THE STRAW-CITIZEN

APPELLATE REVIEW AS A FORGOTTEN CONSTITUTIONAL GUARANTEE

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1. Portinari's Scarecrow: The Form of Defence Without Its Substance

In 1959, a scarecrow was set down in paint and canvas: a faceless figure, arms outstretched, planted in the middle of a field, dressed in rags that mimic a body that is not there. It was placed there to guard the harvest and yet guards nothing. It intimidates by appearance alone, never by power. The birds need only a moment of lucidity to see through the imposture, and the puppet reveals itself for what it always was: a mute figure standing before a force it cannot contain. There is something tragic about it, for it displays the **gesture of defence** without the substance that would sustain it.

I recalled this image upon encountering, once again, the lapidary pronouncement that "there is no constitutional principle of appellate review in two instances" - a statement attributed to Justice Alexandre de Moraes and delivered with the emphasis of someone closing a debate at the very moment it ought to begin. The proclamation has sonic effect, particularly when uttered from the bench of the Federal Supreme Court. Yet **effect is not argument**, and office is not demonstration. In a State governed by the rule of law, constitutional doctrine was

not devised to unshackle power, but to restrain it. What troubles me about the phrase is not what it says - it is what it, in silence, authorises.

2. A Historical Step Backwards: From the Imperial Constitution of 1824 to Present-Day Atrophy

A brief historical detour is warranted - the kind that tends to embarrass those who favour the catchphrase over the documentary record. Article 158 of the **Imperial Constitution of 1824** enshrined, in unequivocal textual terms, the absolute guarantee of appellate review, ensuring that any case could always be reviewed, at the party's will, by the then *Tribunal da Relação* (later renamed *Tribunal de Apelação* and, today, *Tribunal de Justiça*). There stood, in the nineteenth century, the rule of absolute guarantee to the re-examination of judicial decisions (Cf. Nery, 2018).

The Republican Constitutions that followed loosened this design. They confined themselves to mentioning the existence of tribunals and conferring upon them appellate jurisdiction, leaving the principle of double-instance review implicit rather than enshrined as an absolute, textually anchored subjective right. The distinction is subtle but decisive: it is one thing to provide for an absolute constitutional guarantee; quite another to live with a mere structural provision from which appellate review must be inferred through systematic interpretation (Cf. Nery, 2018). The leap from this point to the assertion that *appellate review does not exist at all*, however, traverses an insurmountable distance - a distance that the Justice, with remarkable composure, covers in a single sentence.

3. Portinari's Scarecrow and the Right to Appeal

Let us be generous with the portion of the ministerial reasoning that is correct. It is incontestably true that the 1988 Constitution does not consecrate a total, universal right to appellate review applicable as a rubber stamp to every conceivable procedural hypothesis. There exist original jurisdictions, privileged forums *ratione personae*, judgments that originate directly at the apex of the judicial structure. Precisely because there is no absolute constitutional guarantee - but rather a structural provision - the ordinary legislator may validly restrict the right of appeal in specific circumstances, as in the prohibition of appeal in tax foreclosure proceedings of value below fifty OTNs (Article 34 of the Federal Tax Foreclosure Act) or in the unappealability of mere administrative orders (Article 1,001 of the Brazilian Code of Civil Procedure). These provisions withstand constitutional scrutiny precisely because there is no absolute guarantee to be violated (Cf. Nery, 2018).

Here, however, lies the fatal leap without a safety net: from the precise statement "appellate review is not absolute" one slides into the absurd "appellate review does not exist." One assertion is technical; the other, mere posturing. To hold that the guarantee admits exceptions is elementary doctrine; to decree that it lacks any constitutional substance is to confuse the ruler with the scissors. And it is on this frontier, so subtle one crosses it without noticing, that the citizen begins to be transformed into a **straw figure**.

4. The Word "Recourse" and the Literalism of Convenience

Article 5, Section LV, of the Brazilian Constitution does not stand there as ornament. It assures litigants and the accused the rights of adversarial proceedings and full defence, "with the means and recourses inherent thereto." And, it bears repeating to those who read in haste, "recourses" in this provision does not mean funds, budgetary appropriations, or financial resources: it means **procedural instruments of reaction, challenge, and control of judicial decisions**. Since Article 5 constitutes the very heart of fundamental rights of liberal pedigree, to strip the procedural meaning from that term is to surrender a fundamental right through sheer semantic carelessness - an operation that verges on hermeneutic vandalism (Cf. Gutier-Gutier, 2020).

