brief, reasonableness of sentence, § **139**

APPEAL RECORD

Guilty plea withdrawal, record on appeal, § **128.7**

Jury instructions. **Jury and Jury Trial** (this index)

Scope, § **50.5**

Sufficiency, § **50.6**

APPEALS

As to handling appeals in general, see more specific topics

Amendments to notice of appeal, § **28.50**

Bail pending appeal. **Bail or Bond** (this index)

Petition for Review of Order Dismissing, Arizona, § **188.50**

Reinstatement of appeal of right, § **34.15**

APPEARANCE

Amicus Curiae (this index)

Pro hac vice appearance for client, form of motion to make, § **1.6**

APPELLATE COUNSEL

Adequacy of representation, § **8.5**

Advocacy, § **5**

INDEX

APPELLATE COURTS

- Amicus Curiae** (this index)
- Death penalty statutes, constitutional attack through State Appellate System, § **133.11**

APPLICATIONS

- Expungement of Criminal Record** (this index)
- In forma pauperis, form of application or petition for order permitting defendant to appeal conviction and authorizing public funds for costs and expenses, § **34.7**
- Transcript, approval, § **56.5**

ARGUMENTS

- Argument court erred in admitting evidence under residual exception to hearsay rule
 - Brief, § **96.4.87**
- Brief, No structural error by court, sample argument
 - Appellants necessary intent, § **96.4.85**
- Brief, sample argument
 - Court erred in admitting photographic evidence, § **96.4.86**
 - Plea accepted without defendants sufficient factual basis, § **96.4.79.5**
- Brief writing, sufficiency of evidence as appellate issue, § **93.5**
- Burden of reconstruction of incomplete record, sample argument, § **96.4.76**
- Court erred in accepting plea, sample argument
 - Appellants necessary intent, § **96.4.79**
- Courts Plain error in admitting testimony
 - Brief, § **96.4.90**

ARGUMENTS—Cont'd

- Improper denial of Wheeler/Batson challenge, sample argument, § **96.4.78**
- No waiver of issues, § **96.6**
- Oral Argument** (this index)
- Probation violation, sample argument, § **96.4.80**
- Prosecutorial misconduct in closing, § **96.4.50**
- Sample, prejudicial
 - Asserting prosecutions closing argument, § **111.50**
- Sample, Prosecutions closing argument did not constitute misconduct, § **111.75**
- Sample argument, § **96.3 et seq.**
- Search warrant affidavit, attacking for lack of probable cause to search particular residence, § **123.11**
- Sentence reduction and aggravating factors, sample argument, § **96.4**
- Waiver of issues, § **96.5, 96.6**
- Wrongful admission of hearsay evidence, sample argument, § **96.4.75**

ARIZONA

- Petition for Review of Order Dismissing Appeal, § **188.50**

ARTICULATION

- Motion for, § **74.8**

ATTORNEYS

- Advocacy, § **5**
- Appellate counsel, appointment, § **1.5**
- Co-defendant representation. **Co-Defendants and Co-Appellants** (this index)
- Court-Appointed Counsel** (this index)
- Fees. **Attorneys' Fees** (this index)
- Forfeiture of right to counsel, § **123.15**
- Pro hac vice appearance, form of motion to make, § **1.6**

ATTORNEYS—Cont'd

- Substitution of counsel, sentence review, § **133.13.50**
- Withdrawal of counsel, form of counsel's notice to appellant of motion for leave to withdraw in frivolous in forma pauperis action, § **34.4, 34.5**

ATTORNEYS' FEES

- Court-Appointed Counsel** (this index)
- Forfeiture of attorneys' fees in drug case, § **123.8**

AUGMENTATION

- Guilty plea withdrawal, form of motion to augment record on appeal, § **128.7**
- Transcript, loss of, § **74.5**
- Unopposed motion to supplement record, § **74.25**

AUTOMOBILES

- Search and seizure
 - Affidavit in support of motion to suppress evidence, search without warrant or probable cause, form, § **44.21**
 - Checklist of questions, § **43.4**

BAIL OR BOND

- Appeals, bail pending
 - Generally, § **21.9**
 - Change in circumstances, § **21.6.50**
 - Memorandum in support of motion requesting bond, § **21.6.25**
 - Motion for release and bond, § **21.6**
- Appearance bond
 - Generally, forms, § **21.3, 21.4**
 - Indictment, form of bail bond after, § **21.5**
 - Pending appeal, § **21.6**
 - Unsecured, form, § **14.3**
 - With sureties, form, § **14.4**

BAIL OR BOND—Cont'd

- Application to review conditions of release, form, § **14.5**
- Conditions of release
 - Application to review conditions, form, § **14.5**
 - Excessive bail, form of motion and notice to amend conditions, § **14.6**
- Excessive bail
 - Affidavit in support of motion for reduction, form, § **14.7**
 - Motion and notice to reduce bail, form, § **14.6**
- Federal Bail Reform Act, § **14.1**
- Forfeiture and release bond, petition to strike, § **21.12.50**
- Memorandum in support of motion, § **20**
- Notice of motion to set bail, § **19, 20**
- Procedure, § **21.11**
- Recognizance
 - Personal recognizance bond, forms, § **14.2, 21.7**
 - Surety on bond, form for justification, § **21.8**
- Remittance of forfeited bail, § **21.12**
- Restrictions while on bail, § **16.5**
- Revocation of bail, § **14.1.5**
- Sentencing, bail pending, § **21.10**
- Sureties or surety bond
 - Generally, § **21.1, 21.3**
 - Checklist, § **21.2**
 - Form of appearance bond with sureties, § **14.4**
 - Recognizance, form for justification by surety, § **21.8**

BLOOD TEST

- Intoxication, preservation of evidence in crimes involving, § **123.1, 123.4**

BONDS AND UNDERTAKINGS

- Appeal bond, in forma pauperis proceedings, form, § **34.11**

INDEX

BONDS AND UNDERTAKINGS

—Cont'd

Bail or Bond (this index)

BRADY VIOLATIONS

Misconduct, § 108.6

BREATHALYZER TEST

Intoxication, preservation of evidence in crimes involving, § 123.2, 123.3

BRIBERY

Case or procedural history, sample statement

Factual statement, § 80.6

Sample arguments, plea in bribery prosecution, § 155.50

BRIEFS

Abandonment of appeal, § 77.7

Abuse of court's discretion reducing defendant's sentence, § 101.8.5

Adequacy, generally, § 77.5

Argument court erred in admitting evidence under residual exception to hearsay rule, § 96.4.87

Court erred in accepting plea, sample argument

Appellants necessary intent, § 96.4.79

Court erred in admitting photographic evidence, sample argument

Appellants necessary intent, § 96.4.86

Court order to file brief, § 77.8

Courts plain error in admitting testimony

Sample argument, § 96.4.90

Denial of right to confrontation and cross-examination, sample brief asserting, § 101.7

Guilty plea withdrawal. **Guilty Pleas** (this index)

