

DOCUMENT 28

HOW TO BUILD AN APPELLATE ARGUMENT

PURPOSE

An appeal is not a second trial. Appellate courts generally review legal issues, preserved errors, and the record created below.

WHAT APPELLATE COURTS CARE ABOUT

• Preserved issues • Legal error • Jurisdictional questions • Constitutional issues • The record created in the trial court

WHAT APPELLATE COURTS GENERALLY DO NOT CARE ABOUT

• Emotional frustration • Personal attacks • New evidence not in the record • Issues never raised below

BUILDING THE ARGUMENT

Step 1: Identify the issue. Step 2: Identify where it was preserved. Step 3: Identify the legal authority. Step 4: Explain why the ruling was incorrect. Step 5: Explain the relief requested.

EXAMPLE STRUCTURE

Issue: The court improperly limited questioning. Preservation: Objection was made and noted in the record. Authority: Applicable constitutional, statutory, or procedural authority. Argument: Why the limitation was improper. Relief: What the appellate court should do.

COMMON MISTAKE #1

Attempting to relitigate facts rather than identifying reviewable issues.

COMMON MISTAKE #2

Failing to connect the issue to the record.

COMMON MISTAKE #3

Confusing disagreement with reversible error.

LD APPLICATION

The Liberty Dialogues encourages disciplined analysis. Appeals benefit from the same structure: identify authority, jurisdiction, status, standing, obligation, enforcement, and the assumptions underlying the challenged ruling.

FINAL PRINCIPLE

Strong appellate arguments are usually organized, preserved, documented, and supported by the record.