



British Columbia Court of Appeal
Practice Directive (Civil and Criminal)
Title: Appearing before the Court

Issued: 6 February 2025

Effective: 6 February 2025

Cite as: *Appearing before the Court* (Civil & Criminal Practice Directive, 14 March 2023)

This practice directive deals with introducing and addressing either a division of the Court of Appeal, a Justice in chambers, or a Registrar. It is primarily for the benefit of more recently called members of the legal profession who are, or will be, making their first appearances before the Court, but may also be of use to those who are self-represented.

The practice before the Court is as follows:

- Counsel are required to gown for all hearings before a division of justices. Counsel are not required to gown for hearings before a single justice. Counsel who are pregnant or have a disability or other reason affecting the ability to fully gown may appear in alternate gowning attire as appropriate to their circumstances;
- Counsel are not required to gown for hearings before a single justice or before the Registrar. Counsel are expected to wear business attire that respects the seriousness, decorum and importance of the proceedings. The Court recognizes the choice of business attire may vary, including to reflect one's ethnicity, culture, faith or gender identity, or to accommodate a pregnancy or disability.
- The appellant(s) or their counsel sit on the left side of the courtroom (facing the bench) and the respondent(s) or their counsel sit on the right;
- Before the judges enter the courtroom, the appellant(s) or their counsel and the respondent(s) or their counsel advise the court clerk their names, their preferred manner of address (e.g. "Mr./Ms./Mx./Counsel Jones"), their pronouns (optional), and the party they represent;
- Parties rise if they are able to when the Court is called to order and the judges enter the courtroom. Parties bow when the judges bow and then resume sitting;

- After a case is called, the appellant(s) or their counsel stand if they are able to and make introductions, giving their name, their pronouns (optional), and indicating for whom they act, and then resume sitting;
- If the appellant is represented by more than one counsel, senior/lead counsel introduces themselves and then introduces other counsel, who stand if they are able to while being introduced; senior/lead counsel resume sitting after introductions have been completed;
- If there are separately represented appellants, then the introductions of counsel for each appellant should, in turn, follow, in accordance with the practice set out above;
- The introductions of the respondent(s) or their counsel follow those of the appellant(s), in accordance with the above practice;
- The introductions of the intervener(s) or their counsel follow those of the respondent(s), in accordance with the above practice;
- After introductions have been completed, the presiding judge will indicate how the Court wishes to proceed; when called upon, parties should move to the podium to address the Court;
- Only one person should be addressing the Court at any given time.

On motions or applications before the Court or on chambers matters, the foregoing should be read with “applicant” replacing “appellant”, and “respondent” being the respondent on the motion or application.

Justices of the Court of Appeal are to be referred to as “Chief Justice”, “Justice”, “Madam Justice”, “Mr. Justice” or, collectively, as “Justices”, according to the context. Counsel and parties are asked to refrain from addressing justices as “my lady”, “my lord”, “your ladyship” or “your lordship”. In a Registrar’s hearing, the Registrar is to be addressed as “your honour”.

The Civil and Criminal Practice Directive titled [Remote Appearances](#) provides additional information related to rules and decorum when appearing before the Court by videoconference.



Chief Justice Leonard S. Marchand
Court of Appeal for British Columbia

History:

Replaces the Civil and Criminal Practice Directive titled *Appearing before the Court* dated 14 March 2023, previously amended 20 October 2022, 11 July 2022 and 11 November, 2021, which replaced the Civil and Criminal Practice Note titled *Appearing before the Court* dated 11 October 2019.



COURT OF APPEAL

**British Columbia Court of Appeal
Practice Directive (Criminal)**

**Title: Applications for a Court-Appointed Lawyer
Under Section 684 of the *Criminal Code***

Issued: 19 September 2011

Effective: Immediately

Cite as: *Applications for a Court-Appointed Lawyer Under Section 684 of the Criminal Code* (Criminal Practice Directive, 19 September 2011)

Application is made by notice of motion and affidavit, according to the forms attached.

Applicants should generally be able to show that:

- They cannot afford to retain counsel for the appeal;
- They applied to the Legal Services Society for legal aid and were refused.

Fill out the [Letter of Authority \(Appendix A\)](#) and make three copies. Mail the original to the Legal Services Society.

Applicants must show the Court there is a reasonable possibility the appeal will succeed. To assist the Court in assessing the application, applicants must authorize the Legal Services Society to give the Court all the materials they have on the case, excluding any confidential letters of counsel assessing the merit of the appeal.

Fill out the [Notice of Motion for Appointment of Counsel \(Appendix B\)](#). File the original and two copies with the Registry.

Fill out the [Affidavit for Appointment of Counsel \(Appendix C\)](#). File the original and two copies with the Registry.

Applicants should include the following details in their affidavit:

1. Why they cannot afford a lawyer.
2. Their education level and their ability to defend themselves.
3. That they applied for legal aid and were refused.
4. Proof that they authorized Legal Services Society to send the materials on the case to the Registry (copies of the Letter of Authority).
5. The main points to be argued.

6. Why the case is complex.
7. Why the case may succeed.
8. Why they need a lawyer to organize the case and present it.
9. Whether they have already had one level of appeal.

See ***Re Baig and the Queen*** (1990), 58 C.C.C. (3d) 156 (B.C.C.A.) and ***R. v. Redlick*** (1996), 75 B.C.A.C. 241.



The Honourable Chief Justice Finch
for the Court of Appeal of British Columbia

History:

Replaces the criminal Practice Directive titled *Applications for a Court-Appointed Lawyer Under Section 684 of the Criminal Code* dated 12 December 2005 and amended 8 November 2010.



**British Columbia Court of Appeal
Practice Directive (Civil & Criminal)**

Title: Case Compilation & Presentation Software

Issued: 11 July 2022

Effective: 18 July 2022

Cite as: *Case Compilation & Presentation Software* (Civil & Criminal Practice Directive, 18 July 2022)

The Court has, in the last several years, continued experimenting with case compilation and presentation software. As well, the Court notes the frequent use of case compilation and presentation software in other jurisdictions, such as CaseLines in Ontario.

The Court would like to continue to experiment and evaluate options for compiling and presenting appeals electronically.

Those who are interested in using such software should submit a proposal to the Registrar, who will authorize and provide directions on its use.

A handwritten signature in black ink, appearing to be "A. Bauman", is located below the text of the directive.

The Honourable Chief Justice Bauman
for the Court of Appeal of British Columbia

History:

This is a new practice directive.



**British Columbia Court of Appeal
Practice Directive (Civil & Criminal)
Title: Chambers Applications**

Issued: 3 May 2024

Effective: 3 May 2024

Cite as: *Chambers Applications* (Civil & Criminal Practice Directive, 3 May 2024)

When bringing or responding to an application before a single judge in chambers, parties should observe the following:

1. Person(s) bringing the application should obtain a date for the application online at <https://justice.gov.bc.ca/scjob/>;
2. Wherever possible, obtain other parties' agreement to the date you have selected;
3. Prepare, file, and serve materials in accordance with the *Rules* and the Registrar's filing directive;
4. Person(s) responding should also file responding materials in accordance with the *Rules* and the Registrar's filing directive;
5. Any person who wishes to appear by Zoom must file a Request to Appear Remotely with their materials on the timelines in the *Rules*: see [Remote Appearances \(Civil & Criminal Practice Directive, 18 July 2022\)](#).

Once material is filed, the Deputy Registrar may request a time estimate from the parties and will advise them of the time at which they must appear. If no such time is given, parties must appear at **9:30am** by default. Decisions made by the Deputy Registrar at the time of scheduling about the timing and length of hearings are final.

When bringing or responding to applications before the Registrar, parties should follow the process above, but instead of booking online must contact the Registrar's scheduler directly to obtain available times and dates for the application.

Urgent applications brought under Rule 57 must be scheduled by telephoning the chambers scheduler to obtain a date.

If appearing by Zoom, parties must observe the requirements in the [Remote Appearances](#) practice directive.

Chief Justice Marchand
Court of Appeal for British Columbia

History:

Replaces the Civil and Criminal Practice Directive titled *Chambers Applications* dated 18 July 2022, which replaced *Chambers Applications by Telephone or Videoconference* dated 18 September 2011.



**British Columbia Court of Appeal
Practice Directive (Civil & Criminal)
Title: Citation of Authorities**

Issued: 11 July 2022

Effective: 18 July 2022

Cite as: *Citation of Authorities* (Civil & Criminal Practice Directive, 18 July 2022)

Parties preparing factums or submissions to the Court of Appeal are asked to observe the following practices:

General Citation Practices

1. When relying on an authority cited by a different party, always cite to the version within that party's factum or book of authorities and omit the authority from your book of authorities. The Court strongly prefers joint books of authorities and/or joint appeal books where possible.
2. Ensure the version of an authority included in your book of authorities matches the format of the version cited in the parties' factums, particularly with respect to pagination and paragraph numbers.
3. Do not hyperlink authorities cited within factums.

