THE SUPREME COURT
OF BRITISH COLUMBIA

Criminal Rules of the Supreme Court of British Columbia

Table of Contents

RULE 1 – General 2
RULE 2 – Notice of Application 3
RULE 3 – Affidavits 3
RULE 4 – Service 5
RULE 5 – Electronic Signatures 7
RULE 6 – Judicial Interim Release (Bail and Bail Review) 7
RULE 7 – Pre-Trial Conferences and Case Management Conferences in Criminal Cases 8
RULE 8 – Notice of Application to Challenge Potential Jurors for Cause 8
RULE 9 – Summary Conviction Appeals 8
RULE 10 – *Habeas Corpus* and Other Extraordinary Remedies 16
RULE 11 – Applications for a Reduction in the Number of Years of Imprisonment Without Eligibility for Parole 19
RULE 12 – Disposition of Exhibits 24

RULE 1 – General

Citation

(1) These rules are the Criminal Rules of the Supreme Court of British Columbia.

Application

(2) These rules apply to all proceedings of a criminal nature within the jurisdiction of the Supreme Court of British Columbia.

(3) The rules take effect on January 4, 2027.

(4) The *Criminal Rules of the Supreme Court of British Columbia*, SI/97-140, and Rule 7: Applications for a Reduction in the Number of Years of Imprisonment Without Eligibility for Parole, (in force June 1, 2026), are rescinded as of January 4, 2027.

Interpretation

(5) These rules are made under sections 482, 482.1, and, in the case of rule 11, section 745.64 of the *Criminal Code of Canada* (*Criminal Code*). They should be interpreted and applied in a manner that is not inconsistent with the provisions of the *Criminal Code* or any other Act of Parliament, and that furthers their purpose as set out in rule 1(8).

(6) Except where these rules define a term more specifically, the definitions in the *Criminal Code* apply.

(7) Supreme Court Scheduling means the scheduling staff responsible for criminal hearings in a particular registry.

Purpose

(8) The purpose of the rules is to promote the fair and efficient determination of criminal proceedings.

Effect

(9) The procedures and timelines set out in the rules must be followed unless the court varies or dispenses with them in or for a particular case.

Variation

(10) The court maintains its authority to at any time vary or dispense with the requirements, procedures, and timelines in these rules where the interests of justice so require, having regard to the circumstances of a particular case or its parties.

Transitional Rule

(11) These rules apply to all proceedings of a criminal nature whether commenced before or after the date in rule 1(3). However, documents filed or served before that date will be treated as complying with these rules unless the court otherwise directs.

RULE 2 – Notice of Application

(1) Unless these rules, an enactment, or a criminal practice direction otherwise provide or the court otherwise directs, all applications in criminal proceedings are commenced by a notice of application in Form 1.

(2) A notice of application sets out

(a) the precise relief and orders sought

(b) the factual basis for the application

(c) the legal basis upon which the application is brought, including, if any, the statutory provisions or other laws to be relied on, and a brief summary of the legal argument supporting the relief sought

(d) the types of evidence to be relied on

(e) an estimate of the time needed for the hearing of the application, including for the respondent's response, and

(f) the applicant's address for service, including an email address for service.

(3) Unless these rules, an enactment, or a criminal practice direction otherwise provide or the court otherwise directs, a notice of application is filed and the application is heard in the Supreme Court location of the criminal file.

(4) The applicant contacts Supreme Court Scheduling to obtain a suitable date and time for the hearing of the application. Where no suitable date or time has been fixed to hear the application, the applicant indicates the date of the next court appearance in Form 1, on which occasion the hearing date will be fixed.

(5) Unless these rules, an enactment, or a criminal practice direction otherwise provide or the court otherwise directs, the applicant serves a filed copy of the notice of application, and any supporting material, on the respondent(s) at least 14 days before the date stated in the notice of application.

(6) A judge of the court may make any orders or directions necessary in the circumstances to ensure that the application proceeds fairly and efficiently.

RULE 3 – Affidavits

(1) An affidavit is in Form 2.

(2) An affidavit used in a proceeding is filed in the court location where the associated notice of application is filed.

(3) An affidavit is made when

(a) the affidavit is sworn or affirmed by the person making the affidavit

(b) the person making the affidavit signs it in the presence of the person described in rule 3(3)(c), and

(c) the person before whom the affidavit is sworn or affirmed completes and signs a statement in accordance with rule 3(4) and identifies each exhibit, if any, to the affidavit in accordance with rule 3(8).