BRIEFS—Cont'd

Improper denial of Wheeler/Batson challenge, sample argument, § 96.4.78

Ineffective assistance of counsel, § 116.6.50

Instruction to jury, sample brief regarding, § 101.8

No structural error by court, sample argument

Brief, § 96.4.85

Opening brief, appeal of district court

Defendant's speech was constitutionally protected, § 77.9

Oral argument, sample respondent's brief addressing jurisdiction, § 167.7

Plea accepted without defendants sufficient factual basis

Sample Argument, § 96.4.79.5

Reply Brief (this index)

Right of third-party to appeal court DNA order, § 101.10

Sample arguments, plea in bribery prosecution, § 155.50

Supplementation of, § 77.6

CAPITAL PUNISHMENT

Appeals, generally. See other lines in this topic

Constitutional Law (this index)

Elements of statute, § 133.2

Furman v. Georgia, § 133.3

Gregg v. Georgia, § 133.4, 133.8

Habeas corpus

Constitutional attack of state death penalty statutes, § 133.12

Drafting federal habeas corpus petition, § 133.13

Matters related to habeas corpus petition, § 133.15

Recent developments in habeas corpus jurisdiction of federal courts, § 133.16

CAPITAL PUNISHMENT—Cont'd

- Habeas corpus—Cont'd
 - Sample habeas corpus petition, form, § 133.14
- Identification of state death penalty statutes, § 133.18
- Mandatory death penalties, § 133.5, 133.7
- Minors, § 133.6
- Retroactivity of death penalty, § 133.9
- Statutory interpretation, § 133.1
- Statutory summary, § 133.17
- Writ of certiorari, capital cases, § 190.50

CERTIFICATES

- Model forms for use with motions under 28 USC § 2255, certificate of officer of institution, § 201

CHECKLISTS

- Guilty Pleas** (this index)
- Search and seizure, checklist of questions. **Search and Seizure** (this index)
- Sureties on bail bond, § 21.2

CHILDREN

- Death penalty, § 133.6

**CO-DEFENDANTS AND
CO-APPELLANTS**

- Generally. **Joint or Separate Trials** (this index)
- Affidavit in support of motion
 - To disqualify co-defendant's attorney, form, § 1.11
 - To represent co-defendants, form Attorneys, § 1.9
 - Defendant, § 1.10

COLLATERAL ATTACK

- Error coram nobis, § 140.5, 140.6
- Instances of, § 143.5
- Procedure, § 143.6

COLLATERAL ATTACK—Cont'd

- Writ of coram nobis, petition for, § 140.6

COMPASSIONATE RELEASE

- Sample motion for, § 132.1

COMPETENCY

- Motion for new trial, denied fair and impartial trial, § 130.6.5

CONCESSIONS

- Reply brief, retraction of concession, § 105.8

CONDITIONAL PLEA

- Pleas, § 125.5

CONFESSIONS

- Jury instruction, voluntariness of confession, § 38.20
- Suppression of defendant's confession
 - Affidavit in support of motion to suppress improperly-obtained evidence, form, § 44.20
 - Evidentiary hearing as alternative, form of motion for, § 44.13

CONFLICT OF INTEREST

- Denial of effective representation, § 113.6, 113.7
- Motion to withdraw by public defender, § 113.7

CONSPIRACY

- Motion to suppress testimony of coconspirator pending sentencing of other coconspirator, form
 - Federal, § 44.4
 - State, § 44.16

CONSTITUTIONAL LAW

- Death penalty
 - Federal habeas proceeding, constitutional attack of statutes through, § 133.12
- Procedural avenues of constitutional attack, § 133.10

INDEX

CONSTITUTIONAL LAW—Cont'd

Death penalty—Cont'd
State Appellate System,
constitutional attack of
statutes through, § **133.11**

CONSTITUTIONAL RIGHTS

Violation, Trial record, § **35.2.7**

CORAM NOBIS

Petition for writ of, § **140.6**

CORRECTION OF SENTENCE

Sentences and Sentence Review
(this index)

COURT-APPOINTED COUNSEL

Affidavit of indigency by defendant,
form, § **1.8**
Appellate counsel, § **1.5**
Fees
Order for compensation, form,
§ **1.13**
Voucher for, form, § **1.14**
Model forms for use with motions
under 28 USC § 2255, allegation
of inadequate assistance of
counsel, § **203**
Order
Appointment, form, § **1.12**
Compensation, form, § **1.13**
Request for, form, § **1.5**
Right to appellate counsel, § **0.50**
Voucher for compensation and
expenses, form, § **1.14**

COURT ORDER TO FILE BRIEF

Briefs, § **77.8**

CUMULATIVE ERROR DOCTRINE

Substantive law, § **117.4**

DECISION OR OPINION

Opinion or Decision (this index)

DENIAL OF EFFECTIVE REPRESENTATION

Appellate counsel for indigent
defendant, § **8.5**

DENIAL OF EFFECTIVE

REPRESENTATION—Cont'd

Conflict of interest, § **113.6**
Counsel not ineffective, § **108.6**
Counsel on appeal, § **116.6**
Direct appeal, § **116.8**
Failure to file appellate brief,
§ **116.6.50**
Guilty plea, proof of ineffective assis-
tance in connection with,
§ **116.5**
Habeas corpus petition, form, § **113.5**
Model forms for use with motions
under 28 USC § 2255, allegation
for inadequate assistance of
court-appointed counsel, § **203**
No merit appeal, § **139.90**
Procedural issues, § **116.7**
Reply brief addressing, § **106.70**
Strategy, § **113.3.5**

DIRECT APPEAL

Denial of effective representation,
§ **116.8**

DISCLOSURE

Expert witness for prosecution, form
of motion to compel disclosure
of identity, § **35.6**
Informant, illustrative request for
independent appellate review of
trial court's denial of disclosure
of identity, § **123.12**

DISCRETIONARY REIVEW

Writ of certiorari, jurisdiction to pros-
ecute non-Indian for crime in
Indian country, § **190.75**

DISCRETIONARY REVIEW

In forma pauperis declaration, model
form for use with motions under
28 USC § 2255, § **201**
Orders. Sentence, *infra*
Petition for Review of Order
Dismissing Appeal, Arizona,
§ **188.50**

DISCRETIONARY REVIEW

—Cont'd

- Petition for writ of certiorari
 - Review State Supreme Courts holding on double jeopardy clause, § **190.85**
- Petitions, § **189 et seq., 208, 209**
- Procedure, § **197**
- Reply brief, § **106.80**
- Sentence
 - Orders
 - Correction of sentence, form, § **207**
 - Motion to vacate, set aside, or correct, form of order denying, § **206**
 - Person in federal custody, model form for use with motions under 28 USC § 2255 to vacate, set aside, or correct, § **200**
 - Writ of certiorari, capital cases, § **190.50**

DISMISSAL

- Appeal, Petition for Review of Order Arizona, § **188.50**
- Prosecutorial misconduct, § **111.25**

DOUBLE JEOPARDY CLAUSE

- Petition for writ of certiorari
 - Review State Supreme Courts holding
 - Discretionary review, § **190.85**

