

**Rule 38. Appeals from justice court to district court.**

(a) Appeal of a judgment or order of the justice court is as provided in Utah Code Section 78A-7-118. A case appealed from a justice court shall be heard in a district courthouse located in the same county as the justice court from which the case is appealed. In counties with multiple district courthouse locations, the presiding judge of the district court shall determine the appropriate location for the hearing of appeals.

(b) The notice of appeal.

(b)(1) A notice of appeal from an order or judgment must be filed within 30 days of the entry of that order or judgment.

(b)(2) Contents of the notice. The notice required by this rule shall be in the form of, or substantially similar to, that provided in the appendix of this rule. At a minimum the notice shall contain:

(b)(2)(A) a statement of the order or judgment being appealed and the date of entry of that order or judgment;

(b)(2)(B) the current address at which the appealing party may receive notices concerning the appeal;

(b)(2)(C) a statement as to whether the defendant is in custody because of the order or judgment appealed; and

(b)(2)(D) a statement that the notice has been served on the opposing party and the method of that service.

(b)(3) Deficiencies in the form of the filing shall not cause the court to reject the filing. They may, however, impact the efficient processing of the appeal.

(c) Duties of the justice court. Within ~~five~~ seven days of receiving the notice of appeal, the justice court shall notify the appropriate district court of the appeal packet.

(d) Duties of the district court.

(d)(1) Upon being notified of the appeal, the district court shall hold a scheduling conference to determine what issues must be resolved by the appeal. The district court shall send notices to the appellant at the address provided on the notice of appeal. Notices to the other party shall be to the address provided in the justice court docket for that party.

(d)(2) If the defendant is in custody because of the matter appealed, the district court shall hold the conference within five seven days of being notified of the appeal. If the defendant is not in

custody because of the matter appealed, the court shall hold the conference within ~~30~~ 28 days of being notified of the appeal.

(e) District court procedures for trials de novo. An appeal by a defendant pursuant to Utah Code Ann. §78A-7-118(1) shall be accomplished by the following procedures:

(e)(1) If the defendant elects to go to trial, the district court will determine what number and level of offenses the defendant is facing.

(e)(2) Discovery, the trial, and any pre-trial evidentiary matters the court deems necessary, shall be held in accordance with these rules.

(e)(3) After the trial, the district court shall, if appropriate, sentence the defendant and enter judgment in the case as provided in these rules and otherwise by law.

(e)(4) When entered, the judgment of conviction or order of dismissal serves to vacate the judgment or orders of the justice court and becomes the judgment of the case.

(e)(5) A defendant may resolve an appeal by waiving trial and compromising the case by any process authorized by law to resolve a criminal case.

(e)(5)(A) Any plea shall be taken in accordance with these rules.

(e)(5)(B) The court shall proceed to sentence the defendant or enter such other orders required by the particular plea or disposition.

(e)(5)(C) When entered, the district court's judgment or other orders vacate the orders or judgment of the justice court and become the order or judgment of the case.

(e)(5)(D) A defendant who moves to withdraw a plea entered pursuant to this section may only seek to withdraw it pursuant to the provisions of Utah Code Ann. § 77-13-6.

(e)(6) Other dispositions. A defendant, at a point prior to judgment, by plea or trial, may choose to withdraw the appeal and have the case remanded to the justice court. Within ~~10~~ 14 days of the defendant notifying the court of such an election, the district court shall remand the case to the justice court.

(f) District court procedures for hearings de novo. If the appeal seeks a de novo hearing pursuant to Utah Code Ann. § 78A-7-118(3) or (4); and

(f)(1) the court shall conduct such hearing and make the appropriate findings or orders.

(f)(2) Within ~~10~~ 14 days of entering its findings or orders, the district court shall remand the case to the justice court, unless the case is disposed of by the findings or orders, or the district court

retains jurisdiction pursuant to §78A-7-118(6).

(g) Retained jurisdiction. In cases where the district court retains jurisdiction after disposing of the matters on appeal, the court shall order the justice court to forward all cash bail, other security, or revenues received by the justice court to the district court for disposition. The justice court shall transmit such monies or securities within ~~20~~ 21 days of receiving the order.

(h) Other bases for remand. The district court may also remand a case to the justice court if it finds that the defendant has abandoned the appeal.

(i) Justice court procedures on remand. Upon receiving a remanded case, the justice court shall set a review conference to determine what, if any proceedings need be taken. If the defendant is in custody because of the case being considered, such hearing shall be had within five days of receipt of the order of remand. Otherwise, the review conference should be had within ~~30~~ 28 days. The court shall send notice of the review conference to the parties at the addresses contained in the notice of appeal, unless those have been updated by the district court.

(j) During the pendency of the appeal, and until a judgment, order of dismissal, or other final order is entered in the district court, the justice court shall retain jurisdiction to monitor terms of probation or other consequences of the plea or judgment, unless those orders or terms are stayed pursuant to Rule 27A.

(k) Reinstatement of dismissed appeal. An appeal dismissed pursuant to subsection (h) may be reinstated by the district court upon motion of the defendant for:

(1) mistake, inadvertence, surprise, excusable neglect; or

(2) fraud, misrepresentation, or misconduct of an adverse party.

The motion shall be made within a reasonable time after entry of the order of dismissal or remand.