The operation would be comical were it not dangerous. Defence without means of reaction is theatre; and theatre staged in the field, facing the harvest, has a well-known name: scarecrow. When an interpreter reduces the constitutional term to mere decorative detail, he is not merely being careless with grammar - he is, with rhetorical elegance, removing from the guarantee precisely that which would render it operative (Cf. Rossi, 2024).

5. Why Appeal: Civilised Distrust Before the Power to Judge

A doctrinal thesis illuminates why all of this matters. It refuses the lazy reading whereby the guarantee would be a mere appendage to the right it protects. The guarantee possesses **functional autonomy**: it operates directly as a check against arbitrariness - that is, against the exercise of power beyond the limits of conferred competence. And arbitrariness arises precisely when the State oversteps that contour (Cf. Rossi, 2024).

Translated to our terrain: appeal does not exist because the litigant is stubborn, but because the judge is fallible. It exists because adjudication is a human act, subject to error, passion, and fatigue, and because procedure cannot degenerate into the monologue of one who holds the last word. The right to appeal is, at bottom, a technique of **civilised distrust** before the power of decision - and distrust of power is not a systemic neurosis, but the very vocation of a Constitution forged against authoritarianism (Cf. Rossi, 2024).

6. An Entire Architecture Devoted to Re-examination: Structure as Argument

There is a detail the Justice's pronouncement passes over with notable convenience: the Constitution does not merely mention recourses - it erects entire tribunals around them. The Federal Supreme Court itself holds ordinary and extraordinary appellate jurisdiction (Article 102, II and III); the Superior Court of Justice handles special appeals (Article 105); the Superior Labour Court adjudicates appeals from the labour judiciary; the Superior Electoral Court, those from the electoral judiciary; federal and state regional tribunals, ordinary appeals. If the constituent power erected an entire architecture devoted to re-examination, then re-examination is a **structuring value**, not ornamental accident, and from this constitutional structure one extracts, naturally, the guarantee of judicial challenge to decisions (Cf. Gutier-Gutier, 2020).

To this one must add the venerable logic of **implied powers**: he who confers the ends also grants the means. Once review is provided as an organic function of the system, and an entire edifice has been built to realise it, the right to invoke it must be presumed. It would be plainly absurd to distribute appellate jurisdiction across so many organs while simultaneously holding that no one possesses the right to set them in motion (Cf. Gutier-Gutier, 2020). Curiously, however, this very logic tends to be lavish when it serves to enlarge State powers and, suddenly, miserly when it concerns the recognition of citizen guarantees (Cf. Rossi, 2024).

7. Extraordinary and Special Appeals: Constitutionally Closed Requirements

There is a little-celebrated corollary to the absence of an absolute constitutional guarantee of appellate review, yet one worth highlighting because it dismantles a recurrent confusion. If the Constitution does not impose universal double-instance review, neither does it authorise the ordinary legislator to invent restrictions on the admissibility of special and extraordinary appeals beyond those that the Constitution itself has established. The requirements of such appeals are wholly contained in the constitutional text (Articles 102, III, and 105, III), and only these requirements may be demanded of the appellant for such appeals to be entertained. Any additional barrier erected by ordinary statute would be, by symmetry, unconstitutional - which is precisely what occurred, in the past, with the attempt to resurrect, by indirect means, the former mechanism of *arguição de relevância* (challenge of relevance of the federal question) (Cf. Nery, 2018).

The mechanism of **general repercussion** (*repercussão geral*) itself, created by Constitutional Amendment 45/2004 as a filter for the extraordinary appeal, had to come by constitutional amendment - precisely because limiting access to the Federal Supreme Court requires authorisation from the Constitution itself. The lesson is eloquent: while the legislator may discipline and rationalise the appellate system, it is not granted to him to close the doors of the superior courts at his pleasure. And, on the other end of the seesaw, the powers conferred upon the *rapporteur* to decide monocratically on admissibility or merits (Brazilian Code of Civil Procedure, Articles 932 and 1,021) also survive the constitutional test, since the Constitution did not require that such appeals be initially adjudicated by a collegiate body - and the internal interlocutory appeal preserves collegial review whenever the party so wishes (Cf. Nery, 2018).

