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| **Key Points** |
| I. What is an Appeal? |
| A. When defendants are found guilty of a crime in court, they have the |
| right to appeal their case |
| B. An appeal is a request to a higher court to review and change the |
| decision of a lower court |
| C. The courts the defendants appeal to are known as appellate courts |
| D. In an appeal, the defendants argue that an error occurred during their |
| trial that affected their chance of a fair trial, or their “substantial right” |
| E. The appellate court will do one of the following |
| 1. Order a new trial |
| 2. Let the defendant go |
| 3. Uphold the original verdict |
| F. If the appellate court upholds the original verdict, the defendants can |
| continue appealing their case to higher courts |
| II. When Does an Appeal Occur? |
| A. An appeal does not take place until the trial court enters a final |
| judgment |
| B. An appeal usually has to be filed within a short period – 7 to 10 days |
| of the verdict |
| C. Defendants may have to file a paper called “notice to appeal very |
| soon” |

* 1. Technically, the appeals process can begin the day of the verdict
  2. Defendants can ask the judge to overturn the jury’s verdict
  3. If the verdict is by a judge and not a jury, defendants can ask the judge to modify or withdraw his or her verdict and order a new trial

1. What Are the Steps of the Appeal Process?
   1. The defendants file a notice of appeal
   2. The appellate court sets a schedule about when briefs are due and when oral arguments are to be made
   3. Briefs are submitted and oral arguments are made
   4. The appellate court makes a decision after a few days, weeks, or even months

IV. What Happens During an Appeal?

* 1. The appeals process can take many months and go through more than one appellate court
  2. A transcript of the trial is produced
  3. The prosecution and the defense prepare briefs and respond to each other’s briefs
  4. A brief typically refers to specific parts of the trial transcript and prior court decisions related to the case
  5. There are usually three briefs in an appeal
     1. The appellant files an opening brief
     2. The respondent files a respondent brief
     3. The appellant files a reply brief
  6. After the briefs are filed, the lawyers may appear before the appellate court or the court may just make their decision based on the briefs
  7. If the attorneys do speak before the appellate court, the appearance may be quick and the discussion may be limited to specific questions

V. What Is Needed for an Appeal?

* 1. Appellate court judges’ rulings are based only on the trial court record which includes
     1. A transcript of testimony
     2. Things admitted into evidence
     3. Each side’s arguments
  2. Information that each side unsuccessfully sought to introduce into evidence
  3. The appellate court will not consider evidence that the trial court did not have a chance to rule on
  4. A good attorney will have done the following during the trial:
     1. Made offers of proof by giving a summary to the judge of what the witnesses will say, in case the judge rules the testimony as inadmissible
     2. Translated gestures into words so that appellate judges who are reading the transcript can picture what the participants in the court

room are doing or being asked to do

1. Made all legitimate objections and arguments so that the trial court would have had a chance to rule on the admissibility of evidence

VI. What are the Reasons for Appeal?

1. The following are some examples on which a defendant would have grounds to appeal
   1. New evidence was discovered after the trial
   2. The jurors engaged in misconduct
   3. The judge or prosecutor committed an important legal error
   4. The judge gave the jury improper instructions
   5. Scientific evidence was not available at the time of the trial that would prove the defendant innocent

VII. What Is the Philosophy of Appellate Courts?

1. The courts have said that no one is entitled to a perfect trial, just a fair one
2. Most errors are deemed harmless by the appellate courts

VIII. What Are Writs?

1. A writ is an order from a higher court to a lower court or government official
2. They are used when the defendants are not entitled to an appeal
3. Defendants may not be entitled to appeal when
   1. The defense did not lodge a timely objection
   2. The matter of issue concerns something that goes beyond the trial record
   3. A final judgment has not yet occurred but the defendants need relief at once to prevent an injustice or an unnecessary expense
   4. The matter is urgent
   5. The defendants have already unsuccessfully appealed their case