DRUGS AND NARCOTICS

- Attorneys' fees, forfeiture in drug case, § **123.8**
- Blood, urine and other specimens, preservation of evidence, § **123.4**
- Enhanced sentence where firearms involved
 - Generally, § **129.1**
 - Carrying firearm, § **129.2**
 - Drug fortress theory, § **129.4**

DRUGS AND NARCOTICS—Cont'd

- Enhanced sentence where firearms involved—Cont'd
 - Using firearm, § **129.3**
- Forfeitures in drug cases
 - Attorneys' fees subject to forfeiture, § **123.8**
 - Property subject to forfeiture, § **123.6**
- Jury trial right in drug cases, § **123.9**
- Sentence review. Enhanced sentence where firearms involved, *supra*
- Substantive errors in drug cases, § **117.2**

DUE PROCESS

- Motion to set aside verdict for violation of, § **130.5.5**

ELECTRONIC SURVEILLANCE

- Affidavit in support of motion to suppress illegal wiretap, form, § **44.18**

EN BANC

- Habeas corpus appeal as to denial of guilty plea withdrawal, rehearing en banc, § **128.13**

ENHANCED SENTENCE PROCEEDINGS

- Firearms in drug cases. **Drugs and Narcotics** (this index)

ERRORS AT TRIAL

- Clerical errors, § **124.9**
- Extension of time to file statement of errors, § **59.25**
- Harmless error
 - Opinion or decision, harmless error at trial court level, § **182.5**
- Instructions, errors in, § **124.8**
- Sentences and sentence review, § **124.5**
- Statement of errors, generally, § **59.50**

INDEX

ESTOPPEL

Waiver and Estoppel (this index)

EVIDENCE

Disposition in trial court after appeal filed, § **70.5**

Evidentiary hearing. Suppression, *infra*

Intoxication (this index)

Photographic, Court erred in admitting

Brief, sample argument, § **96.4.86**

Preservation

Drugs and narcotics, preservation of blood, urine and other specimens, § **123.4**

Intoxication (this index)

Videotapes, § **123.5**

Suppression

Affidavit in support of motion to suppress

Illegal wiretap, form, § **44.18**

Incriminating statements, delay in bringing defendant before magistrate, form, § **44.5**

Search and Seizure (this index)

Confessions (this index)

Evidentiary hearing

Motion to suppress defendant's confession, form of motion for evidentiary hearing as alternative, § **44.13**

Motion to suppress evidence, form of motion for hearing on, § **44.12**

Incriminating statements, form of motion for suppression

Delay in bringing defendant before magistrate, § **44.2**

Involuntarily or under duress, statement obtained by police, form, § **44.17**

Interviewing client, § **43.2**

EVIDENCE—Cont'd

Suppression—Cont'd

Motion

Defendant's prior criminal record, form, § **44.15**

Evidentiary hearing, *supra*

Incriminating statements, form of motion for suppression, *supra*

In limine motion to suppress, form, § **44.14**

Return of property, form of motion for suppression and, § **44.3**

Sentencing of one coconspirator on bargained guilty plea, form of motion to suppress testimony of other conspirator until

Federal, § **44.4**

State, § **44.16**

Unlawful search, seizure, and arrest, form of motion to suppress evidence of property seized as result of, § **44.10**

Willful suppression of favorable evidence allegation, model forms for use with motions under 28 USC § 2255, § **205**

Notice of motion

Generally, form, § **44.8**

And counteraffidavit search warrant, § **44.9**

Order of

Generally, form, § **44.24**

Statements of defendant to law enforcement authorities, form, § **44.25**

Order suppressing evidence and directing return of property, form, § **44.7**

Preserving record for appeal, § **43.1 et seq.**

Procedure, § **44.1**

EVIDENCE—Cont'd

Suppression—Cont'd

Return of property

Affidavit in support of motion to suppress and for return of property, form, insufficiency of affidavit upon which warrant issued, § 44.6

Motion for suppression and return, form, § 44.3

Order suppressing evidence and directing return, form, § 44.7

Search and Seizure (this index)

Willful suppression of favorable evidence allegation, model forms for use with motions under 28 USC § 2255, § 205

Videotapes in intoxication cases, preservation, § 123.5

Weight and Sufficiency of Evidence (this index)

Wiretapping, affidavit in support of motion to suppress illegal wiretap, form, § 44.18

EXCESSIVE BAIL

Bail or Bond (this index)

EXCESSIVE FINE

Fines and Penalties (this index)

EXCESSIVE SENTENCES

Sentences and Sentence Review (this index)

EXECUTION OF JUDGMENT

Stay of Execution (this index)

EXPERT WITNESSES

Disclosure of identity of expert witness for prosecution, form of motion to compel, § 35.6

EXPUNGEMENT OF CRIMINAL RECORD

Generally, § 8.6 to 8.14

EXPUNGEMENT OF CRIMINAL RECORD—Cont'd

Affidavit in support of motion for order of expungement, form, § 8.11

Mandamus, form of petition or application to compel court as to, § 8.9

New trial motion for purpose of expunging record, § 8.10

Order of expungement

Generally, forms, § 8.13, 8.14

Affidavit in support of motion, form, § 8.11

Petition or application for, form, § 8.7

Order to show cause, form, § 8.12

Sealing of record, form, § 8.14

EXTENSIONS OF TIME

In forma pauperis, form of motion to extend time to perfect appeal, § 34.3

Motion for extension of time to file statement of errors, § 59.25

FACTUAL STATEMENTS

Appealable decision, § 10.5

Case, procedural history, Bribery, § 80.6

Judgments not subject to appeal, § 10.7

Procedural history (statement of the case), § 80

Sample statement of facts

Appeal of interlocutory order, collateral order doctrine, § 81.5

Sample statement of the case, § 80.5

When right to appeal is triggered, § 10.6

FEDERAL BAIL REFORM ACT

Generally, § 14.1

FEDERAL COURTS

Amicus Curiae (this index)

INDEX

FEES AND COSTS

- Attorneys' Fees** (this index)
- Court-Appointed Counsel** (this index)

FINES AND PENALTIES

- Excessive fine
 - Motion to vacate and set aside, form, § **130.6**
 - Notice of motion to vacate and set aside, form, § **130.2**
- Forfeitures. **Drugs and Narcotics** (this index)

FORFEITURES

- Drugs and Narcotics** (this index)
- Petition to strike forfeiture and release bond, § **21.12.50**
- Right to counsel, forfeiture of, § **123.15**

FORMS

- Appointment of counsel for indigent. **Court-Appointed Counsel** (this index)
- Co-defendant representation. **Co-Defendants and Co-Appellants** (this index)
- Expungement of Criminal Record** (this index)
- Guilty Pleas** (this index)
- In Forma Pauperis** (this index)
- Joint or Separate Trials** (this index)
- Judicial Misconduct** (this index)
- Making and preserving record at trial. **Trial Record** (this index)
- Pro hac vice appearance for client, form of motion, § **1.6**
- Sentences and Sentence Review** (this index)

FRIVOLOUS APPEALS

- In forma pauperis, form of counsel's notice to appellant, motion for leave to withdraw, § **34.4, 34.5**

