

Form 2

# PETITION FOR APPEAL

from

**COURT**  
**FINAL ORDER**

**STATE OF WEST VIRGINIA**

FILED  
OCT 19 2009

County Lincoln

Case Number 06-D-51

Family Court Judge Scott Elswick

Final Order Date 9-18-09

In Re: Marriage/Children of: Malynda Marie Moody v. Michael Frank Henry Moody II

Name of Petitioner  
Malynda Marie Moody

Name of Respondent  
Michael Frank Henry Moody II

Address:  
PO Box 301 Branchland, WV 25506

Address:  
345 Wedgwood Ln. Spring City, TN

**CHECK ONLY ONE**

I wish to appeal to the circuit court.

I wish to appeal directly to the Supreme Court. I have filed a Notice and Waiver within 14 days of a family court final order. If the other party does not agree to appeal directly to the Supreme Court, this petition will be treated as a petition to the circuit court.

**NOTICE**  
If you wish to appeal directly to the Supreme Court, both parties must file a Notice and Waiver within 14 days of the final order.

## PETITION

1. If the petition for appeal is granted, would you like the opportunity to make an oral argument?  
 YES  NO

2. Have you, or another party, filed a previous appeal?  
 YES  NO

If yes, give details: Filed appeal with Circuit Court of Lincoln County appeal denied

3. State briefly each ground on which you claim that the family court erred in its final order. Summarize briefly the facts supporting each ground. Attach additional pages if necessary. If you wish to make further argument in support of the petition, you may file a memorandum of law.

A. Ground one: Abandonment

Supporting FACTS (state *briefly* without citing cases or law)  
Respondent has not had any contact

with either child since 2001. He has not attempted to telephone, mail anything, or visit children. Children were at the same address from June 2001- April 2008. Respondent was aware of location, address and phone number. Children have always been in Lincoln County.

B. Ground two: Respondent is unfit

Supporting FACTS (state briefly without citing cases or law)

Respondent had a daughter state removed from his custody at birth while in hospital in or around 1992. Respondent believes in mental and physical abuse as forms of discipline. CPS Hamilton County TN was aware of abuse Early 2001. Respondent lost custody of two other children in 2001.

C. Ground three: Failure to Support

Supporting FACTS (state briefly without citing cases or law) Respondent has failed to support children from June 2001 up to Oct 2008 to support collected = 1075.83. Respondent has only begun to pay child support since attempting to gain visitations.

D. Ground four: Respondent is a Career Criminal

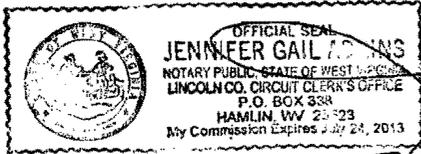
Supporting FACTS (state briefly without citing cases or law) Respondent has spent time in prison in NC and GA for two different felonies. Respondent is on probation in TN and GA. Respondent spend his life either in jail or committing a crime. Respondent has been in jails in at least 4 states and countless Counties. Respondent committed bigamy at least twice. Respondent will never be a constant in their lives.

### VERIFICATION

I, Malinda Marie Moody, after making an oath or affirmation to tell the truth, say that the facts I have stated in this Petition for Appeal are true of my personal knowledge; and if I have set forth matters upon information given to me by others, I believe that information to be true.

Malinda M. Moody Signature      10-2-09 Date

This Verification was sworn to or affirmed before me on the 2nd day of OCT 2009



Jennifer Gail Adams  
Notary Public

My commission expires: 7/24/13

### CERTIFICATE OF SERVICE

State of West Virginia

County of Lincoln

I, Malinda Marie Moody, the person making this Petition for Appeal, mailed the Petition to the following persons by first class United States Mail.

Mailed to: \_\_\_\_\_

Address: \_\_\_\_\_

Date mailed: \_\_\_\_\_

Mailed to: \_\_\_\_\_

Address: \_\_\_\_\_

Date mailed: \_\_\_\_\_

Malinda Marie Moody (Print your name)      Malinda M. Moody Signature      10-2-09 Date