



COLORADO YMCA YOUTH IN GOVERNMENT PROGRAM

Appellate Process

Scenario: A man was stopped by police while driving and was arrested when the officer spotted a gun on the floor of the car.

The man is convicted at trial and asks the Colorado Court of Appeals to review the case. The man, through his attorneys, argues the trial judge improperly allowed the gun to be used as evidence because he says the officer never had the reasonable suspicion of criminal activity necessary to make the stop.

The law in our country says anything gathered as evidence after an illegal stop by law enforcement cannot be used at trial (this is often referred to as the “fruit of the poison tree doctrine”). Prosecutors, in turn, argue the officer was completely within his authority in deciding to pull the man over.

What is an appeal?

An appeal is not a “re-trial,” but that is most often what people are asking for when they appeal a case.

In an appellate court like the Court of Appeals or Supreme Court, no new evidence is presented, no witnesses are questioned and there is no jury.

Attorneys present arguments to the court to back up lengthy, detailed written briefs they’ve already filed with the court.

Judges and Justices also have the ability to question the attorneys for each side. In the Court of Appeals, each side gets only 15 minutes.

Back to our case

The Court of Appeals affirms the trial judge’s decision.

The man then has the right to ask the Colorado Supreme Court to look at the case, but unlike the Court of Appeals, which must take every appeal filed (roughly 2,800 per year), the Supreme Court has the discretion to choose which cases it wants to review from among the 1,500 or so requests it gets each year.

If the Supreme Court decides to review this case: Attorneys for both sides – the man and the prosecution – file briefs with that court, and the process is very similar to what goes on in the

Court of Appeals. Each side gets 30 minutes to present arguments, and justices ask questions throughout the arguments.

After the arguments in either court, the justices take all the time they need to write an opinion.

In this case, say the Supreme Court reverses the Court of Appeals and determines the police officer didn't have the authority to stop the man's car. Then, the man would get a new trial. If the court affirmed (Upheld) what happened in the lower courts, the man has the ability to ask the U.S. Supreme Court to review his case, but the odds of that happening are very small. Of the 1,500 or so cases the Colorado Supreme Court is asked to review each year, the court chooses maybe 80 to 100 to hear. The U.S. Supreme Court gets around 10,000 such requests each year and hears maybe 70 to 80 cases.