

Trial Procedure For Unrepresented Defendants

An overview of basic trial procedures for unrepresented defendants who appear for trial

It is this court's firm belief that the interests of justice are best served when all parties to a proceeding are fully informed. It has been this court's experience that many defendants who appear for trial without an attorney feel unprepared. This pamphlet was created to more fully inform unrepresented defendants who appear for trial. It is not meant to tell you what evidence to present at trial. It has been prepared to advise you of basic trial procedure, clear up the most commonly held misconceptions about trial procedure and answer some of the most frequently asked questions.

General Information

A trial is a proceeding in which the Prosecutor will try to convince the judge that you have committed the offense(s) with which you have been charged. The prosecutor is required to prove your guilt beyond a reasonable doubt.

Trial Day Procedure

When you arrive for your trial, you must check in at the podium in the lobby. The prosecutor may want to discuss the case with you prior to trial. Please be prepared to spend at least two hours at court on the day you appear. While the court makes every effort to move its docket as quickly as possible, it has no way to accurately predict the length of each individual trial.

Trial Process

When the actual trial commences, both sides will have an opportunity to make an opening statement. An opening statement is a brief statement of the nature of the prosecution and defense cases. Since the prosecution has the burden of going forward with evidence, it will proceed first at each stage of the trial. It is common in minor traffic trials for the prosecution to waive their opening statement if they do not feel that the evidence is lengthy or complicated. You may wish to waive your opening statement as well.

Next, the prosecution will present its evidence through its witnesses. In many cases the only witness for the prosecution is the officer who issued the ticket. You will be given the opportunity to cross-examine the witness. That means you can ask questions of the witness once the prosecutor has completed its examination.

Once the prosecution has completed questioning its witnesses and rested, you will have an opportunity to present any evidence through witnesses including yourself. Because of your Fifth Amendment privilege against self-incrimination, you do not have to testify. However, the judge may only consider evidence presented through the testimony of witnesses. If you or other witnesses do not testify, the judge may only consider the evidence offered by the prosecution. Remember, this will be your only opportunity to present your side of the story so you must bring all of the witnesses or other evidence you want to present to the court on the date of trial. Once you or any of your witnesses have completed their testimony, the prosecutor will have the opportunity to cross-examine that individual.

After you have completed presenting your evidence and rested, each side has an opportunity to present a closing argument. This is your opportunity to tell the court why you feel the evidence has shown that the judge should find you not guilty.



CITY OF | **UPPER
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Clerk of Court's Office

3600 TREMONT ROAD, UPPER ARLINGTON, OH 43221

PHONE: 614-583-5060 | FAX: 614-442-4044 | WWW.UAOH.NET

Evidence

The judge is required to follow the Ohio Rules of Evidence in all criminal and traffic trials regardless of whether the defendant is represented by an attorney. These rules are complicated. Space does not permit a complete discussion of this issue; however, the following is a basic guideline to assist you.

- (1) A witness should testify about things they actually saw or heard. In many (though not all) cases a witness cannot testify about what someone else saw or heard.
- (2) Evidence must be directly relevant to the issues at trial. For example, it is generally not permissible to offer evidence in a traffic trial about tickets the officer has issued to other people.
- (3) If you decide to testify, you may testify in narrative form. In other words, you don't have to ask yourself questions, but may just tell your story.
- (4) If you want to offer a photograph or other physical evidence (such as a document), you must first show the item(s) to the prosecutor and then identify the object including how it was prepared. If it was not prepared by you or is not relevant, the court may not accept the evidence. If the evidence was prepared by someone else, that person will probably have to appear before the judge will consider this evidence.

Frequently Asked Questions

Do I need to have an attorney to represent me?

You may have an attorney represent you at trial if you wish, but you do not have to have one.

Can I bring in statements from witnesses to present to the judge?

The judge will not consider affidavits or other written statements in place of the appearance of a witness at trial. If you want the judge to consider the evidence of a witness, he or she must be present at trial.

How do I get a witness to come to trial?

If you want a witness to come to court and they refuse to come voluntarily, you must request the Clerk of Court to issue a subpoena requiring that person to come to court to testify. This request should be made at least 10 days prior to trial.

How can I obtain information that I will need for trial?

If you think the prosecutor has certain information in its

possession that you will need to use at trial, you must make a discovery request for that information at least seven days prior to trial. Your discovery request must be presented to the Clerk of Court.

What if I cannot come to court on the day I am scheduled for trial?

If you cannot appear on your trial day, you must file a motion for continuance prior to trial.

How do I appeal the decision of the court?

You have 10 days to file an appeal. This is done through the Clerk of Court's office. Your case will then be heard in the Franklin County Municipal Court.

What if I change my mind and decide not to go to trial?

If your ticket was originally a payable violation, you may still pay the ticket in lieu of going to trial. Contact the Clerk of Court's office for your fine amount.

The information in this pamphlet is general in nature. It should not be taken as a substitute for legal counsel. It is not intended to advise anyone on a specific legal problem nor to suggest a particular course of action. For more specific information contact your attorney or local court.



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MAGISTRATES

Michael Close
Steven Hayes
Janet A. Grubb

CITY MANAGER

Theodore J. Staton

CLERK OF COURTS

Melissa Kohler

Clerk of Court's Office

3600 Tremont Road
Upper Arlington, OH 43221

Phone: 614-583-5060

Fax: 614-442-4044

Monday-Friday, 8 a.m.-4:30 p.m.

www.uaoh.net



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