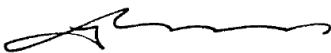
Specific Citation Practices

4. Follow the citation standards in the most recently published edition of the *Canadian Guide to Uniform Legal Citation*, (the *McGill Guide*), unless directed otherwise in this practice directive.
5. Always use periods within citations where omitted by the *McGill Guide*.
6. Cite as precisely as possible to all authorities, for example, to paragraph or section numbers, rather than to pages or chapters.
7. Do not cite to case summaries or headnotes (they are not part of the judgment).
8. Cite Canadian cases to their neutral citation. Additional (parallel) citations are not required.

9. Where a neutral citation is not available for a Canadian case, cite to a freely accessible electronic service (e.g. CanLII) or a printed reporter first. If the first citation is to a printed reporter, include one additional (parallel) citation.
- ✓ *Green v. Red*, 2013 BCCA 212 at para. 10
 - ✓ *Green v. Red*, 2021 BCCA 333 (CanLII) at para. 10
 - ✓ *Green v. Red* (1977), 3 B.C.L.R. 20 at 21 (Co. Ct.); [2011] 2 W.W.R. 212
 - x *Green v. Red*, [2001] S.C.R. 3, 2001 SCC 1
10. If a case is from outside of Canada, provide the neutral citation if available and one parallel citation.
- ✓ *Green v. Red*, [1996] SGCA 78, 1 S.L.R.(R) 212 at 213
 - ✓ *Green v. Red*, [1925] 4 D.L.R. 212, 31 W.L.R. 212 at 213 (B.C.C.A.)
11. Use this format for unreported judgments:
- ✓ *Green v. Red* (30 April 1981), Victoria 79/0123 (B.C.S.C.)
12. When citing a case decided in chambers, include the term "Chambers" or "in Chambers" at the end of the citation within any bracketed information.
- ✓ *Green v. Red* (1986), 1 B.C.L.R. (2d) 190 (C.A. Chambers)
 - ✓ *Green v. Red*, 2010 BCCA 212 (in Chambers)
13. Only add the name of the judge at the end of the citation when relevant.
- ✓ *Green v. Red* (1986), 1 B.C.L.R. (2d) 212 (C.A.), Purple J.A., dissenting
14. Do not give the full citation to the rules of the various courts in British Columbia.
- ✓ *Supreme Court Civil Rules*, R. 15-1
 - ✓ *Supreme Court Family Rules*, R. 15-1
 - ✓ *Court of Appeal Rules*, R. 5
 - ✓ *British Columbia Court of Appeal Criminal Appeal Rules*, 1986, R. 5
 - x *Supreme Court Civil Rules*, B.C. Reg. 168/2009, R. 15-1
15. For books that are continually updated, such as loose-leaf services, include the last revision update. Do not include the "date of consultation".
- ✓ J.D. Green, *The Law of Tort* (Toronto: Thomson Reuters, 2011) (loose-leaf updated 2013, release 20), ch. 5 at 71.
16. When referring to a practice directive or note, follow the citation style prescribed in that particular directive or note.

Style Practices

17. Review and follow the [completion instructions](#) for all application materials and appeal books before filing. Whenever possible, use the pre-set word templates for factums and written arguments.
18. Do not capitalize the names of documents, the titles of pleadings, or the status of litigation parties unless required in a [Form](#).
 - ✓ “The appellant’s notice of civil claim states a power of attorney...”
 - x “The Appellant’s Notice of Civil Claim states a Power of Attorney...”
19. Capitalize “court” only when referring to a specific court.
 - ✓ “The British Columbia Supreme Court held in *Green* that ...”
 - ✓ “The Court in *Green* ...”
 - ✓ “The case before this Court is about ...”
 - x “There is no Court in Canada except the supreme court of Canada...”
 - x “No Courts have yet adopted...”
20. Capitalize “judge” or “justice” only when naming a particular judge or justice.
 - ✓ “Justice Smith wrote in *Green v. Red* that...”
 - ✓ “The trial judge...”
 - x “The Chambers Judge ...”
21. When referring to an authority several times that must be distinguished from other similarly named authorities, use a short form in brackets. Otherwise, just use a shortened form in subsequent references. Do not use *supra*, *ibid.*, or hereinafter.
 - ✓ *The Red Act of British Columbia*, R.S.B.C. 1995, c. 22, is referred to in both *Green v. Red*, 2007 BCSC 543 (“*Green #1*”) and *Green v. Red*, 2007 BCSC 212 (“*Green #2*”). In both *Green #1* and *Green #2*, *the Red Act* was upheld as constitutional.
22. Avoid overly formalistic language, such as “this Honourable Court,” “heretofore,” “aforesaid,” or “learned”. Only use Latin phrases if necessary.



Chief Justice R.J. Bauman
Court of Appeal for British Columbia

History

Replaces the Civil and Criminal Practice Directive titled *Citation of Authorities* dated 30 May 2013, which replaced previous versions dated 19 September, 2011, and 18 June 2007.



**British Columbia Court of Appeal
Practice Directive (Civil & Criminal)**

Title: Court Sittings in Kamloops and Kelowna

Issued: 11 July 2022

Effective: 18 July 2022

Cite as: *Court Sittings in Kamloops and Kelowna* (Civil & Criminal Practice Directive, 18 July 2022)

The Court of Appeal has for some years scheduled sittings in Kamloops and Kelowna. For the last two years, hearings were scheduled in these communities when requested by counsel.

Because appeals are frequently of significance to the local community, the Court is of the view that appeals originating from Kamloops, Kelowna, Vernon, Penticton, and Salmon Arm will be heard at either Kamloops or Kelowna, unless the Registrar directs the appeal to be heard in Vancouver.

Parties requesting a Vancouver hearing should do so by letter to the Registrar outlining reasons that outweigh the interest of the local community in hearing the appeal. If other parties disagree, they should provide a brief letter outlining their position.

When an appeal originating in one of these locations is ready for hearing, the appellant should contact the Court Scheduler (604-660-2865) to schedule the appeal. If the parties wish to adjourn or reschedule a hearing, they should immediately notify the Court Scheduler with at least one week's notice.

Parties in other locations in British Columbia may also request a local hearing following the procedures listed above. Those hearings shall be conducted in Kamloops, Kelowna, or Prince George.

Any comments on the procedure should be addressed to the Registrar.

Chief Justice R.J. Bauman
Court of Appeal for British Columbia

History:

Replaces the Civil and Criminal Practice Note titled *Court Sittings in Kamloops and Kelowna*, dated 27 June 2014, which replaced the Civil and Criminal Practice Note titled *Court Sittings in Kamloops, Kelowna and Prince George*, dated 17 April 2012, which replaced the practice note titled *Court Sittings in Kamloops, Kelowna and Prince George* dated 8 September 2010.



COURT OF APPEAL

British Columbia Court of Appeal
Practice Note (Criminal)
Title: Criminal Transcripts

Issued: 30 May 2013

Effective: Immediately

Cite as: *Criminal Transcripts* (Criminal Practice Note, 30 May 2013)

1. In addition to the paper copies of transcripts filed with the Court pursuant to the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, R. 7, the appellant must file at the same time an electronic copy of the transcript.
2. The appellant shall deliver an electronic copy of the transcript to the respondent on request.

A handwritten signature in blue ink, appearing to read 'J. Jordan', written over a horizontal line.

Jennifer L. Jordan
Registrar

History:

This is a new practice note.



British Columbia Court of Appeal
Practice Directive (Civil & Criminal)
Title: Declarations of Invalidity in Court Orders

Issued: 11 July 2022

Effective: 18 July 2022

Cite as: *Declarations of Invalidity in Court Orders* (Civil & Criminal Practice Directive, 18 July 2022)

When the Court of Appeal pronounces a judgment addressing the validity of an enactment and upholds a declaration of invalidity made by the court below, makes a declaration of invalidity in the first instance, or sets aside a declaration of invalidity made by the court below, the party drafting the Court of Appeal's order must include a term dealing with the declaration. That term may be styled in a form analogous to the examples below.

THIS COURT DECLARES that section X of *Y Act* is of no force or effect.

THIS COURT ORDERS that the declaration made on [set out date] that section X of *Y Act* is of no force and effect is hereby set aside.

Chief Justice R.J. Bauman
Court of Appeal for British Columbia

History:

Replaces the Civil and Criminal Practice Directive titled *Declarations in Court Orders*, dated 5 March 2020, which replaced the Civil and Criminal Practice Directive titled *Declarations in Court Orders*, dated 11 October 2019.



