

MOTION TO STAY SENTENCE OR ORDER OF PROBATION PENDING APPEAL

Use the attached form motion if you have appealed your conviction to the Tribal Supreme Court you can ask the Court to stay your sentence pending your appeal. The Tribal code allows the Court in its discretion to stay a sentence of imprisonment where you would have to post a bond. It also allows the Court in its discretion to stay a sentence to pay a fine or costs or an order of probation. A stay means the sentence or order of probation will be suspended pending your appeal. If any imprisonment is stayed pending appeal, you will have post a bond before being released pending appeal.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out the attached form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the motion:

- (1) on this line insert your name. If you are charged with a crime(s) you are the defendant.
 - (2) on this line insert the date you were sentenced by the Court.
 - (3) on this line insert how many days jail and how much was the fine and costs or probation you were sentenced to.
 - (4) on this line insert the date you filed you appeal. Also attach a copy of your notice of appeal.
 - (5) on this line explain any circumstances of why the Court should stay your sentence or probation pending it appeal. This could include employment, need to care for a child or disabled adult, breast-feeding, a medical condition
 - (6) on this line insert the date you sign the motion
 - (7) on this line sign the motion
- Note: Your motion must be signed and dated before the Clerk can accept it for filing and service
- (8) on this line date the day you mailed a copy of the motion to the RST Prosecutor's office. You are required to serve a copy of the motion on the RST Prosecutor's office.
 - (9) on this line sign your name to certify you mailed a copy of the motion on date you inserted on line (8).

NOTE: You must file your motion with the RST Clerk of the Criminal Court and mail a copy to Tribe's Prosecutor's office.

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD SIOUX RESERVATION) SS
ROSEBUD, SOUTH DAKOTA)

IN CRIMINAL COURT

Rosebud Sioux Tribe, Plaintiff, v. (1) _____, Defendant.	DOCKET #CR _____ MOTION TO STAY SENTENCE OR PROBATION PENDING APPEAL
--	--

Comes now, the above-named Defendant who moves this Honorable Court for an Order staying the sentence or probation pending appeal, upon the grounds and for the following reasons:

1. That on (2) _____ I was sentenced by this Court to (3) _____.
2. That I timely filed an appeal to the Rosebud Sioux Tribal Supreme Court on (4) _____.
3. That this Court should stay the sentence of imprisonment and/or fines and costs and any order of probation due to the likely success of my appeal.
4. That this Court should stay the sentence of imprisonment and/or fines and costs and any order of probation because (5) _____

5. That it would be unfair to serve any sentence of imprisonment and fines and costs or order of probation.
6. Title Seven Section VIII, Subsection G of the Rules of Criminal Procedure Section VIII, Subsection G. of the Tribal Law and Order Code allows the Court in its discretion to stay a sentence of imprisonment and fines and costs and an order of probation.
7. Article X Section 1(f) of the RST Constitution and 25 USC Section 1302 (a)(8) of the Indian Civil Rights Act both prohibit the Tribe from denying any person of liberty without due process

of law.

8. The defendant would be prejudiced his or her sentence or order of probation is not stayed pending the appeal in this matter.

WHEREFORE, the defendant requests that the Court stay the sentence or probation pending appeal in this matter.

(6) _____

(7) _____
Defendant

CERTIFICATE OF SERVICE

The defendant hereby certifies that on (8) _____ I did serve a true and correct copy of the Document in the above matter by mail on the Rosebud Sioux Tribal Prosecutor's Office at P.O. Box 500, Rosebud, SD 57570.

(9) _____
Defendant