(4) The person before whom an affidavit is sworn or affirmed confirms that the affidavit was sworn or affirmed in the person's presence by completing and signing a statement on the affidavit in the following form:

SWORN OR AFFIRMED BEFORE ME

at .....[commissioner's city/town].....,

British Columbia on .....[date].....

.....

A commissioner for taking affidavits for British Columbia

....[print name or affix stamp of commissioner]....

(5) If a person swears or affirms an affidavit before another person by videoconference

(a) the affidavit states, in its last numbered paragraph, that the person swearing or affirming the affidavit was not physically present before the other person but was before that person by videoconference, and

(b) for the purposes of this rule, the affidavit is considered to have been sworn or affirmed in the presence, and at the location, of the person before whom the affidavit is sworn or affirmed.

(6) If it appears to the person before whom an affidavit is to be sworn or affirmed that the person swearing or affirming the affidavit does not understand the language of the affidavit, which may be in English or French, the affidavit is interpreted to the person swearing or affirming the affidavit by a competent interpreter, who certifies on the affidavit that the interpreter has accurately interpreted the affidavit to the person swearing or affirming the affidavit.

(7) If it appears to the person before whom an affidavit is sworn or affirmed that the person swearing or affirming the affidavit is unable to read it, the person before whom it

is sworn or affirmed certifies in the statement signed under rule 3(4) that the affidavit was read in that person's presence to the person swearing or affirming the affidavit, who appeared to understand it and confirmed that they did so.

(8) The person before whom an affidavit is sworn or affirmed identifies each exhibit referred to in the affidavit by signing a certificate placed on the exhibit in the following form:

> This is Exhibit ..... referred to in the affidavit of ..... sworn or affirmed before me on .....[dd/mmm/yyyy]..... .

(9) Each page of the documentary exhibits referred to in an affidavit, other than an affidavit of service, is numbered sequentially, beginning with the first page of the first exhibit and ending with the last page of the last exhibit.

(10) The person who is swearing or affirming the affidavit and the person before whom an affidavit is sworn or affirmed, initial all alterations in the affidavit. Unless so initialled, the affidavit is not to be used in a proceeding without leave of the court.

(11) With leave of the court, an affidavit may be used in evidence despite an irregularity in its form.

RULE 4 – Service

(1) Unless these rules, an enactment, or a criminal practice direction otherwise provide or the court otherwise directs, where a document is to be served personally the service is effected

> (a) on an individual, by giving a copy of the document to the individual
>
> (b) on a corporation, by giving a copy of the document to an officer, director or agent of the corporation, or to an individual at any place of business of the corporation who appears to be in control or management of the place of business
>
> (c) on a provincial court judge, judicial justice, or justice of the peace by courier or registered mail to the Office of the Chief Judge (to the attention of Legal Counsel), Suite 337 - 800 Hornby Street, Vancouver, British Columbia, V6Z 2C5
>
> (d) on the Attorney General of Canada, by giving a copy of the document to a lawyer or employee at the regional office of the Attorney General or at the office of the lawyer retained by the Attorney General to prosecute the case
>
> (e) on the Attorney General of British Columbia, by giving a copy of the document to a lawyer or employee in the office of the prosecutor nearest to the Supreme Court location where the document was filed, and

(f) by delivering a copy to counsel for the individual to be served, if counsel agrees to accept service.

(2) A person effecting personal service of a document need not produce the original document or have it in their possession.

(3) Where personal service is not required, service may be effected on an individual or corporation

(a) by delivering a copy to counsel of record at an email address, mailing address, or fax number expressly provided by that counsel for service, or by giving a copy to a lawyer or employee in that counsel's office, or

(b) where there is no counsel of record, by delivering a copy at the email address, mailing address, or fax number expressly provided for service.

(4) Where a document has been provided to an individual or corporation in a manner other than one recognized by these rules, an enactment, a criminal practice direction or a direction of the court as sufficient for service, the court may make an order that the individual or corporation has been served where the court is satisfied that

(a) the document came to the notice of the individual or corporate representative to be served, or

(b) the document was served in such a manner that it would have come to the notice of the individual or corporate representative to be served except for the individual or corporate representative's own attempts to evade service.

