

No-Merit Report Filing Checklist

Please note that this checklist only addresses technical form, filing and service requirements. For information and advice on how to talk to your client about his or her no-merit options, when to file a no-merit report, and how best to construct the report, please review Chapter Five of Appellate Practice and Procedure for SPD-Appointed Counsel, which is available at <http://wisspd.org/index.php/for-the-legal-practitioner/spd-appellate-division/handbook>.

Form/content

- White front and back covers for report and (if any) appendix. *Compare* Wis. Stat. Rule 809.19(9).
- Caption on the front cover with (1) name of court; (2) caption and number of case; (3) court and judge appealed from; (4) title; and (5) name, address, and state bar number of counsel. Wis. Stat. Rule 809.81(9). The caption exactly matches the official caption as printed on the “Notice of Filing of Appeal and Circuit Court Record.”
- Where confidentiality required, individuals identified by first name and first initial of last name throughout brief and redacted as necessary in appendix. Wis. Stat. Rule 809.81(8).
- Report securely bound on left side as described in Wis. Stat. Rules 809.19(8)(b)(4) or 809.81(7).
- Report identifies anything in the record that might arguably support the appeal and discusses the reasons why each identified issue lacks merit. Wis. Stat. Rule 809.32(1).
- Any unpublished opinion cited only in conformance with Wis. Stat. Rule 809.23(3).
- Signature and bar number of the attorney filing the report. *Compare* Wis. Stat. Rule 809.19(1)(h).
- Certification appended to brief as provided in Wis. Stat. Rule 809.32(1)(c).
- If you are relying on the “mailbox rule” for timeliness, certification or affidavit appended to the report indicating when the report was placed in the mail. Wis. Stat. Rule 809.80(4).

Filing

- Three copies filed with the clerk of the court of appeals by the due date or placed in the mail for delivery within three days (with an affidavit or certification appended to the report) by the due date. Wis. Stat. Rules 809.32(1) and 809.80(3) & (4).
- Statement that you have served your client with the report filed with the clerk of the court of appeals along with the copies of the report. Wis. Stat. Rule 809.32(1)(d).
- Searchable PDF version of your document e-filed at the court of appeals website (<https://logon.wicourts.gov/index.html?target=acefiling>). Wis. Stat. Rule 809.32(1)(fm).

Service

- Opposing counsel served with one copy of the report. Wis. Stat. 809.80(2).
 - Attorney general, in a felony or ch. 980 case
 - District attorney, in a misdemeanor or juvenile delinquency case
 - Petitioner's counsel (depending on the county, either the district attorney or the county's corporation counsel), in a ch. 51/55 commitment case
 - Petitioner's counsel and the GAL, in a TPR case
- Client served with one copy of the report along with instructions on how to respond. Wis. Stat. Rule 809.32(1)(d).
- Client served with the court record and transcripts within 5 days after receiving your client's for them. Wis. Stat. Rule 809.32(1)(d). Note that you must serve these documents on your client in every TPR case, regardless of whether there has been a request. Wis. Stat. Rule 809.107(5m).