FUNDAMENTAL ERROR

- Misconduct, § **108.5**

FURMAN v. GEORGIA

- Capital punishment, § **133.3**

GOOD FAITH

- Illustrative argument attacking search warrant, good faith exception did not apply to excuse compliance to list of property to be seized and probable cause requirement, § **123.13**

GRAND JURY

- Plea in abatement, form, grand jury not properly constituted, § **128.17**

GREGG v. GEORGIA

- Capital punishment, § **133.4, 133.8**

GROUND FOR NEW TRIAL

- Respondent's brief, § **23.5**

GUILTY PLEAS

- Allocution transcript of appealed plea, § **127.75**
- Breach of plea agreement, § **128.25**
- Briefs. Withdrawal, infra
- Checklists. Withdrawal, infra
- Habeas corpus appeal as to denial of withdrawal
 - Briefs
 - Opening brief, § **128.11**
 - Reply brief, § **128.12**
 - Notice of appeal, § **128.10**
 - Rehearing and rehearing en banc
 - Generally, § **128.13**
 - Petition for rehearing, § **128.14**
- Ineffective assistance of counsel, proof of, § **116.5**
- Interview checklist, motion for withdrawal of plea, § **128.3**
- Law of the case, § **127.5**
- Leave to withdraw. Withdrawal, infra
- Medicare fraud lawsuit, § **128.16.5**

GUILTY PLEAS—Cont'd

Plain error standard, § 128.23

Plea bargaining

Form of plea agreement, guilty plea entered by cooperating defendant, § 128.16

Medicare fraud lawsuit, § 128.16.5

Suppression of co-conspirator's testimony until sentencing of other co-conspirator, form of motion as to

Federal, § 44.4

State, § 44.16

Record

Making record of guilty plea, § 43.7

Record on appeal, motion to withdraw guilty plea, § 128.7

Resentencing, § 128.5.5

Waiver and plea, issues of, § 128.24

Withdrawal

Brief on appeal

Generally, § 128.8

Habeas corpus appeal as to denial of withdrawal, *supra*

Checklists

Grounds for withdrawal, § 128.15

Interview checklist, motion for withdrawal of plea, § 128.3

Consequences of plea withdrawal, § 128.5

Interview checklist, motion for withdrawal of plea, § 128.3

Leave to withdraw

Affidavit in support of motion, form, § 128.22

Motion, form, § 128.20, 128.21

Motion, generally, § 128.1

Notice of appeal, § 128.6, 128.10

Oral argument, § 128.9

Preparation outline, § 128.4

Record on appeal, § 128.7

GUILTY PLEAS—Cont'd

Withdrawal—Cont'd

Rehearing. Habeas corpus appeal as to denial of withdrawal, *supra*

Resentencing, § 128.5.5

Transcript of plea proceedings, § 128.2

HABEAS CORPUS

Amended petition for writ, § 133.14.50

Capital Punishment (this index)

Denial of effective representation, form of petition, § 113.5

Guilty Pleas (this index)

Sample state petition, § 133.14.25

HARMLESS ERROR

Opinion or decision, harmless error at trial court level, § 182.5

Reply brief, § 105.7

Sentences and sentence review, § 132.5

HEARINGS

Amicus curiae, hearing on motion to participate in oral argument by amicus curiae, form of order setting date, § 8.19

Evidence (this index)

Mental competency of defendant, form of order for hearing on mental condition after examination report indicating incompetency, § 120.4

ILLEGALLY-OBTAINED EVIDENCE

Checklist of questions, illegally-obtained statements, § 43.6

Wiretapping, affidavit in support of motion to suppress illegal wiretap, form, § 44.18

IMMUNITY FROM PROSECUTION

Jury instructions, weight of testimony of witness granted immunity, § 38.11

INDEX

IN BANC

Oral argument, statutory framework,
§ 171.1

INCOMPETENCE OF COUNSEL

Denial of Effective Representation
(this index)

INCOMPETENCY

Mental Competency (this index)

INFORMANT

Illustrative request for independent
appellate review of trial court's
denial of disclosure of identity,
§ 123.12

IN FORMA PAUPERIS

Affidavit in support of petition for
order permitting defendant to
appeal conviction and authoriz-
ing public funds for costs and
expenses, form, § 34.8

Application or petition for order
permitting defendant to appeal
conviction and authorizing pub-
lic funds for costs and expenses,
form, § 34.7

Court-appointed counsel

Motion for leave to proceed, free
counsel and free transcript,
form, § 34.6

Order granting leave to proceed
and appointing counsel, form,
§ 34.10

Declaration in support, model form
for use with motions under 28
USC § 2255, § 201

Free transcript, form of motion for,
§ 34.6

Frivolous appeals, form of counsel's
notice to appellant, motion for
leave to withdraw, § 34.4, 34.5

Leave of court

Frivolous appeals, form of
counsel's notice to appellant,
motion for leave to withdraw,
§ 34.4, 34.5

IN FORMA PAUPERIS—Cont'd

Leave of court—Cont'd

Motion for leave to proceed, free
counsel and free transcript,
form, § 34.6

Order granting leave to proceed
and appointing counsel, form,
§ 34.10

Motions, see more specific lines in
this topic

Notice

Appeal, notice of. Notice of
appeal, form, *infra*

Motion to extend time to perfect
appeal, form, § 34.3

Notice of appeal, form

Court of general jurisdiction,
§ 34.2

Inferior court conviction, § 34.1

Order

Affidavit in support of petition for
order permitting defendant to
appeal conviction and
authorizing public funds for
costs and expenses, form,
§ 34.8

Appeal of conviction, form of
order permitting and authoriz-
ing expenditure of public
funds for costs and expenses,
§ 34.9

Leave to proceed and appointing
counsel, form of order grant-
ing, § 34.10

IN LIMINE MOTIONS

Suppression of evidence, form,
§ 44.14

INNOCENCE OR GUILT

Presumption of innocence, jury
instructions, § 38.7

INSANITY

Not guilty by reason of insanity, form
of special plea, § 128.19

INSTRUCTIONS TO JURY

Jury and Jury Trial (this index)

INTENT

Intoxication, jury instruction as to intoxication as negating specific intent, § **38.14**

INTERLOCUTORY APPEAL

Generally, § **24.5**

Notice of appeal, § **24.10, 24.15**

INTERVIEW

Prosecution witness, form of notice of motion to compel prosecutor to produce witness, § **35.2**

Suppression of evidence, interviewing client for appellate issues, § **43.2**

Withdrawal of guilty plea, interview checklist, § **128.3**

INTOXICATION

Ampoules, preservation of evidence, § **123.3**

Blood test, preservation of evidence, § **123.1**

Breathalyzer test, preservation of evidence, § **123.2, 123.3**

Jury instruction, intoxication as negating specific intent, § **38.14**

Videotapes, preservation of evidence, § **123.5**

JOINDER

Issues on appeal, § **122.4.5**

Sample legal basis supporting motion, § **122.4.6**

JOINDER OF COUNTS

Jury instruction, consideration of each count of indictment separately, § **38.21**

