

## **Rule 2. Appeals from the Traffic Adjudication Appeals Board to the Superior Court Under D.C. Code § 50-2304.05**

### **(a) SCOPE AND PURPOSE.**

(1) *Scope.* This rule governs the procedure for appeals to the Superior Court from a decision by the Traffic Adjudication Appeals Board, except for a decision to suspend or revoke a driver's license or privilege to drive, which is reviewable by the District of Columbia Court of Appeals.

(2) *Purpose.* This rule should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every review.

### **(b) APPLICATION FOR ALLOWANCE OF APPEAL.**

(1) *In General.* An original and three copies of an application for the allowance of an appeal must be filed with the clerk of the Civil Division.

(2) *Time for Filing.* The application must be filed within 30 days of the effective date of the decision by the Traffic Adjudication Appeals Board.

(3) *Form and Content.* The application must be made on the form maintained by the clerk's office or a form that is substantially similar in format and content.

(4) *Service.* The clerk must serve a copy of the application:

(A) on the Office of the Attorney General for the District of Columbia; and

(B) on the Traffic Adjudication Appeals Board in accordance with D.C. Code § 2-510 (2016 Repl.).

(c) **RESPONSE TO THE APPLICATION.** The District of Columbia may file a response within 14 days after service of the application.

### **(d) REVIEWING THE APPLICATION.**

(1) *Ordering the Record or a Response.* The court may order that:

(A) the Traffic Adjudication Appeals Board transmit to the clerk a certified copy of the original record and any exhibits within 21 days after receiving the court's order; or

(B) the District of Columbia file a response.

(2) *Effect of Denial.* Denial of the application affirms the decision of the Traffic Adjudication Appeals Board and is a final order of the Superior Court.

(3) *Notice of Decision on Application.*

(A) *Application Denied.* If the court denies the application, the court must issue an order stating the reason for the denial and must send a copy of the order to the applicant, the Traffic Adjudication Appeals Board, and the Office of the Attorney General for the District of Columbia.

(B) *Application Granted.* If the court grants the application, the court must send a copy of the notice of the allowance of appeal to the applicant, the Traffic Adjudication Appeals Board, and the Attorney General of the District of Columbia.

### **(e) PROCEDURE AFTER APPLICATION GRANTED.**

(1) *Appeals Board Record.* If the court grants the application and the record has not previously been filed, the Traffic Adjudication Appeals Board must transmit to the clerk a certified copy of the original record and any exhibits within 21 days after receiving the notice of the allowance of appeal.

(2) *Additional Submissions by Court Order.*

(A) *In General.* After granting the application, the court may order:

(i) that the Attorney General of the District of Columbia file a response, if no response in opposition to the application was filed; or

(ii) that either party file a more detailed submission.

(B) *Leave of Court Required*. No further submissions are permitted without leave of court.

(C) *Service*. Any additional submissions must be filed within 14 days of the court's order or such other time as the court may specify. Any filing after the initial application must be served on the opposing party in accordance with Civil Rule 5.

(f) DETERMINING APPEAL.

(1) *Oral Argument*. The court may order oral argument.

(2) *Record for Appeal*. The court must determine the appeal based exclusively on:

(A) a certified copy of the original record, including a certified copy of any order of the Traffic Adjudication Appeals Board, the original Notice of Infraction, and any exhibits previously filed; and

(B) a certified copy of the transcript of any testimony before the agency if a party obtained a transcript, or, if no transcript is available, a certified narrative statement by the applicant of relevant proceedings and evidence any findings or report on which it is based.

(3) *Written Decision Required*. The court's decision must be in writing and must include a statement of reasons. The written decision must be sent to the applicant, the Traffic Adjudication Appeals Board, and the Office of the Attorney General for the District of Columbia.

## COMMENT TO 2019 AMENDMENT

This rule was amended consistent with the stylistic changes to the civil rules. D.C. Code citations were also updated. The manner of service was amended to be consistent with requirements in D.C. Code § 2-510 (2016 Repl.). In addition, a statement of the standard of review has been deleted because the standard of review can be found in the relevant statutes and case law. See D.C. Code § 50-2304.05 (2014 Repl.) (providing that the manner of and standards for appeals to the Superior Court are governed by D.C. Code § 2-510).

## COMMENT

It is contemplated that the Traffic Adjudication Appeals Board record shall include the Board's opinion, any findings of fact and conclusions of law made by the hearing examiner, any transcript or tape recording of the fact-finding proceeding and any other pertinent documents.