

[CAPTION]

MOTION TO STAY THE PROCEEDINGS

The Defendant, by counsel, respectfully moves this Court pursuant to Trial Rule 62 as follows:

1. The Defendant is charged with [insert offense(s)].
2. The [insert Motion] was denied on [insert date].
3. The Defendant is scheduled to be tried on [insert date].
4. The Defendant has/will file a Request for Certification of Order for an Interlocutory Appeal under Appellate Rule 14(B).
5. A stay of the proceedings is required and necessary to provide the Defendant with sufficient opportunity and time to effectuate his Interlocutory Appeal.

WHEREFORE, the Defendant requests this Court to grant a Stay of the Proceedings for [insert a reasonable time/or specify time needed], and for all other relief just and proper in the premises.

(Signature)

REFERENCES

Indiana Rule of Appellate Procedure 14(H) “[a]n interlocutory appeal shall not stay proceedings in the trial court unless the trial court or a judge of the Court of Appeals so orders. The order staying proceedings may be conditioned upon the furnishing of a bond or security protecting the appellee against loss incurred by the interlocutory “appeal.”

Indiana Rule of Appellate Procedure 39 (motion to stay cannot be filed in Court of Appeals unless a Motion to Stay was filed and denied in the trial court)

Indiana Rule of Trial Procedure 62 (stay of proceedings to enforce a judgment)

CASELAW

State ex rel. Civil City of South Bend v. Court of Appeals of Indiana (COA), 273 Ind. App. 551, 406 N.E.2d 244 (1980) (the Court of Appeals may properly issue a stay of proceedings pending an appeal in cases involving an order for specific relief, with the exception of a money judgment).

Tyson v. State, 593 N.E.2d 175 (Ind. 1992) (prior Ind. Appellate Rule 6(B) states that if stay of sentence is denied by the trial court or judge thereof, appellate tribunal may reconsider application at any time after denial upon proper showing by certified copies of the trial court’s action and grant or deny same and fix bond). NOTE: Appellate Rule 6(B) no longer exists under new Appellate Rules.