Severance of counts, form of motion for, § **122.4**

JOINT OR SEPARATE TRIALS

Jury instructions, consideration of each defendant separately, § **38.22**

JOINT OR SEPARATE TRIALS

—Cont'd

Motions

Separate trial, form of motion for, § **122.3**

Severance, *infra*

Prejudice

Order for separate trial on ground of prejudicial joinder, form, § **122.7**

Severance, form of motion, prejudicial joinder on basis of codefendant's statement to authorities, § **122.5**

Severance

Issues on appeal, § **122.1**

Motions

Affidavit in support of motion, form, § **122.6**

Prejudicial joinder on basis of codefendant's statement to authorities, form of motion for, § **122.5**

Notice of motion, form, § **122.2**

JOINT REPRESENTATION

Jury instruction, consideration of each defendant separately despite representation by same attorney, § **38.23**

JUDGES

Argument, trial judge's failure to act on own motions as appellate issue, § **93.6**

Misconduct. **Judicial Misconduct** (this index)

JUDGMENTS AND ORDERS

Amendment of judgment, § **179.5**

Amicus Curiae (this index)

Expungement of Criminal Record (this index)

Factual statements, judgments not subject to appeal, § **10.7**

In Forma Pauperis (this index)

INDEX

JUDGMENTS AND ORDERS

—Cont'd

Judicial misconduct, form of order transferring proceedings on judge's disqualification, § 109.5

Mental Competency (this index)

Sentences and Sentence Review (this index)

Separate trial of co-defendants on ground of prejudicial joinder, form of order for, § 122.7

Stay of Execution (this index)

Suppression orders. **Evidence** (this index)

JUDICIAL MISCONDUCT

Affidavit for disqualification of judge on ground of bias and prejudice, form, § 109.4

Disqualification of judge

Generally, § 109.1

Affidavit for disqualification on ground of bias and prejudice, form, § 109.4

Motion, form, § 109.2

Order transferring proceedings on judge's disqualification, form, § 109.5

Motions

Disqualification of judge, form, § 109.2

Voluntary withdrawal of judge, form of motion for, § 109.3

Order transferring proceedings on judge's disqualification, form, § 109.5

Withdrawal of judge voluntarily, form of motion, § 109.2

JURISDICTION

Oral argument, sample respondent's brief, § 167.7

Prosecuting non-Indian for crime in Indian country, writ of certiorari, § 190.75

JURISDICTION—Cont'd

Sentences and sentence review, § 129.6

JURY AND JURY TRIAL

Clerical errors in, § 124.9

Drug cases, right to jury trial in, § 123.9

Instructions

Accomplices, consideration of and weight to be given testimony, § 38.25

Confession, voluntariness, § 38.20

Defendant's pretrial statement

Acceptance of part and rejection of part, jury's right as to, § 38.19

Considerations in determining weight to be accorded, § 38.18

Defendant's testimony

Considering, § 38.15

Production or presentation of evidence, defendant not required to do, § 38.17

Right not to testify, not to be influenced by exercise, § 38.16

Errors in, § 124.8

Evidence, jury to consider prosecution's failure to produce, § 38.13

Facts, duty of jury to determine, § 38.4

Fruitful appellate issues, § 38.1

Indictment or information as not evidence, form, § 38.5

Innocence, presumption of, § 38.7

Intoxication as negating specific intent, § 38.14

Joint representation of defendants, effect of, § 38.23

Lesser included offense, right to find defendant guilty of, § 38.24

JURY AND JURY TRIAL—Cont'd

Instructions—Cont'd

Objections to evidence, role of attorneys to protect client's interests, § 38.6

Presumptions and Burden of Proof (this index)

Province of court, § 38.3

Request for, form, § 38.1

Sample appellant brief, § 101.8

Separate counts, consideration, § 38.21

Separate counts of indictment, § 38.21

Separate defendants, consideration of each, § 38.22

Separate parties, § 38.22

Weight of evidence

Accomplices, consideration of and weight to be given testimony, § 38.25

Pretrial statement of defendant, considerations in determining weight to be accorded, § 38.18

Witness granted immunity, weight of testimony of, § 38.11

Witnesses

Failure of prosecution to call, jury's right to consider, § 38.12

Weight of testimony of witness granted immunity, § 38.11

Record on appeal. Instructions, supra

JUVENILE DELINQUENCY

Procedure, § 144.11

LAW OF THE CASE

Guilty pleas, appeals from, § 127.5

LEAVE OF COURT

Amicus Curiae (this index)

In Forma Pauperis (this index)

Withdrawal of guilty plea. **Guilty Pleas** (this index)

LESSER INCLUDED OFFENSE

Jury instruction, right to find defendant guilty of, § 38.24

LISTS

Witnesses, form of motion for list of prosecution witnesses, § 35.5

MANDAMUS

Expungement of criminal record, form of petition or application compelling court, § 8.9

Sentencing review, form of petition for writ to set aside commitment, § 130.8

MANDATORY DEATH PENALTY

Generally, § 133.5, 133.7

MATERIAL WITNESS

Conditional examination of material witness, form of order to show cause on application for, § 35.10

Interstate rendition of material witness, form of petition for, § 35.7

MEMORANDA

Support of motion for acquittal, § 13.1.8

MENTAL COMPETENCY

Federal System, incompetency to stand trial in, § 120.1, 120.1.50

Orders

Defendant, order for examination of, form, § 120.3

Hearing on mental condition of defendant after examination report indicating incompetency, form for, § 120.4

Psychiatric Examination (this index)

MERITS OF APPEAL

Anders standard, § 139.30

INDEX

MINORS

- Cruel and unusual punishment, § 135.50
- Death penalty, § 133.6

MIRANDA DOCTRINE

- Possible erosion, § 123.10

MISCONDUCT

- Brady violations, § 108.6
- Closing argument, supplemental, § 108.3.6
- Closing statements, § 108.3.5
- Fundamental error, § 108.5
- Opening statements, § 108.3
- Prejudice, § 111.5
- Sample Argument
 - Asserting prosecutions closing argument, prejudicial, § 111.50
 - Prosecutions closing argument did not constitute, § 111.75

MOTIONS

- Amicus Curiae** (this index)
- Argument, trial judge's failure to act on own motions as appellate issue, § 93.6
- Articulation, motion for, § 74.8
- Combined defense motion for judgment of acquittal and new trial, and response, § 108.2, 108.2.5
- Dismissal based on prosecutorial misconduct, § 111.25
- Dismiss petition to vacate or set aside judgment of conviction, § 130.9
- Excessive fine, form of motion to vacate and set aside, § 130.6
- Excessive sentence, form of motion to vacate and set aside, § 130.7
- Extension of time to file statement of errors, § 59.25
- In Forma Pauperis** (this index)
- Jail inmate's testimony, motion to exclude, § 124.7.75