8. The Right to Double Pronouncement as a Faculty of the Litigant

It is also worth recalling a distinction the Justice appears to overlook: appeal is **a right, not a duty**. This means that appellate review operates as a **procedural faculty** vested in the party, exercisable according to convenience and strategy, and never as an obligation or burden to set the judicial machinery in motion. The litigant holds the prerogative - not the imposition - of having his case submitted to a second pronouncement by a different and, as a rule, hierarchically superior organ. Denying this prerogative does not save the Judiciary time: it saves the Judiciary the obligation of justifying itself (Cf. Gutier-Gutier, 2020).

From this flows the thesis we defend: although the majority doctrine still repeats, like a mantra, that appellate review is not a constitutional guarantee, there exists direct textual foundation (Article 5, LV, and its term "recourses") and systemic foundation (the architecture of Articles 102 and following of the Constitution) for sustaining precisely the opposite. It bears repeating: Article 5 is the nucleus of fundamental liberties; to treat "recourses" therein as a mere rhetorical figure would be to mutilate the very catalogue of individual rights (Cf. Gutier-Gutier, 2020).

9. The Pact of San José and the Constitutional Knot of Criminal Appellate Review

There remains, moreover, a chapter that the enthusiast of the ministerial phrase tends to avoid: the **Pact of San José, Costa Rica** (American Convention on Human Rights), to which Brazil is a signatory and which entered the domestic legal order in 1992. Article 8.2(*"h"*) of the treaty is crystal clear in assuring every person accused of an offence the "right to appeal the judgment to a higher court." Established here, at least in criminal matters, is an international guarantee of appellate review in two instances which dialogues directly with the Brazilian constitutional order (Cf. Nery, 2018).

The Federal Supreme Court, in its *leading case* on the matter, conferred upon the Pact the **status** of ordinary infra-constitutional norm, refusing the thesis that the treaty would elevate appellate review to an absolute fundamental guarantee. The more *garantista* (rights-protective) doctrine criticised this solution, holding that international treaties on human rights, in light of Article 5, §§ 2 and 3, of the Constitution, enter domestic law with constitutional hierarchy. There is yet a third reading - more nuanced - according to which the conventional guarantee, coupled with the structure of the Constitution, fully reaches criminal procedure but does not automatically transfer to civil or labour procedure (Cf. Nery, 2018). Whatever position one adopts, what can never be sustained is the rough assertion that appellate review, in criminal matters and in the twenty-first century, simply does not exist.

10. The Technical Detail the Federal Supreme Court Appears to Overlook About Itself

There remains, still, a technical slip worth recording, one which has more to do with doctrinal vanity at the Supreme Court than with any particular Justice. The Federal Supreme Court, with worrying regularity, declares that it "does not entertain" (*não conhece*) the extraordinary appeal when, in truth, it adjudicates its very merits - thereby conflating, at the theoretical level, the *judgment of admissibility* with the *judgment on the merits*. When the court holds that there is no violation of the constitutional norm invoked by the appellant, it is adjudicating the **merits** of the appeal (denying it), not declaring its **inadmissibility**. The distinction may seem like manual pedantry, yet it carries practically relevant consequences for the appellate system (Cf. Nery, 2018). One is led to a rhetorical question: if the court confuses such elementary categories as admissibility and merits, can it be trusted to distinguish, with the necessary subtlety, "non-absolute" from "non-existent"?

11. Neither Absolute Nor Inexistent: Adequate Appealability

Here lies the most refined point of the entire discussion, the one which was missing from the debate. Appellate review, at least in civil matters, perhaps need not even be labelled an "implicit guarantee" in the strict sense. It is better understood as an **expanded guarantee of adversarial proceedings** - that is, as a development of the enlargement of the scope of protection of an express guarantee, that of Article 5, LV (Cf. Rossi, 2024).

The consequence disarms the false dilemma. The Constitution need not repeat the label "principle of appellate review" to safeguard the substance: the guarantee reconstructs itself from the text that already promises defence with means and recourses. Thus disappears the simplistic choice between two extremes - absolute appellate review on one side, the inexistence of any right to appeal on the other. The correct position is intermediate and more demanding: there exists a guarantee of **adequate appealability**, whose extent varies according to the case, the decision, and the design of jurisdictional competences. It does not always ensure an appeal to another tribunal, but it prevents jurisdiction from being exercised as a decision shielded against any control (Cf. Rossi, 2024).