COURT OF APPEAL

**British Columbia Court of Appeal
Practice Directive (Criminal)**

Title: Forfeiture, Dangerous and Long Term Offender Appeals

Issued: 6 September 2013

Effective: Immediately

Cite as: *Forfeiture, Dangerous and Long Term Offender Appeals (Criminal Practice Directive, 6 September 2013)*

1. Because of the nature and complexity of appeals arising from: (a) forfeiture applications under s. 462.37 of the *Criminal Code* (Proceeds of Crime); (b) forfeiture applications under ss. 16 and 17 of the *Controlled Drugs and Substances Act* (Offence-Related Property); and (c) Dangerous and Long Term-Offender applications under Part XXIV of the *Criminal Code*, the Court has determined that all such matters be treated as full appeals requiring factums, even though some are technically sentence appeals. The schedule below is to be followed for these appeals.
2. Pursuant to the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, an appellant must file an original and four copies of a Notice of Appeal in Form 1 or 2 (where the appellant is unrepresented) within 30 days after the making of a forfeiture order or a dangerous or long term offender designation, or the dismissal of an application for such an order or designation. The registrar will forward a copy of Form 1 or 2 to the prosecutor.
3. Within 60 days of filing the Notice of Appeal, the appellant shall file six copies of an appeal book and transcript and deliver one filed copy to the respondent.
4. The appellant shall also file one electronic copy of the transcript.
5. At the time the appeal books and transcripts are filed, the appellant shall contact the Registrar and arrange for a hearing date for the appeal.
6. The represented appellant shall file six copies of a factum (limited to 30 pages) at least 60 days before the hearing of the appeal and deliver a copy to the respondent. The unrepresented appellant is encouraged to follow the same rule, but may instead file a short statement of the issues.

7. The represented appellant shall also file one electronic copy of its factum. An unrepresented appellant is not required to comply with this direction.
8. The respondent shall file six copies of a factum at least 30 days before the hearing of the appeal and deliver a copy to the appellant.
9. The respondent shall also file one electronic copy of its factum.
10. The parties shall file five copies of the authorities at least 30 days before the hearing of the appeal. These authorities shall also be delivered to the appellant/ respondent (as the case may be).
11. This practice directive does not apply to appeals filed on or before the date this practice directive is issued.

A handwritten signature in dark ink, appearing to read 'A. Bauman C.J.B.C.', is written over a horizontal line.

The Honourable Chief Justice Bauman
for the Court of Appeal of British Columbia

History: This is a new practice directive.



COURT OF APPEAL

British Columbia Court of Appeal
Practice Note (Criminal)
Title: Double-Siding of Appeal Materials

Issued: 9 February 2016

Effective: Immediately

Cite as: *Double-Siding of Appeal Materials* (Criminal Practice Note, February 9, 2016)

The Court directs that all books filed in criminal appeals be double-sided, except for factums and statements.

“Timothy R. Outerbridge”
Registrar of the Court of Appeal for British Columbia

History:

This is a new Practice Note.



COURT OF APPEAL

British Columbia Court of Appeal

Practice Note (Criminal)

Title: Extradition Appeals

Issued: 13 May 2016

Effective: Immediately

Cite as: *Extradition Appeals* (Civil & Criminal Practice Note, May 13, 2016)

The Court has created a model order to reduce the number of appearances required in extradition proceedings. The model order allows bail pending an appeal from committal to continue without a further application in chambers, should the Minister of Justice order the person sought surrendered. Whether such an order will be granted is within the discretion of the judge hearing the application for bail pending an appeal from committal.

A handwritten signature in blue ink, appearing to read 'Timothy R. Outerbridge'.

Timothy R. Outerbridge
Registrar of the Court of Appeal of British Columbia

History:

Replaces *Extradition Appeals* (Civil & Criminal Practice Note, March 21, 2014)

Court of Appeal File No. **XXXXX**
Supreme Court File No. XXXX DOB:
XXXX

COURT OF APPEAL

ORDER

The Attorney General of Canada on behalf of the United States of America

Respondent

v.

XXXX

Appellant

BEFORE THE HONOURABLE

XXXX the XXXX day

XX JUSTICE XXXX

Of XXXX, XXXX

'IN CHAMBERS'

IT IS ORDERED that the Appellant, unless he is detained for some cause other than the within extradition proceedings, be released from custody pending the determination of his appeal from committal, upon the Appellant entering into a **recognizance with XX sureties**

in the sum of **\$XXXXXX**

with the conditions that follow

before a Justice of the Peace at the Courthouse, 800 Smithe Street, Vancouver, British Columbia

without depositing any money or other valuable security

with a Justice of the Peace.

Let the Prisoner be brought, in custody to:

The Law Courts 800 Smithe Street Vancouver,
British Columbia for the purpose of entering into his
recognizance.

Court of Appeal File No. XXXX
Supreme Court File No. XXXX DOB:
XXXX

CONDITIONS OF RECOGNIZANCE

- a) The Appellant shall keep the peace and be of good behavior.
- b) The Appellant shall report, in person, to the Bail Supervisor, 275 East Cordova Street, Vancouver, British Columbia, forthwith upon his release and thereafter once per week as directed by the bail supervisor.
- c) The Appellant shall remain within the Province of British Columbia.
- d) The Appellant shall reside at XXXX and shall not change his address without the prior written permission of his Bail Supervisor.
- e) The Appellant shall surrender all travel documents including valid or expired passports and visas, if any, to the Registrar of this Court, and shall not apply for any new travel documents.
- f) The Appellant shall [insert optional conditions],
- g) The Appellant shall take all steps necessary to prosecute his appeal in a timely manner, including promptly ordering and paying for the appeal book.
- h) If the Minister of Justice orders the Appellant's surrender, then the Appellant and the Attorney General shall, within 45 days of the Minister's order, file with the Registry a filing schedule for the Appellant's appeal and / or any application brought by him for judicial review of the Minister's order. In the event that no agreement can be reached on a filing schedule, it shall be set by the Registrar.
- i) If the Appellant files an application for judicial review of the Minister's order, then the Appellant shall take all steps necessary to prosecute that application in a timely manner, including promptly ordering and paying for the appeal book.
- j) The Appellant shall surrender himself into custody at the Sheriff's Office, The Law Courts, 800 Smithe Street, Vancouver, British Columbia, at 9:00 A.M., on XXXX, xxxx, xxxx, or on the date set for the hearing of his committal appeal and / or judicial review application, whichever date first occurs.

IT IS FURTHER ORDERED that in the event the Appellant is discharged by the Minister of Justice pursuant to s. 48(1) of the *Extradition Act*, S.C. 1999, c. 18, any recognizance entered into to give effect to this Order shall cease to be binding on the Appellant and the sureties as of the date of that discharge.

Approved as to Form

Agent for the Attorney General of
Canada



COURT OF APPEAL

THE LAW COURTS
400-800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

British Columbia Court of Appeal

Practice Directive (Criminal)

Title: Factums in Criminal Appeals

Issued: 19 September 2011

Effective: Immediately

Cite as: *Factums in Criminal Appeals* (Criminal Practice Directive), 19 September 2011

Factums in criminal appeals must comply with Criminal Appeal Rule 10 and Form 6. In addition to the provisions set out in Form 6, factums, including the electronic copy of the factum filed in the Court of Appeal **shall be printed in 12 point Arial typeface** and shall not exceed 30 pages in length, unless a justice otherwise orders.

The Honourable Chief Justice Finch
for the Court of Appeal of British Columbia

History:

Replaces the Criminal Practice Directive titled *Factums in Criminal Appeals*, dated 21 March 2007.



COURT OF APPEAL

British Columbia Court of Appeal
Practice Directive (Criminal)
Title: In Custody Appellants and New Trials

Issued: 8 May 2012

Effective: Immediately

Cite as: *In Custody Appellants and New Trials* (Criminal Practice Directive, 8 May 2012)

Explanatory Note: The purpose of this practice directive is to ensure that an appellant who is in custody when a new trial is ordered: (a) is not released from custody until the matter of bail pending the new trial has been dealt with; and (b) appears before the trial court in a timely way.

When a conviction appeal is allowed and a new trial ordered with respect to a charge or charges on which the appellant is incarcerated, the formal order shall contain the following provision:

AND THIS COURT DIRECTS that the Registrar of this Court or her designate forthwith issue the process necessary to convey, commit, and remand the appellant into the custody of the keeper of *[set out the name and address of the applicable provincial pre-trial services centre or police lock-up]* to be brought before the *[set out the name and address of the court in which the appellant is to appear]* on or before *[set out a date as soon as practicable, if possible no later than seven business days following the date of this order]*, to be dealt with according to law.

The Honourable Chief Justice Finch
for the Court of Appeal of British Columbia

History:

This is a new practice directive.



COURT OF APPEAL

British Columbia Court of Appeal
Practice Directive (Criminal)
Title: Ineffective Assistance of Trial Counsel

Issued: 12 November 2013

Effective: Immediately

Cite as: *Ineffective Assistance of Trial Counsel* (Criminal Practice Directive, 12 November 2013)

If a party is not represented and makes allegations of ineffective assistance of trial counsel, the appeal will be immediately referred to case management for directions.

Stage One: Counsel's Duties Where there are allegations that trial counsel was ineffective or incompetent

1. Before advancing an appeal involving grounds of appeal which allege ineffective assistance or incompetence of trial counsel, counsel for the appellant must:
 - a. Take steps necessary to satisfy him or herself that there is some foundation for any allegations that trial counsel was ineffective or incompetent; and
 - b. Informally notify trial counsel of the nature of the allegations bearing on the professional conduct of trial counsel, and give trial counsel a reasonable opportunity to informally respond to the allegations to counsel for the appellant.

