

1 **OVERTURE 75** from the Central Florida Presbytery (to CCB, OC)
2 “Amend *BCO* 42 to Clarify the Process for Filing an Appeal”
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4 **Whereas** it is clear from reviewing the history of *BCO* 42 that from the beginning (1858,
5 1867, 1869, 1879, 1925) there were only three steps to filing an appeal and in particular
6 providing “notice of intention to appeal” (which later became “notice of appeal”) was
7 never a separate step from the filing of the actual written appeal “with the reasons
8 supporting it.”

9 **Whereas** in current and past practice there are three steps in the appeals process: 1) The court
10 announces its verdict. 2) Written appeal with supporting reasons is sent to the lower
11 and upper court within 30 days (originally 10 days) of the “notification of the last
12 court’s decision” or the announcement of the verdict by the lower court. 3) The Clerk
13 of the lower court submits the ROC within 30 days of receiving the written appeal
14 with reasons (*BCO* 42-5) and the process of finalizing the ROC proceeds.

15 **Whereas** these three steps and the associated timeline are especially apparent when one
16 studies the history of the *BCO* and the changes to *BCO* 42 made through time,
17 which have served to be somewhat confusing. Until around 1984, an appeal always
18 had to be "in writing with reasons" and there was never a separate step of giving
19 “notice of appeal.”

20 **Whereas** in our current and past practice there is *no difference* between what our current *BCO*
21 calls “notice of appeal” and the actual written appeal itself. After the court announces
22 the verdict, the appellant has 30 days to file an appeal. The term “notice of appeal” is
23 a vestige of the past and this phrase should not insert another step in the process of
24 filing an appeal.

25 **Whereas** *BCO* 42 as currently written is confusing in practice. The appellant can certainly
26 give "notice of appeal" at any time after a guilty verdict is announced, but this notice,
27 whenever it may occur, or whether it is conveyed verbally or in writing, is not an
28 additional step in the appeals process and it does not change the fact that a "written
29 appeal with reasons" must be submitted within 30 days.
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31 **Whereas** the proposed changes to *BCO* 42 serve to make clear the steps in the process of
32 filing an appeal using the history of *BCO* 42 as a key point of reference.
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34 **Be it resolved** that *BCO* 42-4 is amended as follows (underlining for additions; ~~strikethrough~~
35 for deletions):
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37 **42-4** ~~Notice of appeal may be given the court before its adjournment. Written~~
38 ~~notice of appeal, with supporting reasons, shall~~ Written appeal with supporting
39 reasons must be filed by the appellant with both the clerk of the lower court and
40 the clerk of the higher court, within thirty (30) days of notification of the last
41 court’s decision.

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2 So that the amended paragraph reads as follows:
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4 **42-4** Written appeal with supporting reasons must be filed by the appellant
5 with both the clerk of the lower court and the clerk of the higher court within
6 thirty (30) days of notification of the last court’s decision.
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9 **Be it further resolved** that *BCO* 42-5 is amended as follows (underlining for additions;
10 ~~striketrough~~ for deletions):
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12 **42-5** It shall be the duty of the clerk of the lower court to file with the clerk of
13 the higher court, not more than thirty (30) days after receipt of ~~notice of the~~
14 written appeal with supporting reasons, a copy of all proceedings in connection
15 with the case, including the ~~notice of~~ appeal and reasons therefor, the response of
16 the lower court, the evidence, and any papers bearing on the case, which together
17 shall be known as “the Record of the Case,” and the higher court shall not admit
18 or consider anything not found in this “Record” without the consent of the parties
19 in the case. Should new evidence come to light the case shall be remanded to the
20 lower court from which the appeal was made, unless both parties consent to admit
21 the new evidence and proceed with the case.
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23 So that the amended paragraph reads as follows:
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25 **42-5.** It shall be the duty of the clerk of the lower court to file with the clerk
26 of the higher court, not more than thirty (30) days after receipt of the written
27 appeal with supporting reasons, a copy of all proceedings in connection with the
28 case, including the appeal and reasons therefor, the response of the lower court,
29 the evidence, and any papers bearing on the case, which together shall be known
30 as “the Record of the Case,” and the higher court shall not admit or consider
31 anything not found in this “Record” without the consent of the parties in the case.
32 Should new evidence come to light the case shall be remanded to the lower court
33 from which the appeal was made, unless both parties consent to admit the new
34 evidence and proceed with the case.
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36 **Be it further resolved** that *BCO* 42-6 is amended as follows (underlining for additions;
37 ~~striketrough~~ for deletions):
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39 **42-6.** ~~Notice of~~ The filing of the written appeal shall have the effect of
40 suspending the judgment of the lower court until the case has been finally decided
41 in the higher court. However, the court of original jurisdiction may, for sufficient
42 reasons duly recorded, prevent the appellant from approaching the Lord’s Table,
43 and if an officer, prevent him from exercising some or all his official functions,
44 until the case is finally decided (cf. *BCO* 31-10; 33-4). This shall never be done
45 in the way of censure, and only when in the judgment of a two-thirds (2/3)

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majority of the court of original jurisdiction there is a risk of the appellant doing harm to the name of Christ and His church before the case is finally decided. ~~shall require a two-thirds (2/3) majority.~~

So that the amended paragraph reads as follows:

42-6. The filing of the written appeal shall have the effect of suspending the judgment of the lower court until the case has been finally decided in the higher court. However, the court of original jurisdiction may, for sufficient reasons duly recorded, prevent the appellant from approaching the Lord’s Table, and if an officer, prevent him from exercising some or all his official functions, until the case is finally decided (cf. *BCO* 31-10; 33-4). This shall never be done in the way of censure, and only when in the judgment of a two-thirds (2/3) majority of the court of original jurisdiction there is a risk of the appellant doing harm to the name of Christ and His church before the case is finally decided.

Adopted by the Central Florida Presbytery at its stated meeting, April 21, 2026
Attested by TE Donald L. Mountan, Stated Clerk