12. When Judgment Originates at the Apex: Jurisdiction Without Contrast

"And what of the Federal Supreme Court's original jurisdiction?" the defenders of the phrase will retort, as if playing a decisive card. Yet that is precisely where the scarecrow most haunts. That a proceeding originate at the apex may indeed except the classical "judge - tribunal" model, but exception is not safe-conduct. When judgment begins at the apex, the constitutional problem does not evaporate - it intensifies, because the higher the organ, the greater the burden of self-justification.

There exists a precise expression for this: **improper jurisdiction**. Power is legitimate so long as it remains delimited competence; exercised beyond its contours, it transmutes into arbitrariness, and before a power without contrast there imposes itself the guarantee capable of rebalancing it (Cf. Rossi, 2024). A jurisdiction without adequate challenge converts competence into uncontestable authority, and the decision ceases to be a reviewable act to become an almost sovereign pronouncement. The judge, even when a Justice, is not sovereign. The tribunal, even when supreme, does not hover above the Constitution. In a Republic, competence without control is the arbitrariness of the robe - and to dignify this with theory is what has come to be aptly called *ministrocracia* (justice-ocracy, the rule of individual justices) (Cf. Rossi, 2024).

13. Procedure Is a System: To Tamper with One Part Is to Unsettle the Others

A collateral effect is commonly forgotten. Procedure is not a freestanding guarantee, but an institution composed of mutually supporting parts - adversarial proceedings, full defence, natural judge, due process, reasoned judgment, impartiality, publicity, appealability. To tamper with one shakes the others. To restrict appeal is never a neutral gesture: it reverberates throughout the entire balance of the system (Cf. Rossi, 2024).

None of this, of course, amounts to endorsing the appellate sentimentalism of those who demand a fresh judgment at every disappointment. Abuse exists, dilatory litigation exists, manipulation of appeals exists. Yet such pathologies are cured by **technique** - admissibility filters, general repercussion, repetitive appeals, system of precedents, procedural fines - never by the negation of the guarantee. To treat appealability as a disease is the legal equivalent of confusing the remedy with the illness (Cf. Rossi, 2024).

14. The Honest Formula

In the end, the painting says what the case files do not. To deny constitutional density to appealability does not leave the citizen with nothing: it leaves him with a scarecrow - the appearance of defence planted before a power that remains untouched, its arms outstretched in a reaction that never comes. The Constitution of 1988 was not written to manufacture straw figures; it was written, from an anti-authoritarian matrix, to produce real defenders. For this reason the honest formula could never be "appellate review does not exist." The honest formula fits in a single line: **appellate review is not absolute, but adequate appealability holds constitutional standing, and no power of adjudication - however high the bench - escapes some form of contrast** (Cf. Rossi, 2024; Gutier-Gutier, 2020; Nery, 2018).

"People repeat, repeat, repeat," lamented the Justice. Perhaps. Yet there are repetitions that are vice and repetitions that are vigilance. To recall that all power requires control is no manual's tic - it is the only thing that separates a citizen from a straw puppet. And when constitutional interpretation impoverishes the guarantee, what tends to grow rich, almost always, is power. A curious regression, incidentally: the Empire of 1824 guaranteed, in absolute terms, what the Republic of 1988 hesitates to recognise even in relative terms.

- **Logic of the Theme (Adequate Appealability as Constitutional Guarantee)**

The interpretive key is simpler than the public debate suggests and, for that very reason, tends to be trampled. The Justice's reasoning is correct in its premise and mistaken in its conclusion: it departs from "appellate review is not absolute" - which is correct, recalling that Article 158 of the 1824 Constitution enshrined an absolute guarantee and that the Republican Constitutions thereafter opted for implicit structural provision - to arrive at "appellate review does not exist," which is a rhetorical leap without doctrinal support. Between the two extremes lies an intermediate position, more sophisticated and more defensible: that of an adequate appealability, drawn directly from Article 5, LV, of the Constitution, in which the word "recourses" denotes a procedural instrument of challenge, not financial provision. Defence is real only when accompanied by means of reaction, and Article 5 - the nucleus of fundamental rights - cannot be read so as to empty precisely what it there promises. To this textual foundation is added the structural foundation: the Constitution organises entire tribunals around re-examination (Articles 102, 105, and corresponding provisions for the labour, electoral, and other branches), and, by the logic of implied powers, he who distributes appellate jurisdiction across so many organs necessarily recognises the right to invoke them. From this flows the right to double pronouncement, which operates as a procedural faculty - a right of the litigant, not an obligation. Added to this is the conventional reinforcement: the Pact