Stage Two: Advancing an Appeal Alleging that trial counsel was ineffective

2. Where a Notice of Appeal or amended Notice of Appeal includes grounds of appeal alleging the ineffective assistance of trial counsel:
 - a. The Chief Justice will designate a justice of the Court as a case management judge to make directions with respect to the appeal.
 - b. The registrar will, within four weeks of the filing of the Notice of Appeal, schedule a case management hearing to be presided over by the case management judge
3. Where the Notice of Appeal includes grounds of appeal or is amended to include grounds of appeal that trial counsel was ineffective or incompetent, counsel for the appellant shall formally serve a copy of that Notice of Appeal on trial counsel.

4. The appellant shall prepare and provide to trial counsel his or her affidavit setting out the factual basis for the allegations bearing on trial counsel's professional conduct and a signed waiver in which the appellant expressly waives solicitor-client privilege to the extent necessary to allow trial counsel to respond to the allegations against him or her. The appellant shall also deliver a copy of the affidavit and signed waiver to the Crown/respondent.
5. Upon written request by counsel for the appellant, trial counsel shall forward his or her entire trial file to counsel for the appellant, in accordance with the professional obligations of counsel.
6. If trial counsel wants to keep a copy of all, or any portion, of the trial file before transferring the file to counsel for the appellant, trial counsel may (at his or her own expense) make copies of whatever documents he or she wishes from the file. In addition, if trial counsel wants access to the file in connection with the appellant's case after it has been transferred to counsel for the appellant, counsel for the appellant must facilitate this access to the entirety of that file in a timely way, and must permit trial counsel to make copies (at his or her own expense) of whatever documents he or she wishes from the file.
7. Upon receipt of a copy of a Notice of Appeal, the Crown/respondent will forward a letter in Form A to trial counsel requesting an affidavit in response to the allegations set out in the appellant's material.
8. Upon receipt of the material referred to above, namely (a) a copy of a Notice of Appeal, (b) a signed waiver of privilege, (c) any affidavits or other material setting out the factual basis for the allegations bearing on trial counsel's professional conduct, and (d) the request from Crown/respondent, trial counsel shall prepare an affidavit in response to the allegations. Trial counsel's affidavit shall not divulge any confidential information learned or obtained by trial counsel during the course of the file or instructions given by the appellant, except to the extent necessary to fully respond to the allegations of ineffective assistance. Trial counsel's original affidavit and a copy shall be provided to counsel for the appellant.
9. Upon receipt of trial counsel's affidavit, counsel for the appellant shall review it and where he or she is of the opinion that it divulges confidential information or instructions of the appellant exceeding what is necessary for trial counsel to respond to the allegations, edit the copy of the affidavit and redact any portions of the affidavit over which privilege is asserted. A redacted copy of the affidavits shall be sent to the Crown/respondent (with redactions showing as blackened lines) and trial counsel, unless otherwise directed by the case management judge

10. Counsel for the appellant shall file with the Court, (a) the original copy of trial counsel's affidavit and (b) any edited or redacted version of the affidavit, both which shall be sealed by the registrar pending directions from the case management judge.


Stage Three: Case Management

11. At the case management hearing, the case management judge may make any directions necessary to ensure a timely and fair hearing of the appeal, and shall specifically consider whether, after receiving submissions from counsel for the appellant and the Crown/respondent, it is necessary to make directions concerning each of the following matters:
- a. Confirmation that trial counsel has been formally served with a copy of the Notice of Appeal,
 - b. The time periods for preparation of any affidavits relied upon by the appellant in support of any allegations impugning the professional conduct of trial counsel to the extent that these materials have not already been prepared.
 - c. The time periods for preparation of trial counsel's affidavit and the submission of that affidavit to counsel for the appellant to the extent that this has not already occurred.
 - d. The time periods for any editing or redacting of trial counsel's affidavit by counsel for the appellant to the extent that this has not already occurred.
 - e. The time period for providing a copy of trial counsel's affidavit to the Crown/respondent, in either (i) unedited form, where counsel for the appellant determines that no editing is required or, (ii) edited form, where counsel for the appellant takes the position that editing is necessary because the affidavit divulges privileged information which is not necessary to respond to the allegations made against trial counsel.
 - f. If trial counsel's affidavit has been redacted by counsel for the appellant, the case management judge will, if required, review the original affidavit, the redacted affidavit and the appellant's affidavit, and after hearing from the parties, decide whether solicitor client privilege has been waived by the appellant with respect to some or all of the redacted portions. If so, the case management judge will release these redacted portions to the Crown/respondent.

- g. The time period for the filing of the appellant's application to adduce fresh evidence, including but not limited to any affidavits referred to above.
- h. If either party applies to cross-examine pursuant to *Code* s. 683(1) (b) or (d) on the affidavits filed, the division of the Court hearing the appeal must decide this issue. Such application shall be heard the same week the appeal is scheduled to be heard and by the same division hearing the appeal.
- i. Counsel will advise the case management judge if they wish to cross-examine on any filed affidavit. The case management judge will direct that trial counsel and/or the appellant attend the hearing of the appeal and the application to adduce fresh evidence and be available for cross-examination should the division of the Court so order. If counsel require a subpoena for a witness, they will submit their application for a desk order to the case management judge for the consideration of the Court.
- j. The time period for filing of the appellant's factum after the filing of the affidavits.
- k. The case management judge may provide a memorandum to the division hearing the appeal setting out any orders or directions, with copies to the parties.

Stage Four: The Hearing

12. Subject to the directions of the case management judge, a date for the hearing of the appeal shall not be set until:
- a. The appeal books and transcripts have been filed in accordance with the Rules.
 - b. The appellant has filed an application to adduce fresh evidence, identifying any and all affidavits filed.
 - c. All of the matters listed in paragraph 11 (a) through (j) have been considered and/or addressed by the case management judge.


The Honourable Chief Justice Bauman
for the Court of Appeal of British Columbia

History: Replaces the criminal Practice Directive titled *Ineffective Assistance of Trial Counsel*, dated 19 September, 2011 and 1 February 2005.

FORM A

Form letter to impugned trial counsel

Dear Sir / Madam:

Re: R. v. (name of appellant) CAO _____

As you are aware, the above-captioned individual is appealing his/her conviction from (identify offence(s)) returned on (date) in (level of court). You were counsel at trial for (name of appellant). I represent the Crown/respondent in this matter.

The appellant has alleged in a(n) (amended) notice of appeal filed on (date) that your representation of him/her was ineffective and resulted in a miscarriage of justice. The details of this alleged ineffective representation are contained in the appellant's affidavit sworn (date) and (identify any other supporting material). It is my understanding that (name of appellant's counsel) has served this material upon you.

The Court of Appeal will require a response to these allegations from you in order to properly dispose of this ground of appeal. Your response should be in affidavit form. Please prepare and swear an affidavit responsive to the particulars of the allegations raised against you. To facilitate your doing so, it is my further understanding that (name of appellant's counsel) has delivered to you an express waiver of solicitor-client privilege to the extent necessary for you to respond, signed by the appellant.

It is not my intention to engage in a discussion with you concerning the content of your affidavit other than to point out that a complete response to each and every allegation is desirable. To this end, I'd ask you to have particular regard to the following portions of the appellant's material:

(enumerate applicable or pertinent paragraphs, etc.)

Once your affidavit is sworn, please deliver the original and a copy to (name of counsel for the appellant). (Name of counsel for the appellant) will then vet your affidavit for its adherence to the scope of the waiver of privilege. Do not send a copy to me at this point in time. Should there be any disputes about whether your affidavit exceeds the scope of the waiver, they will be addressed through the case management process currently underway in connection with this appeal under the auspices of (name of case management justice).



COURT OF APPEAL

British Columbia Court of Appeal

Practice Directive (Criminal)

Title: Mental Disorder Appeals

Issued: September 4, 2012

Effective: Immediately

Cite as: *Mental Disorder Appeals* (Criminal Practice Directive, 4 September 2012)

This Directive applies to all appeals relating to a disposition made by a court or the Review Board or a placement decision made by the Review Board filed pursuant to s. 672.72 of the *Criminal Code*. The intent of this Directive is to expedite these appeals and identify unusual circumstances requiring the Court's attention. It is intended that these appeals shall be concluded within 90 days of the receipt of the decision made by a court or the Review Board. This Directive is a guideline. Issues that arise outside of the scope of this Directive may be dealt with by a pre-hearing conference justice.

Pursuant to the terms of this Directive, an unrepresented appellant is only required to file a Notice of Appeal in the form below to pursue an appeal under s.672.72 of the *Criminal Code*.

A. Initiating an Appeal

1. An appellant¹ shall file a Notice of Appeal in the attached form within 15 days of receiving a copy of the reasons for disposition or placement decision from the Review Board or the court (s. 672.72(2) of the *Criminal Code*).
2. The registrar shall promptly deliver a copy of the Notice of Appeal to:
 - a. The Review Board, if the appeal is from a decision of the Review Board;
 - b. The Representative of the Director of Adult Forensic Psychiatric Services, or, in the case of a "young person", the Representative of the Director of Youth Forensic Psychiatric Services and others referred to in s. 141 of the *Youth Criminal Justice Act*, as applicable (the "Director");
 - c. Counsel for the Attorney General who appeared or made representations at the Review Board or before the court, if applicable;
 - d. Counsel who appeared at the Review Board on behalf of the appellant;

¹ For the purposes of this practice directive, "appellant" is used to describe an offender who is appealing from a disposition or placement. While this practice directive applies to all appellants who are offenders, it shall also apply to any other party who appeals. For those other parties, changes, where appropriate, may be made to the procedure.