MOTIONS—Cont'd

- Joinder, Sample legal basis supporting, § 122.4.6
- Joinder of counts, form of motion for severance, § 122.4
- Joint or Separate Trials** (this index)
- Judgment of acquittal, Ohio, § 13.1.6.25
- Judicial Misconduct** (this index)
- Memorandum in support of motion for acquittal, § 13.1.8
- Mental competency, form of motion and notice for judicial determination, § 120.2
- Model forms for use with motions under 28 USC § 2255
 - Certificate of officer of institution, § 201
 - Inadequate assistance of court-appointed counsel, allegation, § 203
 - In forma pauperis declaration, § 201
 - Perjured testimony, allegation of knowing use by U. S. Attorney, § 204
 - Rule 9 issue, movant's response as to why motion should not be barred (delayed or successive motions), § 202
 - Willful suppression of favorable evidence, allegation, § 205
- New trial, § 8.10, 23.6
 - Federal rule 33, juror bias, § 8.10.50
- New trial, denied fair and impartial trial, competency, § 130.6.5
- Notice of motion to dismiss appeal, § 24.50
- Post-verdict motion for judgment of acquittal, § 13.1 et seq.
- Pro hac vice appearance for client, form of motion, § 1.6
- Resentencing, § 130.9.10
- Sanity commission appointment, § 120.1.75

MOTIONS—Cont'd

- Sentence review motions of defendant, motion to dismiss, § **200.50**
- Stay of execution, § **13.3, 34.13**
- Supplement record, unopposed motion for, § **74.25**
- Suppression of evidence. **Evidence** (this index)
- Transcript, motion to compel defendant to order, § **51.25**
- Vacating, setting aside, or correction of sentence of person in federal custody, model form for use with motions under 28 USC § 2255, § **200**
- Verdict, motion to set aside, § **13.1.7, 130.4**
- Video evidence, motion to supplement appellate record, § **74**
- Withdrawal by public defender, § **113.7**
- Withdrawal of guilty plea. **Guilty Pleas** (this index)
- Witnesses** (this index)

MOTOR VEHICLES

- Automobiles** (this index)

NARCOTICS

- Drugs and Narcotics** (this index)

NEW TRIAL

- Expungement of criminal record, motion for new trial for purpose of, § **8.10**
- Juror bias, federal rule 33, § **8.10.50**
- Motions, § **8.10, 23.6**
- Respondent's brief, grounds for new trial, § **23.5**

NO MERIT APPEAL

- Anders standard, § **139.30**
- Defendant's response to Anders brief, § **139.50**
- Inadequate assistance of counsel, § **139.90**

NO MERIT APPEAL—Cont'd

- Review, § **139.70**
- Withdrawal, § **137.5**

NOTICE AND KNOWLEDGE

- Excessive fine, form of notice of motion to vacate and set aside, § **130.2**
- Excessive sentence, form of notice of motion to vacate and set aside, § **130.3**
- In Forma Pauperis** (this index)
- Mental competency, form of motion and notice for judicial determination, § **120.2**
- Motion to dismiss appeal, § **24.50**
- Severance of actions, form of notice of motion for, § **122.2**
- Stay of execution of judgment, form of notice of motion for order, § **34.13**
- Suppression of evidence. **Evidence** (this index)
- Transcript, notice to clerk to prepare, § **51.5, 52.5**
- Verdict, form of notice of motion to set aside for insufficient evidence, § **130.4**
- Witnesses** (this index)

NOTICE OF APPEAL

- Amendments, § **28.50**
- Guilty plea, appeal of denial as to withdrawal, § **128.6, 128.10**
- In Forma Pauperis** (this index)
- Proceedings pending interlocutory appeal, § **24.15**
- Request for approval as interlocutory appeal, § **24.10**

OBJECTIONS

- Jury instructions, role of attorneys to protect client's interests, § **38.6**

OPENING STATEMENTS

- Prosecutor, § **108.3**

INDEX

OPINION OR DECISION

- Alteration or amendment of judgment, § **179.5**
- Appealable decision, § **10.5**
- Effect of, § **183**
- Factual statements, appealable decision, § **10.5**
- Harmless error at trial court level, § **182.5**

ORAL ARGUMENT

- Amicus Curiae** (this index)
- Closing argument, supplemental, § **108.3.6**
- Closing statements, § **108.3.5**
- In banc proceedings, statutory framework, § **171.1**
- Issues raised for the first time, § **167.5**
- Opening statement of prosecutor, § **108.3**
- Rebuttal Argument** (this index)
- Sample respondent's brief addressing jurisdiction, § **167.7**
- Withdrawal of guilty plea, appeal of denial, § **128.9**

PARTIES

- Amicus curiae brief, form for consent in federal court to filing, § **8.21**
- Codefendants. **Joint or Separate Trials** (this index)

PERJURY

- Model forms for use with motions under 28 USC § 2255, allegation of knowing use of perjured testimony by U. S. Attorney, § **204**

PETITIONS

- Discretionary review, § **189 et seq., 208, 209**
- Writ of certiorari, right to assistance of counsel, § **190.60**
- Expungement of Criminal Record** (this index)

PETITIONS—Cont'd

- Habeas corpus, § **113.5, 133.14.50**
- In forma pauperis, form of application or petition for order permitting defendant to appeal conviction and authorizing public funds for costs and expenses, § **34.7**
- Mandamus, form of petition for writ to set aside commitment, § **130.8**
- Post-conviction relief, attorney's failure to file appellate brief, § **116.6.50**
- Review of Order Dismissing Appeal, Arizona, § **188.50**
- Transcript, approval, § **56.5**
- Witnesses** (this index)
- Writ of supersedeas and application for temporary stay, § **24.25**

PHOTOGRAPH

- Brief, sample argument
- Court erred in admitting evidence, § **96.4.86**

PLAIN ERROR

- Guilty pleas, § **128.23**

PLEA BARGAINING

- Guilty Pleas** (this index)

PLEAS

- Abatement, form of plea in, grand jury not properly constituted, § **128.17**
- Conditional plea, § **125.5**
- Former conviction or acquittal, form of plea in bar, § **128.18**
- Guilty Pleas** (this index)
- Not guilty by reason of insanity, form of special plea, § **128.19**
- Sample arguments, bribery prosecution, § **155.50**

PREJUDICE

- Joint or Separate Trials** (this index)

PREJUDICE—Cont'd

Judicial misconduct, form of affidavit for disqualification on ground of bias and prejudice, § 109.5

Misconduct, § 111.5

Sample Argument, Asserting prosecutions closing argument, § 111.50

PRESERVATION REQUIREMENTS

Violation of Constitutional Rights, Trial record, § 35.2.7

Witnesses, § 35.1

PRESUMPTION OF INNOCENCE

Jury instructions, § 38.7

PRESUMPTIONS AND BURDEN OF PROOF

Jury instructions

Innocence, presumption of, § 38.7

Prosecution as having burden of proof, § 38.8

Reasonable doubt defined, § 38.9

Self-defense, burden and degree of proof necessary, § 38.10

PRETRIAL STATEMENT

Instructions to jury. **Jury and Jury Trial** (this index)

PRIOR CONVICTION

Plea in bar, form, § 128.18

Suppression of evidence, form of motion to suppress defendant's prior criminal record, § 44.15