of San José, Costa Rica (Article 8.2, *"h"*) assures, expressly in criminal matters, the right to appeal a judgment to a higher court or tribunal, and this reinforcement, coupled with Article 5, §§ 2 and 3, of the Constitution, operates as an additional layer of protection. The higher the adjudicating organ, the greater - not the lesser - the burden of submitting to some form of contrast; otherwise, delimited competence degenerates into uncontestable authority, the phenomenon known as *ministrocracia*. The abuses of the appellate system are real, but they are corrected by technique (filters, general repercussion, repetitive appeals, precedents), never by the amputation of the guarantee. In synthesis: appealability is a technique of civilised distrust before the power to judge, and to distrust power is the very reason for the existence of an anti-authoritarian Constitution.

- **Overview Table**

Theme	Explanation of the Institute
Appellate review in the 1824 Constitution	Article 158 of the Imperial Constitution enshrined, in textual terms, the absolute guarantee of appellate review, allowing any case to be reviewed by the Tribunal of *Relação* at the party's will; this is the sole moment in Brazilian constitutional history when the guarantee received textual and absolute consecration.
Appellate review in the Republican Constitutions	From 1891 onwards, the Republican Constitutions replaced the absolute guarantee with mere structural provision, mentioning the existence of tribunals and conferring upon them appellate jurisdiction without erecting appellate review as an absolute subjective right; therefrom flows the current controversy.
Appellate review in two instances	Possibility of integral re-examination of the decision by a different organ hierarchically superior to the one that issued it; it is not absolute under the 1988 order, since it admits constitutional exceptions (original jurisdictions and privileged forum *ratione personae*).
Adequate appealability	Intermediate position between absolute appellate review and its negation; ensures that every jurisdictional decision admits some mechanism of contrast, with extent varying according to the case, the decision, and the design of competences.
Article 5, LV, of the 1988 Constitution	Assures adversarial proceedings and full defence "with the means and recourses inherent thereto"; the term "recourses" denotes procedural instruments of reaction and control, not budgetary provision - and since Article 5 is the nucleus of fundamental rights, its literal and protective reading is doctrinally due.

Expanded guarantee of adversarial proceedings	Foundation of appealability; derives from the enlargement of the scope of protection of an express guarantee, dispensing the Constitution from repeating the label "principle of appellate review" to protect the substance.
Functional autonomy of the guarantee	The guarantee is not a mere appendage to the right; it acts directly as a check against arbitrariness - that is, against the exercise of power beyond the limits of its competence.
Improper jurisdiction	Power exercised beyond the contours attributed; converts itself into arbitrariness and, therefore, demands a guarantee that rebalances it, lest competence be transformed into sovereign authority.
Implied powers	The principle whereby he who confers the ends also grants the means; once review is provided as a function of the system, and tribunals erected to realise it, the right to invoke it must be presumed - logic that must serve the guarantees as well, and not merely the enlargement of State powers.
Constitutional structure of the Judiciary	Articles 102, II and III; 105; 108; 111-A; 119, II; and related provisions organise an entire architecture devoted to re-examination (STF, STJ, TST, TSE, regional federal tribunals, state tribunals); re-examination is therefore a structuring value of the system, not a decorative accident.
Right to double pronouncement	Procedural faculty of the litigant to have the case adjudicated by two distinct judicial organs; appeal is a right, not a duty, and may be exercised according to the convenience and strategy of the party.
Infra-constitutional limits to appellate review	Precisely because no absolute guarantee exists, the legislator may validly restrict the right of appeal in specific hypotheses (Article 34 of the Federal Tax Foreclosure Act; Article 1,001 of the Brazilian Code of Civil Procedure) without affront to the Constitution.
Constitutional requirements of the exceptional appeals	The special and extraordinary appeals (Articles 102, III, and 105, III) have their requirements wholly fixed by the Constitution; the ordinary legislator cannot add barriers to admissibility without constitutional authorisation - hence Constitutional Amendment 45/2004 was necessary to institute general repercussion.

