

## ANDERS BRIEFS IN CRIMINAL AND DELINQUENCY APPEALS

### IDS Policy:

If appointed appellate counsel in a criminal or juvenile delinquency case concludes that there are no non-frivolous issues to be raised on appeal, counsel must notify the Appellate Defender of this conclusion and afford the Appellate Defender a reasonable opportunity to review the appellate record for the existence of any non-frivolous issues before filing a brief in the Appellate Division pursuant to *Anders v. California*, 386 U.S. 738 (1967). In criminal cases, this policy applies only to direct appeals in cases in which the defendant was convicted after a jury or bench trial. Appellate counsel is not required to submit the case to the Appellate Defender for *Anders* review in appeals from guilty pleas, probation revocations, petitions for post-conviction DNA testing, and resentencing hearings.

In all cases submitted for *Anders* review, counsel must provide the Appellate Defender with a detailed procedural history of the case, a detailed summary of the facts of the case, and a list of the potential issues that counsel considered briefing and the reasons counsel concluded they were frivolous. The procedural history, summary of facts, and list of issues do not need to be polished or filing-ready text and can be in outline format, but must accurately convey the history, facts, and counsel's issue analysis. Counsel must provide the Appellate Defender with electronic copies of the transcript, court file, and exhibits. If counsel has already prepared a proposed record on appeal, counsel must provide an electronic copy to the Appellate Defender.

Counsel should submit cases to the Appellate Defender for *Anders* review as soon in the appellate process as possible to avoid unnecessary delay. While a case is under review by the Appellate Defender, counsel will be responsible for seeking extensions.

If appointed appellate counsel fails to follow this procedure, he or she will not be compensated for work on the appeal. Appointed appellate counsel who files an *Anders* brief must note in the fee application that he or she has done so and has complied with this procedure.

Policy effective September 1, 2004; amended May 12, 2006, January 12, 2009, June 11, 2014, and May 16, 2023.

### Authority:

G.S. 7A-498.3(c); IDS Rules 3.3(a), 3.4(f).