- e. The Legal Services Society (where consent has been given on the Notice of Appeal);
 - f. Any party designated by the Court or Review Board pursuant to s.672.5(4) of the *Criminal Code*.
3. Any person or body other than the Director wishing to be added as a respondent to the appeal shall file an appearance. Only the Director and those filing an appearance will receive further copies of materials filed (i.e. transcripts, statements etc.).
4. Pursuant to s. 672.74 of the *Criminal Code*, after the registrar notifies the Review Board or court that an appeal has been filed, the Review Board or court will promptly transmit to the Court of Appeal a copy of the complete record (or disposition information) relating to the disposition before the Review Board. In addition, the Review Board or court will send a copy of this record to the appellant or to appellant's counsel.

B. Pre-Hearing Conference

1. The registrar will arrange a pre-hearing conference with the appellant and the respondent(s) to be held within two weeks of the filing of the notice of appeal.
2. An unrepresented appellant may appear at the pre-hearing conference in person, or by videoconference, if available. If the unrepresented appellant is unable to appear in person or by videoconference, he/she may apply by letter directed to the attention of the pre-hearing conference justice to appear by teleconference, or in some other manner.
3. The purpose of the pre-hearing conference is to discuss with the presiding justice the timetable for the appeal including any extensions or abridgments of time, representation of the appellant, any interlocutory applications such as those respecting dispositions under appeal under s.672.76 of the *Criminal Code* and other matters at the discretion of the pre-hearing justice.
4. Once a pre-hearing conference has been held, the registrar shall order four copies of the transcript of proceedings before the Review Board, or the court, plus such additional copies as are required by the parties. The registrar will also order one electronic copy of the transcript. On receipt, the paper copies of the transcript shall be forwarded by the registrar to all parties. Parties wishing electronic copies of the transcript shall make the request directly to the transcription company.
5. Once the transcripts are received, the registrar shall notify the parties of available hearing dates and schedule the appeal. The hearing should be scheduled within 90 days of the receipt of the decision under appeal where at all possible, having regard to the circumstances of the appeal.

C. Unrepresented Parties

1. The unrepresented appellant is not required to file any document except the Notice of Appeal.
2. The unrepresented appellant may file material, including an Appellant's Statement, which shall not exceed 10 pages, and list in point form the

mistakes the appellant submits the Review Board or court made in the disposition or placement order. The appellant may give examples of the mistakes alleged.

3. The unrepresented appellant may also file material, such as the material listed below under "Represented Parties".
4. The Appellant's Statement, and any other material, must be filed with the Court of Appeal at least four weeks before the hearing of the appeal.
5. All material filed with the Court of Appeal will be copied and distributed to the relevant parties by the Court registry staff.
6. An unrepresented appellant who has filed an Appellant's Statement may rely on that Statement without appearing at the hearing of the appeal. An appellant may consent to the hearing of the appeal in his or her absence by checking off the appropriate box on the notice of appeal.

D. Represented Parties

1. Four weeks before the appeal is scheduled to be heard the appellant shall file four copies of an Appellant's Statement and an appeal book containing the disposition of the Review Board or the placement decision, or the order of the court, any reasons for the decision, any exhibits or other material relied upon in the Appellant's Statement and a copy of the notice of appeal.
2. The appellant shall also file three copies of a book of authorities containing only those authorities referred to in the Appellant's Statement.
3. The appellant shall also file any additional copies of these documents as are required for service on the respondents.
4. The Appellant's Statement shall not exceed 10 pages, headed in the Style of Proceedings and containing the following information in point form:
 - a. The precise ground(s) of appeal to be relied on at the hearing of the appeal. In support of these grounds, appropriate references should be made to the reasons, the transcripts, and/or the exhibits.
 - i. Transcript references shall be to the page number in the transcript;
 - ii. Appeal book references shall be to the original exhibit number of the exhibit and the page number where the exhibit is reproduced in the appeal book.
 - b. The type of disposition which the appellant submits is appropriate for this offence(s) and this offender;
 - c. The position taken by each party before the Review Board/court with respect to the disposition.
5. The appellant shall deliver this material to the respondent(s) on the appeal.
6. The respondent(s) shall file a Respondent's Statement, not to exceed 10 pages, two weeks before the hearing of the appeal. The Respondent's Statement shall follow the format set out in #4 above, except it shall contain the respondent's position on the grounds of appeal and disposition raised by the appellant. The respondent(s) shall deliver to the appellant the Respondent's Statement, authorities and an appeal book containing any

additional exhibits which were not included in the appellant's appeal book and which were referred to in the Respondent's Statement.

7. If the unrepresented appellant does not file an Appellant's Statement or an appeal book, the respondent(s) shall:
 - a. Prepare a Respondent's Statement, not to exceed 20 pages, setting out the relevant history and their understanding of any issues arising from the court or Review Board hearing.
 - b. The respondent shall also include in the Respondent's Statement its position on the issues raised.
 - c. The respondent shall also file and serve on the other parties an appeal book containing the material referred to in #D1 and a book of authorities.
 - d. The respondent shall prepare the appropriate copies for the Court and for service on the appellant and any other respondent.
 - e. Other respondents may also file and serve on the other parties an appeal book and book of authorities.
8. Notwithstanding the above requirements, where an appeal is more complicated than the usual Review Board appeal or court hearing, the parties may, by filing their consent, or at the direction of the pre-hearing justice, follow the usual procedures for a conviction appeal, including the filing of appeal books, factums and books of authorities, together with a filing schedule for all documents. The hearing date shall be within 90 days of the receipt of the decision under appeal, or so soon thereafter as possible.

The Honourable Chief Justice Finch
for the Court of Appeal of British Columbia

History: Replaces *Mental Disorder Appeals* (Criminal Practice Directive, 19 September 2011) which replaced the Practice Directive titled *Mental Disorder Appeals*, dated 2 March 1998.

Form 1 (Rule 2(1))
Notice of (Cross) Appeal

Court of Appeal File No. _____

Previous File No. _____

Previous Registry _____

COURT OF APPEAL

IN THE MATTER OF [NAMED PATIENT/ACCUSED]

Appellant/Respondent

AND:

THE DIRECTOR OF [ADULT OR YOUTH] FORENSIC
PSYCHIATRIC SERVICES

Appellant/Respondent

AND:

THE ATTORNEY GENERAL OF BRITISH COLUMBIA

Appellant/Respondent

NOTICE OF APPEAL

I, [name], appeal to the Court of Appeal for British Columbia
from the order of the Review Board / Provincial Court / Supreme Court *[circle one]*
dated [dd/mmm/yyyy- e.g. 14/Mar/2012] at [place]
[e.g. Vancouver, British Columbia].

The grounds of appeal are:

- ☐ the finding that the accused is a significant threat is unreasonable or not supported by the evidence;
- ☐ that the order for custody is unreasonable or not supported by the evidence;
- ☐ that one or more conditions of the decision is unlawful , unreasonable or not supported by the evidence;
- ☐ that the placement decision is inappropriate for the accused who is a dual status offender;
- ☐ Other ground(s):

The Court of Appeal will be asked at the hearing of this appeal to make the following order:

[set out the order you want the Court to make].

The hearing before the Review Board/Provincial Court/Supreme Court [circle one] took _____ days/hours [circle one].

☐ I consent to Legal Services Society (Legal Aid) receiving a copy of this Notice of Appeal as an indication of my intent to apply for legal representation.

☐ I consent / do not consent to this appeal being heard in my absence. [circle one]

Date: ...[dd/mom/yyyy- e.g.
14/Mar/2012]

.....
Signature of ☐ appellant ☐ lawyer for appellant

..... [type or print name].....

To the Respondent(s):

This Notice of Appeal is given by _____ (name) _____, the appellant or solicitors for the appellant, whose address for service is



**British Columbia Court of Appeal
Practice Directive (Civil and Criminal)**

Title: Publication Bans, Sealing Orders, and Anonymization Orders

Issued: June 10, 2024

Effective: June 10, 2024

Cite as: *Publication Bans, Sealing Orders, and Anonymization Orders (Civil and Criminal Practice Directive, 10 June 2024)*

For civil and criminal appeals, the Notice of Appeal (civil Form 1) and the Notice of Appeal or Leave to Appeal (criminal Form 1) require parties to advise the Court of Appeal of any publication bans, sealing orders, or anonymization orders in place in the court or tribunal below. When the initiating Form is filed, the appellant must immediately write to the Registrar and provide copies of those orders and an explanation of their effect.

If a publication ban, sealing order, or anonymization order applies in the Court of Appeal by operation of law, the parties must indicate the existence of those orders on the cover of their appeal record, statement, factum, appeal books, and other books.