Pact of San José, Costa Rica (Article 8.2, "h")	International treaty to which Brazil is a signatory, assuring every person accused of an offence the right to appeal the judgment to a higher court or tribunal; the Federal Supreme Court conferred upon it infra-constitutional *status*, a position criticised by the *garantista* doctrine that defends the constitutional hierarchy of human rights treaties (Brazilian Constitution, Article 5, §§ 2 and 3).
Distinction admissibility × merits in exceptional appeals	Untimeliness and inadmissibility are causes of non-entertainment; the denial on the merits, by contrast, is a judgment of substance - a technically clear distinction, yet frequently confused by the Federal Supreme Court, which "does not entertain" when, in truth, it adjudicates the merits.
***Ministrocracia* / arbitrariness of the robe**	Designates the exercise of judicial competence without adequate control, in which the decision becomes an almost sovereign pronouncement; in a Republic, competence without contrast is arbitrariness.
Appellate pathologies	Dilatory litigation, abuse, and manipulation of appeals; corrected by technique (admissibility filters, general repercussion, repetitive appeals, precedents, and fines), never by negation of the guarantee.
Unity of procedure	Procedure is an institution composed of interdependent parts (adversarial proceedings, full defence, natural judge, due process, reasoned judgment, impartiality, publicity, appealability); to restrict one shakes the balance of the whole.

- **Table of Precedents (Federal Supreme Court and Superior Court of Justice)**

Item	Explanation of the Precedent
RHC 79.785/RJ (STF)	*En Banc*; Rapporteur Justice Sepúlveda Pertence; judged 29 March 2000 (Official Gazette 22 November 2002; RTJ 183/1010). *Leading case* on the matter, in a criminal action of original jurisdiction of the Rio de Janeiro Court of Justice. *Ratio decidendi*: although it recognises appellate review as "the possibility of integral re-examination of the first-instance judgment, entrusted to a different organ of superior hierarchy," the Federal Supreme Court held that "the Constitution - in line with its Republican antecedents - did not, in effect, erect appellate review into a fundamental guarantee." The court examined the matter in its full breadth, considering the Pact of San José, Costa Rica, yet

	conferring upon that international instrument the *status* of ordinary infra-constitutional norm. Decision by majority, with Justices Marco Aurélio and Carlos Velloso dissenting (sustaining, in dissenting opinion, the consecration of appellate review as a fundamental right deriving from the constitutional-legal order).
AI 601.832 AgR/SP (STF)	Second Panel; Rapporteur Justice Joaquim Barbosa; judged 17 March 2009 (Electronic Gazette 3 April 2009). *Ratio decidendi*: although internalised by the American Convention on Human Rights, appellate review is not of absolute nature; the Constitution itself provides for exceptions, and Constitutional Amendment 45/2004 did not create a new form of unnamed appeal intended to confer upon it full effectiveness. Frequently invoked precedent in support of the restrictive thesis.
HC 88.420/PR (STF)	First Panel; Rapporteur Justice Ricardo Lewandowski; judged 17 April 2007. *Ratio decidendi*: reveals a more *garantista* tendency regarding the right to appeal, without, however, elevating appellate review to the condition of full constitutional guarantee; important in demonstrating that the position of the Federal Supreme Court is neither monolithic nor wholly refractory to the constitutional dignity of appealability.
ADPF 167/DF (STF)	Subsequent decision reaffirming the holding of RHC 79.785/RJ: appellate review does not constitute a guarantee provided for in the Constitution of the Republic, but rather translates a political choice of the legislator; it cites expressly the precedents HC AgR (Rapporteur Justice Luiz Fux, First Panel, 2 June 2017), RE AgR (Rapporteur Justice Dias Toffoli, Second Panel, 9 December 2016), and RHC 79.785 itself. *Ratio*: in the absence of *ad quem* jurisdictional organs, in the constitutional system, indispensable to enabling the application of the principle of appellate review in proceedings of original jurisdiction of the Tribunals, there follows the incompatibility with the Constitution of the application, in the case, of the international norm invoked.
Orientation of the STJ (Criminal and Civil Panels)	E.g., AgRg no HC, Fifth and Sixth Panels. *Ratio decidendi*: the principle of appellate review, "by its very nature, is not absolute"; it assures the possibility of review of judicial decisions, as a rule, by a hierarchically superior organ, save for the original jurisdictions of the tribunals. The Superior Court of Justice follows the line established by the Federal Supreme Court in RHC 79.785/RJ, recognising appealability as a general rule subject to constitutionally provided exceptions, yet treating appellate review as a relative principle rather than an absolute right.

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