PROCEDURAL ERROR

Joinder issues on appeal, § 122.4.5

PROCEDURAL ISSUES

Denial of effective representation, § 116.7

Juvenile delinquency, § 144.11

Sentence reiew, § 129.7

PRO HAC VICE

Motion to make pro hac vice appearance for client, form, § 1.6

PROSECUTORIAL MISCONDUCT

Closing argument, § 96.4.50

Combined defense motion for judgment of acquittal and new trial, and response, § 108.2, 108.2.5

Motion to dismiss for, § 111.25

Questioning of witnesses, § 108.1

Sample appellant's reply brief in support of motion to dismiss, § 106.77

PSYCHIATRIC EXAMINATION

Defendant, order for examination of, form, § 120.3

Prosecution witness

Affidavit in support of motion to compel psychiatric examination of prosecution witness, form, § 35.9

Notice of motion for psychiatric examination of prosecution witness, form, § 35.3

PUBLIC DEFENDER

Motion to withdraw by public defender, § 113.7

QUALIFICATION OR DISQUALIFICATION

Affidavit in support of motion to disqualify co-defendant's attorney, form, § 1.11

Judges. **Judicial Misconduct** (this index)

RAPE CASES

Substantive errors, § 117.1

REASONABLE DOUBT

Instruction to jury defining, § 38.9

RECONSTRUCTED RECORD

Sufficiency, § 74.7

RECONSTRUCTION HEARING

Trial record, § 74.6

INDEX

RECORD

Briefs

Court erred, Sample Argument
Appellants necessary intent,
§ 96.4.79

Expungement of Criminal Record (this index)

Guilty Pleas (this index)

Making and preserving record at trial.
Trial Record (this index)

Reconstructed record, sufficiency of,
§ 74.7

Transcripts (this index)

Unopposed motion to supplement
record, § 74.25

Video evidence, § 74

REHEARING

Guilty Pleas (this index)

REPLY BRIEF, § 106.80

Alleged use of false or misleading
evidence, § 106.55

Discretion of court, § 106.80

False or misleading testimony pre-
sented by prosecution, § 106.60

Format, § 104

Guilty plea withdrawal, habeas
corpus appeal as to denial,
§ 128.12

Harmless error, § 105.7

Ineffective assistance of counsel,
sample appellee's brief address-
ing, § 106.70

Ineffective assistance of counsel,
sample brief addressing, § 104

Issues raised for first time, § 105.6

Prosecutorial misconduct, sample
appellant's reply brief in support
of motion to dismiss, § 106.77

Reasonable suspicion, sample
appellant/state's brief addressing
officer's, § 106.76

Retraction of concession, § 105.8

Standing, sample appellant's brief
addressing, § 106.50

REPLY BRIEF, § 106.80—Cont'd

Sufficiency, § 105.5

Timeliness, § 105.9

Waiver of appeal, addressing issue of,
§ 106.75

RESPONDENT'S BRIEF

Grounds for new trial, § 23.5

RESTRICTIONS

Bail or bond, § 16.5

RETROACTIVITY

Death penalty, § 133.9

RETURN OF PROPERTY

Suppression of evidence. **Evidence**
(this index)

REVIEW

No merit appeal, § 139.70

Petition, of Order Dismissing Appeal,
Arizona, § 188.50

REVIEW OF RECORD

Waiver, § 67.5

REVIEW OF SENTENCE

Sentences and Sentence Review
(this index)

RIGHT TO APPELATE COUNSEL

Generally, § 0.50

RULE 9

Model forms for use with motions
under 28 USC § 2255, movant's
response as to why motion
should not be barred (delayed or
successive motions), § 202

SANITY COMMISSION

Motions for appointment, § 120.1.75

SEALED RECORD

Order of expungement and sealing of
record, form, § 8.14

SEARCH AND SEIZURE

Automobiles (this index)

SEARCH AND SEIZURE—Cont'd

- Checklist of questions
 - Automobile searched, § **43.4**
 - Building searched, § **43.3**
 - Illegally-obtained statements, § **43.6**
 - Person searched, § **43.5**
- Illustrative argument attacking search warrant
 - Affidavit as lacking probable cause for warrant to search particular residence, § **123.11**
 - Good faith exception did not apply to excuse compliance to list of property to be seized and probable cause requirement, § **123.13**
- Record of trial, preserving. Checklist of questions, *supra*
- Suppression
 - Affidavit in support of motion to suppress
 - Automobile searched without warrant or probable cause, form, § **44.21**
 - Insufficiency of affidavit upon which warrant issued, form of affidavit in support of motion to suppress evidence, § **44.6**
 - Person searched without warrant or probable cause, form, § **44.22**
 - Residence searched without warrant or probable cause, form, § **44.19**
 - Search warrant invalid for insufficient description of property, form, § **44.23**
 - Checklist of questions, *supra*
 - Motion to suppress evidence of property seized as result of unlawful search, seizure, and arrest, form, § **44.10**
 - Notice of motion to suppress evidence and counteraffidavit

SEARCH AND SEIZURE—Cont'd

- Suppression—Cont'd
 - search warrant, form, § **44.9**
 - Order suppressing evidence and directing return of property, form, § **44.7**

SELF-DEFENSE

- Jury instructions, burden and degree of proof necessary to prove self-defense, § **38.10**

SENTENCES AND SENTENCE REVIEW

- Bail pending sentencing, § **21.10**
- Compassionate release from prison, sample motion for, § **132.1**
- Death penalty. **Capital Punishment** (this index)
- Discretionary Review** (this index)
- Enhancement of sentence. **Drugs and Narcotics** (this index)
- Erroneous judgment and sentence as fruitful appellate issues, § **130.1**
- Errors at trial, § **124.5**
- Excessive sentence
 - Motion to vacate and set aside, form, § **130.7**
 - Notice of motion to vacate and set aside, form, § **130.3**
- Federal custody, model form for use with motions under 28 USC § 2255 to vacate, set aside, or correct sentence of person in, § **200**
- Federal review of sentences, § **129.5**
- Firearms in drug cases. **Drugs and Narcotics** (this index)
- Guilty plea, motion to withdraw, § **128.5.5**
- Harmless error, § **132.5**
- Judgments and orders
 - Amended judgment of sentence allowing appeal, § **130.9.12**
 - Sentence review, erroneous judgment and sentence as fruitful

INDEX

SENTENCES AND SENTENCE REVIEW—Cont'd

- Judgments and orders—Cont'd
appellate issues, § 130.1
- Vacating, setting aside, or correction, *infra*
- Jurisdiction, § 129.6
- Mandamus, form of petition for writ to set aside commitment, § 130.8
- Minors, cruel and unusual punishment, § 135.50
- Motion for resentencing, § 130.9.10
- Motion for stay of execution pending appeal, § 13.3
- Procedural issues, § 129.7
- Review
 - Death sentence. **Capital Punishment** (this index)
 - Enhancement of sentence. **Drugs and Narcotics** (this index)
 - Erroneous judgment and sentence as fruitful appellate issues, § 130.1
 - Excessive sentence, *supra*
 - Federal review of sentences, § 129.5
 - Mandamus, form of petition for writ to set aside commitment, § 130.8
 - Motion for new trial, denied fair and impartial trial
 - Competency, § 130.6.5
 - Motion to dismiss defendant's motions, § 200.50
 - Substitution of counsel, § 133.13.50
 - Weapons in drug cases. **Drugs and Narcotics** (this index)
- Sample argument, § 96.4
- Substitution of counsel, § 133.13.50
- Vacating, setting aside, or correction
 - Excessive fine. **Fines and Penalties** (this index)
 - Excessive sentence, *supra*