Publication bans and anonymization orders issued by the court or tribunal below typically endure in the Court of Appeal. This means there is usually no need to seek a new publication ban or anonymization order specifically for appeal proceedings. However, some publication bans and anonymization orders expire or otherwise do not apply to appeal proceedings (e.g. s. 278.9(1) or s. 278.95 of the *Criminal Code*). In those circumstances, a party must apply to a justice in chambers for a new publication ban or anonymization order.

When a court or tribunal below initializes or redacts party names in reasons for judgment on a discretionary basis and in the absence of a publication ban or anonymization order that requires initialization or redaction, the Court of Appeal will not always do the same. In those circumstances, if a party wishes to have reasons for judgment initialized or party names redacted in the Court file they must apply to a justice in chambers for an anonymization order. See section 1.5 of the Court record and courtroom access policy for further information.

Sealing orders generally only apply to the records of the court or tribunal that issues the sealing order. If a party wishes to have materials filed in the Court of Appeal

sealed, they must immediately apply to a justice in chambers for a sealing order when the materials are filed.

On request, or where appropriate, the Registrar may require the appellant to file an unredacted Notice of Appeal and temporarily seal all or part of the Court file pending the outcome of an application for a sealing or anonymization order, or to allow the parties to promptly provide copies of such orders.



Chief Justice L.S. Marchand
Court of Appeal for British Columbia

History:

Replaces the Civil and Criminal Practice Directive titled *Publication Bans, Sealing Orders, and Anonymization Orders*, dated 20 December 2023.

Replaces the Civil Practice Directive titled *Publication Bans and Sealing Orders*, dated 18 July 2022 and the Criminal Practice Note titled *Publication Bans*, dated 24 July, 2012.

Replaces the Civil Practice Directive titled *Publication Bans and Sealing Orders*, dated 4 June 2018.



**British Columbia Court of Appeal
Practice Directive (Civil & Criminal)**

Title: Remote Appearances

Issued: 11 July 2022

Effective: 18 July 2022

Cite as: *Remote Appearances* (Civil & Criminal Practice Directive, 18 July 2022)

Part 1: Requesting to Appear by Zoom

Persons who wish to appear by video using the Zoom platform must:

1. For Appeals: File a [Request to Appear Remotely](#) no later than ten (10) business days prior to the hearing of the appeal.
2. For Chambers: File a [Request to Appear Remotely](#) with their application materials or responding materials in accordance with the *Chambers Applications* practice directive.

Part 2: Preparing for a Zoom Hearing

For both appeal hearings and chambers proceedings, only the party who appears by Zoom will appear virtually on a television screen in the courtroom. Other parties will be present in the courtroom unless they are also attending remotely.

Parties must conduct a Zoom test call to ensure a stable connection and functioning microphone and video and become familiar with the mute/unmute and start/stop video functions. Zoom usernames must precisely match the name(s) of parties provided on the [Request to Appear Remotely](#).

All Zoom links support H.323/SIP systems.

Part 3: Joining a Zoom Hearing

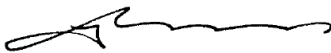
1. For Appeals: For an appeal, parties should join at least ten (10) minutes before the hearing is set to begin. Parties to an appeal proceeding will join the Zoom hearing by clicking the public Zoom link published on the Court's [Weekly Hearing List](#). Parties will be promoted into the hearing by the Court clerk.

2. For Chambers: For chambers, because the list may run more quickly than expected, parties should join the hearing (20) twenty minutes before it is scheduled. The day before the hearing, parties will receive the Zoom link at the email address provided on the [Request to Appear Remotely](#). If you do not receive it before 6:00pm, check your spam/filter, confirm that your email address is correct on the [Request to Appear Remotely](#), and contact the chambers scheduler at 604.660.2859 the following morning at 9:00am when the registry opens.

Part 4: Rules and Decorum

Parties attending proceedings by Zoom should observe the following:

1. **Attire:** Lawyers should gown for appeal hearings whether they are appearing in-person or by video. Do not gown for chambers.
2. **Sitting and Standing:** Parties appearing by video are not required to stand when the hearing commences or ends, or when they are addressing the Court.
3. **Bowing:** Parties appearing by video are not required to bow at any time.
4. **Decorum:** Parties should make reasonable efforts to find a quiet, private space with a neutral background to make their submissions and should avoid using casual language.
5. **Mute microphone:** To minimize background noise, all participants must mute their microphones when they are not speaking.
6. **Pause for questions/avoid speaking over others during the hearing:** Pause frequently during your submissions to allow the Court to ask questions and avoid speaking over the Court or other hearing participants.
7. **Choose a neutral background:** You may choose a neutral virtual background in Zoom or you may choose to position yourself in front of a neutral physical background. Avoid physical backgrounds that are distracting or which could detract from the decorum of the Court.



Chief Justice R.J. Bauman
Court of Appeal for British Columbia

History:

This is a new practice directive.



COURT OF APPEAL

British Columbia Court of Appeal
Practice Directive (Criminal)
Title: Sentence Appeals

Issued: 11 March 2016

Effective: 21 March 2016

Cite as: *Sentence Appeals* (Criminal Practice Directive, 11 March 2016)

1. This Practice Directive does not apply to appeals from Forfeiture, Dangerous or Long Term Offender orders or designations. Such appeals are subject to *Forfeiture, Dangerous and Long Term Offender Appeals* (Criminal Practice Directive 6 September 2013).
2. Three weeks before the hearing of a sentence appeal, the appellant shall file six copies and one electronic copy of a document, entitled "Statement". The appellant shall deliver one copy of the statement to the respondent. The statement shall be headed in the style of cause and contain the following information in point form:
 - (a) A concise statement of facts;
 - (b) The precise ground(s) of appeal to be relied on at the hearing of the appeal (e.g. sentence falling outside the range of sentences for similarly situated offenders and similar offences, illegal sentence, failure to give effect to one or more principles of sentencing with particulars of the principle(s) invoked, failure to consider a conditional sentence, etc.), together with relevant transcript references;
 - (c) The range and type of sentence which the appellant submits is appropriate for the offence(s) and this offender;
 - (d) The position taken by Crown counsel and defence counsel before the sentencing judge with respect to the appropriate sentence and the range of sentence.
3. At the time this Statement is filed, the appellant shall also file five copies of the authorities upon which he/she relies, together with six copies of any other written material the appellant intends to rely upon at the hearing of the

- appeal. The appellant shall deliver one copy of this material to the respondent.
4. Two weeks before the hearing of the sentence appeal, the respondent shall file six copies and one electronic copy of a document, entitled "Reply", and deliver one copy to the appellant. The reply shall contain the following information in point form:
 - (a) The respondent's position with respect to the ground(s) of appeal and the fitness of the sentence;
 - (b) If the respondent's position is that the sentence imposed is unfit or illegal, then the range and type of sentence which the respondent submits is appropriate for the offence(s) and this offender.
 5. At the time the reply is filed, the respondent shall also file five copies of the authorities upon which he/she relies, together with any other written material the respondent intends to rely upon at the hearing of the appeal. The respondent shall deliver one copy of this material to the appellant.
 6. The statement and reply shall not exceed eight pages in length, except for appeals involving a constitutional challenge to legislation, where the statement and reply shall not exceed 15 pages in length. The statement and reply must comply with the rules on factum preparation, both with respect to spacing and font size. [A Microsoft Word template](#) for a statement and reply is available on the Court's website under the criminal forms section.
 7. If an appellant or respondent is self-represented, he or she is encouraged, but not required, to comply with this directive. If a self-represented appellant does not comply with the directive, the Crown is not required to file a reply.
 8. A Justice may waive the necessity of compliance with this directive for good cause.

The Honourable Chief Justice Bauman
for the Court of Appeal for British Columbia

History:

Replaces *Sentence Appeals* (Criminal Practice Directive, 6 September 2013), which replaced *Sentence Appeals* (Criminal Practice Directive, 19 September 2011) which replaced the Criminal Practice Directive titled *Sentence Appeals*, dated 14 May 1999 and the Notice to the Profession titled *Sentence Appeals*, dated 27 May 1999.



**British Columbia Court of Appeal
Practice Directive (Civil and Criminal)**

Title: Style of Proceedings

Issued: 12 September 2022

Effective: 12 September 2022

Cite as: *Style of Proceedings* (Civil and Criminal Practice Directive, 09 September 2022)

1. *References to the Sovereign*

Effective immediately references to the Sovereign in the style of proceedings for any civil or criminal matter should use “Rex” or “His Majesty the King” in place of “Regina” or “Her Majesty the Queen”.

2. *Order of parties in the style of proceedings for civil appeals*

Effective 18 July 2022 the style of proceedings for civil matters on all forms, orders, and reasons for judgment will list appellants first and respondents second.

The roles of the parties to the appeal in the court below should still be identified in brackets (e.g. John Doe, Appellant (Defendant)).

The new format applies to all documents filed in civil matters on or after July 18, 2022 (including Forms, orders, appeal books etc. and amended documents).

Examples of the new format for styles of proceedings in civil matters are attached as an Appendix.

Chief Justice R.J. Bauman
Court of Appeal for British Columbia

History:

Replaces the Civil Practice Directive titled *Style of Proceedings*, dated 18 July 2022.

APPENDIX

Guide to formatting styles of proceedings under the new *Court of Appeal Rules*

Beginning on July 18, 2022, when the new *Court of Appeal Act* and *Rules* come into force, the style of proceedings for civil matters on all Forms, orders, and reasons for judgment will list appellants first and respondents second.

- The roles of the parties to the appeal in the court below should still be identified in brackets (e.g., John Doe, Appellant (Defendant)).
- The new format applies to all documents filed on or after July 18, 2022 (including Forms, orders, appeal books etc. and amended documents).
- Steps taken to change the format of the style of proceedings in four different examples are provided below.
 - Example 1 – one appellant and one respondent
 - Example 2 – more than one appellant or respondent
 - Example 3 – cross appeal and multiple dockets
 - Example 4 – non-adversarial proceeding in the court below

Example 1: One appellant and one respondent

To set up the new style of proceedings:

1. Reverse the order of the parties so that the appellant is listed first and the respondent is listed second.
2. Ensure that the roles of the parties in the court below are still identified in brackets

Former style of proceedings

Between:

Red Purple

Respondent
(Claimant)

And

Pink Yellow

Appellant
(Respondent)

New style of proceedings

Between:

Pink Yellow

Appellant
(Respondent)

And

Red Purple

Respondent
(Claimant)

Example 2: More than one respondent or appellant

To set up the new style of proceedings:

1. Reverse the order of the parties so that the appellants are listed first and the respondents are listed second.
2. Group multiple appellants and respondents by their role in the court below (e.g. in the example Blue Green and Black Grey are grouped together as appellants who were claimants in the court below, but Pink Yellow is listed separately as an appellant who was a respondent in the court below).
3. Do not change the order of appellants or respondents who had different roles in the court below (e.g. in the example, Pink Yellow is still the first named appellant, followed by Blue Green and Black Grey).
4. Ensure that the roles of the parties in the court below are still identified in brackets (e.g. Pink Yellow, Appellant (**Respondent**)).

Former style of proceedings

Between:

	Red Purple and Orange Brown	Respondents (Claimants)
And		
	Pink Yellow	Appellant (Respondent)
And		
	Blue Green and Black Grey	Appellants (Claimants)

New style of proceedings

Between:

	Pink Yellow	Appellant (Respondent)
And		
	Blue Green and Black Grey	Appellants (Claimants)
And		
	Red Purple and Orange Brown	Respondents (Claimants)

Example 3: Cross appeal and multiple dockets

To set up the new style of proceedings:

1. List the style of proceedings for each docket in order of the appeal docket number (*no change*)
2. For each appeal docket
 - a. List the appellant(s) first and the respondent(s) second.
 - b. Group the appellant(s) and respondent(s) by their role in the court below (e.g. in the example, *Shape* and *Circle* are grouped together as respondents who were plaintiffs in the court below, followed by the HMQ group who were defendants in the court below).
 - c. If there is more than one appellant or more than one respondent grouped together, do not change the order that they are listed (e.g. in the example below, *Shape* and *Circle* are still listed in the same order and are still the first named group of respondents in the new style of proceedings).
3. Identify the roles of the parties on the cross appeal (e.g. Respondents/**Appellants on Cross Appeal** (Plaintiffs)) (*no change*).
4. Identify the roles of the parties in the court below in brackets e.g. Respondents/Appellants on Cross Appeal (**Plaintiffs**) (*no change*).

Former Style of Proceedings

Docket: CA47123

Between:

Purple Shape and Magenta Circle

Respondents/
Appellants on Cross Appeal
(Plaintiffs)

And

Workers' Compensation Board

Appellant/
Respondent on Cross Appeal
(Defendant)

And

**Her Majesty the Queen in Right of the Province of British Columbia
(Ministry of Children and Family Development), Her Majesty the
Queen in Right of the Province of British Columbia
(Ministry of Justice), and the Public Guardian and Trustee**

Respondents
(Defendants)

- and -

Docket: CA47124

Between:

Purple Shape and Magenta Circle

Respondents/
Appellants on Cross Appeal
(Plaintiffs)

And

Public Guardian and Trustee

And
Appellant/
Respondent on Cross Appeal
(Defendant)

**Her Majesty the Queen in Right of the Province of British Columbia
(Ministry of Children and Family Development), Her Majesty the
Queen in Right of the Province of British Columbia
(Ministry of Justice), and the Workers' Compensation Board**

Respondents
(Defendants)

- and -

Docket: CA47125

Between:

Purple Shape and Magenta Circle

Respondents
(Plaintiffs)

And

Public Guardian and Trustee

Respondent
(Defendant)

And

Workers' Compensation Board

Respondent
(Defendant)

And

**Her Majesty the Queen in Right of the Province of British Columbia
(Ministry of Children and Family Development) and Her Majesty the Queen
in Right of the Province of British Columbia (Ministry of Justice)**

Appellants
(Defendants)

New Style of Proceedings

Docket: CA47123

Between:

Workers' Compensation Board

Appellant/
Respondent on Cross Appeal
(Defendant)

And

Purple Shape and Magenta Circle

Respondents/
Appellants on Cross Appeal
(Plaintiffs)

And

**His Majesty the King in Right of the Province of British Columbia
(Ministry of Children and Family Development), His Majesty the
King in Right of the Province of British Columbia
(Ministry of Justice), and the Public Guardian and Trustee**

Respondents

(Defendants)

- and -

Docket: CA47124

Between:

Public Guardian and Trustee

Appellant/
Respondent on Cross Appeal
(Defendant)

And

Purple Shape and Magenta Circle

Respondents/
Appellants on Cross Appeal
(Plaintiffs)

And

**His Majesty the King in Right of the Province of British Columbia
(Ministry of Children and Family Development), His Majesty the
King in Right of the Province of British Columbia
(Ministry of Justice), and the Workers' Compensation Board**

Respondents
(Defendants)

- and -

Docket: CA47125

Between:

**His Majesty the King in Right of the Province of British Columbia
(Ministry of Children and Family Development) and His Majesty the King
in Right of the Province of British Columbia (Ministry of Justice)**

Appellants/
Respondents on Cross Appeal
(Defendants)

And

Public Guardian and Trustee

Respondent
(Defendant)

And

Workers' Compensation Board

Respondent
(Defendant)

And

Purple Shape and Magenta Circle

Respondents/
Appellants on Cross Appeal
(Plaintiffs)

Example 4: Non-adversarial proceedings in the court below (most often arises in bankruptcy, estate and adoption proceedings)

To set up the new style of proceedings:

- Where the proceedings in the court below are non-adversarial and include preliminary text (e.g. “In the Matter of the Estate of X” or “In the Matter of the Bankruptcy of Y”), preserve the preliminary text, but format the style of proceedings to list the appellant(s) first and respondent(s) second.
- Follow the principles in the above examples as applicable.

Former Style of Proceedings

Docket: CA47123

	In the Matter of Teal Triangle and the <u>Patients Property Act, R.S.B.C. 1996, c. 349</u>, and amendments thereto	
Between:	Blue Buttons	
		Respondent (Petitioner)
And	Green Rectangle	
		Appellant (Respondent)
And	Teal Triangle and the Orange Square	
		Respondents (Respondents)

New style of proceedings

Docket: CA47123

	In the Matter of Teal Triangle and the <u>Patients Property Act, R.S.B.C. 1996, c. 349</u>, and amendments thereto	
Between:	Green Rectangle	
		Appellant (Respondent)
And	Blue Buttons	
		Respondent (Petitioner)
And	Teal Triangle and the Orange Square	
		Respondents (Respondents)



COURT OF APPEAL

British Columbia Court of Appeal
Practice Directive (Criminal)
Title: Summary Conviction Appeals

Issued: 6 September 2013

Effective: Immediately

Cite as: *Summary Conviction Appeals* (Criminal Practice Directive, 6 September 2013)

1. Pursuant to the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, an appellant must file an original and four copies of an application for leave to appeal in Form 1A, or Form 2 (where the appellant is unrepresented) within 30 days after the decision being appealed was pronounced. The registrar will forward a copy of the Form 1A or 2 to the prosecutor.
2. Within 30 days of filing the application for leave to appeal, the appellant shall file three copies of the following:
 - (a) the reasons for judgment (or reasons for sentence if the sentence is appealed) from the original trial judge;
 - (b) The reasons for judgment of the summary conviction appeal judge;
 - (c) Order of the summary conviction appeal judge; and,
 - (d) A short outline of argument setting out the question of law proposed to be argued on appeal
3. The appellant shall deliver one filed copy of the material set out in paragraph two to the respondent.
4. At the time of filing material set out in paragraph two, the appellant shall also set an agreed date for the hearing of the application, which date shall be within 60 days of the filing of the application for leave to appeal.
5. The respondent shall file three copies of a short outline of argument together with any further material the respondent regards as necessary to the hearing of the application for leave to appeal, at least two weeks prior to the date the

application is set to be heard. The respondent shall deliver a copy of this material to the appellant.