SENTENCES AND SENTENCE REVIEW—Cont'd

- Vacating, setting aside, or correction—Cont'd
 - Federal custody, model form for use with motions under 28 USC § 2255 to vacate, set aside, or correct sentence of person in, § 200
- Mandamus, form of petition for writ to set aside commitment, § 130.8
- Motions
 - Generally, § 130.5, 130.9.5
 - Excessive sentence, *supra*, § 130.5
 - Order denying motion, form, § 206
 - Order for correction, form, § 207
- Weapons in drug cases. **Drugs and Narcotics** (this index)

SEPARATE TRIAL OF CO-DEFENDANT

- Joint or Separate Trials** (this index)

SETTING ASIDE

- Excessive fine. **Fines and Penalties** (this index)
- Sentences and Sentence Review** (this index)
- Verdict, form of notice of motion to set aside for insufficient evidence, § 130.4

SEVERANCE

- Counts, form of motion for severance of, § 122.4
- Parties. **Joint or Separate Trials** (this index)

SHOW CAUSE ORDER

- Conditional examination of material witness, form of order to show cause on application for, § 35.10
- Expungement of criminal record, form, § 8.12

SPEEDY TRIAL

Motion to dismiss for violation of right, § 123.05

STANDING

Sample appellant's reply brief, § 106.50

STAY OF EXECUTION

Generally, § 34.12

Application for temporary stay, § 24.25

Notice of motion for order staying execution, form, § 34.13

Order staying execution, form, § 34.14

Pending appeal, § 13.3, 14.05

SUBSTANTIVE LAW

Cumulative error doctrine, § 117.4

Errors

Actions of court, § 124.7

Cumulative error doctrine, § 117.4

Drug cases, § 117.2

Jury instructions, § 124.8

Plain error, *infra*

Rape cases, § 117.1

Sentencing, § 124.5

Structural, § 124.10

Plain error

Generally, § 117.3

Issues subject to plain error review, § 124.6

No plain error, § 117.3.5

SUBSTITUTION OF COUNSEL

Review of sentence, § 133.13.50

SUFFICIENCY OF EVIDENCE

Weight and Sufficiency of Evidence
(this index)

SUPERSEDEAS

Writ, petition for, § 24.25

SUPPRESSION OF EVIDENCE

Evidence (this index)

TRANSCRIPTS

Allocution transcript of appealed plea, § 127.75

Guilty plea withdrawal motion, transcript of plea proceedings on appeal of denial, § 128.2

Loss of transcript, § 74.5

Motion to compel defendant to order transcript, § 51.25

Notice to clerk to prepare record, § 51.5, 52.5

Petition or application for approval, § 56.5

TRIAL RECORD

Guilty Plea (this index)

Instructions to jury. **Jury and Jury Trial** (this index)

Preservation, generally, § 42.5

Reconstruction hearing, § 74.6

Search and Seizure (this index)

Suppression of evidence. **Evidence**
(this index)

Violation of Constitutional Rights, § 35.2.7

Voir dire, issues regarding, § 32.2.5

Witnesses (this index)

TRIGGERS

Factual statements, when right to appeal is triggered, § 10.6

URINE TEST

Preservation of evidence, § 123.4

VACATION

Excessive fine. **Fines and Penalties**
(this index)

Sentences and Sentence Review
(this index)

State's response to motion to vacate conviction, § 34.16

VERDICT

Setting aside, § 130.1.5, 130.4

INDEX

VIDEO EVIDENCE

- Intoxication, preservation of evidence in crimes involving, § **123.5**
- Record on appeal, § **74**

VOIR DIRE

- Trial record, issues regarding voir dire, § **32.2.5**

VOLUNTARINESS

- Confessions, jury instruction as to voluntariness, § **38.20**
- Judicial misconduct, form of motion to have judge withdraw voluntarily, § **109.3**
- Suppression of incriminating statements involuntarily obtained by police, form of motion, § **44.17**

VOUCHER

- Court-appointed counsel's compensation, form, § **1.14**

WAIVER AND ESTOPPEL

- Appeal, § **13.5**, **106.75**
- Arguments, waiver of issues, § **96.5**
- Guilty pleas, issues of waiver and plea, § **128.24**
- Record review and analysis, § **67.5**

WARRANTS

- Search and Seizure** (this index)

WEAPONS

- Drug cases, sentence enhancement. **Drugs and Narcotics** (this index)

WEIGHT AND SUFFICIENCY OF EVIDENCE

- Argument, sufficiency of evidence as appellate issue, § **93.5**
- Instructions to jury. **Jury and Jury Trial** (this index)
- Verdict, form of notice of motion to set aside for insufficient evidence, § **130.4**

WIRETAPPING

- Affidavit in support of motion to suppress illegal wiretap, form, § **44.18**

WITHDRAWAL

- Frivolous in forma pauperis proceeding, form of counsel's notice to appellant of motion for leave to withdraw, § **34.4**, **34.5**
- Guilty Pleas** (this index)
- Judicial misconduct, form of motion to have judge withdraw voluntarily, § **109.3**

WITNESSES

- Affidavits
 - Out-of-state witness, form of affidavit in support of petition for order compelling attendance, § **35.8**
 - Psychiatric examination of prosecution witness, form of affidavit in support of motion to compel, § **35.9**
- Exception to preservation requirements, § **35.1**
- Instructions to jury. **Jury and Jury Trial** (this index)
- Interview of prosecution witness, form of notice of motion to compel prosecutor to produce witness, § **35.2**
- List of prosecution witnesses, form of motion for, § **35.5**
- Material Witness** (this index)
- Motions
 - Expert witness for prosecution, form of motion to compel disclosure of identity, § **35.6**
 - Interview, notice of motion to compel prosecutor to produce witness, form, § **35.2**
 - List of prosecution witnesses, form of motion for, § **35.5**
 - Psychiatric examination of prosecution witness, form of notice

WITNESSES—Cont'd

Motions—Cont'd

of motion for, § 35.3

Notice of motion. Motions, *supra*

Petitions

Interstate rendition of material witness, form for, § 35.7

Out-of-state witness, form of affidavit in support of petition for order compelling attendance, § 35.8

Preservation requirements, exception, § 35.1

Psychiatric Examination (this index)

Trial record

Generally, § 35.2

WITNESSES—Cont'd

Trial record—Cont'd

Expert witness for prosecution, form of motion to compel disclosure of identity, § 35.6

Interview, notice of motion to compel prosecutor to produce witness for, form, § 35.4

List of prosecution witnesses, form of motion for, § 35.5

Material Witness (this index)

Out of state witness, form of affidavit in support of petition for order compelling attendance, § 35.8

Psychiatric Examination (this index)