6. Where leave to appeal is granted, the appellant shall forthwith set a hearing date for the appeal which is not more than 180 days from the date leave is granted.
7. Within 60 days of leave to appeal being granted, the appellant shall file six copies of a factum and serve one copy on the respondent.
8. At the same time the appellant shall file six copies of any appeal book and transcript which is necessary to argue the appeal and deliver one copy of this material to the respondent. The appellant shall also file one copy of an electronic transcript.
9. Within 60 days of receiving the appellant's factum, the respondent shall file six copies of a factum and deliver one copy to the appellant. At the same time the respondent shall file six copies of any further appeal book and transcript, in addition to the material filed by the appellant, which is necessary to argue the appeal. The respondent shall deliver one copy of this further material to the appellant.
10. Any party to the appeal may request case management at any time.
11. This practice directive does not apply to appeals filed on or before the date this practice directive is issued.

A handwritten signature in dark ink, appearing to read 'A. Bauman', is written over a horizontal line.

The Honourable Chief Justice Bauman
for the Court of Appeal of British Columbia

History: This is a new practice directive.



**British Columbia Court of Appeal
Practice Directive (Civil & Criminal)
Title: Supplementary Arguments**

Issued: 11 July 2022

Effective: 18 July 2022

Cite as: *Supplementary Arguments* (Civil & Criminal Practice Directive, 18 July 2022)

After an appeal has been argued and judgment is reserved, the Court will not receive any further unsolicited material without the consent of all counsel. If there is no consent, an application may be made by writing a letter to the Registrar, requesting that the further material be received by the division which heard the appeal. Opposing counsel may respond to the request, also in writing addressed to the Registrar, within three days of the request being made. The matter will be referred to the division which heard the appeal, for consideration.

Chief Justice R.J. Bauman
Court of Appeal for British Columbia

History:

Replaces the Civil and Criminal Practice Directive titled *Supplementary Arguments*, dated 19 September 2011, which replaced the Civil Practice Directive titled *Supplementary Arguments*, dated 12 December 2005.



COURT OF APPEAL

British Columbia Court of Appeal
Practice Directive (Criminal)
Title: Criminal Conviction/Acquittal Appeals Timeline

Issued: January 13, 2014

Effective: Immediately

Cite as: *Criminal Conviction/Acquittal Appeals Timeline* (Criminal Practice Directive, 13 January 2014)

1. Introduction and Purpose

The Court has been testing the effectiveness of new proposed time limits for filings in all criminal conviction and acquittal appeals by way of a Pilot Project, which ran from September 7, 2010 to December 31, 2013.

The aim of the Pilot Project was to reduce unnecessary delays and to ensure that appeals were heard in a timely manner.

During the Pilot Project, the Court has significantly reduced delay at every step in the preparation of the appeal, from the ordering and filing of transcripts to the scheduling of the appeal hearing.

The continued aim of the Court is to have all conviction and acquittal appeals heard within one year from the filing of the Notice of Appeal.

To continue the time periods until the Criminal Rules can be amended, the Court has agreed to incorporate the Pilot Project timelines into this revised Practice Directive.

2. Standard Deadlines

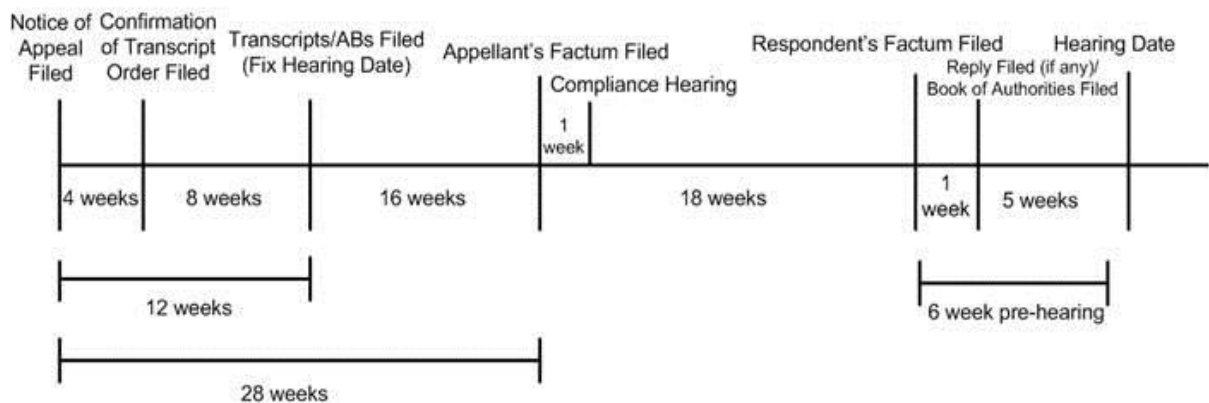
When an appeal subject to this Practice Directive is commenced by the filing of the Notice of Appeal, the registry will prepare and send a "Criminal Appeal Filing Schedule Advisory Letter" (Appendix A) to the parties or their counsel. This letter will set out the standard deadlines that will govern the case.

The specific dates for filing will be set out in each letter, as applicable to each individual appeal. The appellant and respondent will be required to meet those stated deadlines. The Registrar will be monitoring the filing dates and will contact counsel if a filing date is missed.

This letter will set out the standard deadlines that will govern the case. These deadlines are:

- a. File Confirmation that transcripts ordered 4 weeks after notice of appeal filed
- b. Transcripts due 8 weeks after the transcript order was confirmed
- c. Hearing Date fixed by Registrar, in consultation with counsel, once transcripts filed
- d. Appellant's Factum due 16 weeks after transcripts filed (28 weeks after Notice of Appeal filed)
- e. Compliance Hearing scheduled for 1 week after Appellant's Factum due (in event that the factum filing date is missed)
- f. Respondent's Factum due 18 weeks after Appellant's Factum filed (6 weeks before appeal scheduled to be heard)

Timeline for Criminal Conviction Appeal
Notice of Appeal to Hearing Date = 1 year



3. Setting Hearing Dates

When the Transcripts and Appeal Books are filed (according to the schedule set out in the Criminal Appeal Filing Schedule Advisory Letter), the Registrar will contact counsel to arrange for an agreed hearing date which falls within one year of the date the Notice of Appeal was filed. Once a date is agreed upon, counsel will confirm the hearing by letter.

4. If Problems with the Schedule Arise

If at any time counsel foresee or encounter any difficulties in adhering to the dates set out in the Criminal Appeal Filing Schedule Advisory Letter, or with the proposed appeal hearing date, then they are to contact the registry immediately, and in advance of any applicable filing deadline, so that the matter can be addressed by the Registrar or set before a justice in chambers expeditiously.

5. Compliance Hearing Date

The Criminal Appeal Filing Schedule Advisory Letter will include a date for a “Compliance Hearing”, set for one week after the due date for the appellant’s factum. If the appellant misses the deadline for filing the appellant’s factum counsel will be notified by the registry that they are expected to appear on the “Compliance Hearing” date scheduled. At that hearing, counsel will be required to provide an agreed revised filing schedule and be prepared to tell the court the reason for the delay, what steps have been taken to overcome the delay and how they propose to meet the scheduled hearing date. New hearing dates will only be set in exceptional circumstances.

If the appellant’s factum is filed on time (before the Compliance Hearing date), then the registry will automatically cancel the Compliance Hearing and counsel need not attend.

6. Expedited Hearings – Agreed Filing Schedule

Notwithstanding the schedule outlined in this Practice Directive, counsel may agree to expedite an appeal. Counsel shall contact the Registrar with this request and may be asked to file a revised filing schedule.

7. Request for Case Management Judge

After receiving the Criminal Appeal Filing Schedule Advisory Letter, if the timeline appears to be unrealistic for a specific appeal, or if the timeline would work a hardship on a party, or for any other reason, counsel may contact the registry immediately to request a case management judge.

8. Case Management Assignment

If there is consistent delay which is not resolved through an appearance in chambers, or for any other reason, the Registrar may refer a matter to case management.

“The Honourable Chief Justice Bauman”
for the Court of Appeal of British Columbia

History:

Replaces the Practice Directive titled Pilot Project Regarding Criminal Conviction/Acquittal Appeals, dated 14 May 2010, March 28, 2012.
Revised January, 2014

APPENDIX A
Criminal Appeal Filing Schedule Advisory Letter

Date:

To: Appellant' Counsel

Re: R. v. A.B., CAxxxxx

Criminal Appeal Filing Schedule Advisory Letter

The event which triggered the filing schedule for the above-captioned appeal took place on (DATE). This letter is being sent pursuant to the Practice Directive dated January 13, 2014: "Pilot Project regarding Criminal Conviction/Acquittal Appeals"

Appellant's Counsel should abide by the following schedule:

Hearing Date of Appeal - this appeal should be heard before (DATE)

The Appellant's Factum shall be filed before (DATE)

If the Appellant's Factum is not filed before this date, there will be a Compliance Hearing in Chambers (DATE)

In accordance with the Practice Directive, these other time limits apply:

Appellant to file and serve written confirmation that Transcript has been ordered by (DATE)

Appellant to file and serve Transcript and Appeal Book by (DATE)

Once the Transcripts and Appeal Books are filed, you will be contacted by the Registry to set a hearing date. Counsel will confirm the hearing date by letter.

Deputy Registrar

cc. Respondent Counsel