(5) If proof of service is necessary

(a) service of a document may be proved by an affidavit of the person who served it

(b) service of a document by a sheriff or deputy sheriff, police officer, probation officer, bail supervisor, or corrections officer may be proved by a certificate of service in Form 3 endorsed on a copy of the document, and

(c) a counsel of record's written admission or written acceptance of service is sufficient proof of service and need not be verified by affidavit.

(6) Where it appears to the court that it is impractical for any reason to effect prompt service of a document required to be served personally or by an alternative to personal service under these rules, the court may make an order for substituted service or, where necessary in the interests of justice, may dispense with service.

RULE 5 – Electronic Signatures

(1) Except as otherwise indicated in these rules, an enactment, a criminal practice direction or a direction of the court, where a document is required to be signed, the court will accept an electronic signature that clearly identifies the person who signed it. This may include a typed signature.

(2) An electronic signature may not be used to sign an affidavit, either by a person swearing or affirming an affidavit or by a person before whom an affidavit is sworn or affirmed.

RULE 6 – Judicial Interim Release (Bail and Bail Review)

(1) In this rule, "prosecutor" means the B.C. Prosecution Service or the Public Prosecution Service of Canada, whichever has conduct of the prosecution in which the application is made.

(2) This rule applies to

(a) applications for judicial interim release in Supreme Court (bail applications), and

(b) applications for judicial review of an order regarding judicial interim release (bail reviews).

(3) This rule does not apply to detention review hearings under s. 525 of the *Criminal Code*, the procedure for which is set out in Criminal Practice Direction 4 (CPD-4) – Procedure for Detention Reviews Under s. 525 of the *Criminal Code*.

(4) An application for bail or for a bail review is brought by filing a notice of application in Form 1 and all supporting material in the Supreme Court criminal registry. To the extent possible, the supporting material is filed at the time the notice of application is filed.

(5) In support of a bail review application, the applicant files

(a) copies of all informations or indictments relating to the charges for which the review is sought

(b) transcripts of the judicial interim release proceedings, and of any previous bail review and s. 525 detention review proceedings

(c) copies of the reasons for judgment of the court on the judicial interim release proceedings, and of any previous bail review and s. 525 detention review proceedings, and

(d) any other material the applicant will rely on.

(6) The notice of application and supporting material are filed and served on the prosecutor or the accused, as the case may be, at least two clear days before the hearing of the application, unless the court otherwise directs.

(7) Unless the court otherwise directs, an application for bail or for a bail review is heard in the Supreme Court location where the application was filed.

RULE 7 – Pre-Trial Conferences and Case Management Conferences in Criminal Cases

(1) The court may conduct pre-trial conferences and case management conferences in any criminal case whether or not required to do so by the *Criminal Cod*e.

(2) Criminal pre-trial conferences are conducted in accordance with Criminal Practice Direction 1 (CPD-1): Criminal Pre-Trial Conference Process.

(3) Where the case is determined to be complex, pre-trial conferences and case management conferences are conducted in accordance with Criminal Practice Direction 3 (CPD-3): Complex Criminal Cases.

(4) Proceedings at a criminal conference are subject to an automatic publication ban, the details of which are set out in Criminal Practice Direction 9 (CPD-9): Restriction on Publication of Information from Conferences in Criminal Proceedings.

RULE 8 – Notice of Application to Challenge Potential Jurors for Cause

(1) This rule sets out the procedure for applications to challenge for cause each potential juror under s. 638(1)(b) of the *Criminal Code* on the basis that they are not impartial.

(2) A notice of application in Form 1 for leave to challenge for cause is filed and delivered to any other parties at least 60 days before the date set for the jury selection, unless the court otherwise directs. This reflects the time the sheriffs require to assemble a sufficiently large jury panel.

(3) The notice of application specifies the grounds for the challenge in accordance with s. 639(1) of the *Criminal Code*, and the proposed question(s) to be put by the court to each potential juror. Counsel are encouraged to consult in advance to try to reach agreement on the proposed question(s), and to limit the number of proposed questions to those essential to identifying the lack of impartiality in question.

(4) Any evidence in support of the application is in the form of an affidavit (Form 2) filed with the notice of application unless a different timeline is agreed to by the respondent or directed by the court.

RULE 9 – Summary Conviction Appeals

Definitions

(1) The following definitions apply in rule 9:

appellant means the person bringing an appeal

appeal means an appeal from a summary conviction court under Part XXVII of the *Criminal Code,* or an appeal taken under section 102 of the *Offence Act*

appeal court means the Supreme Court of British Columbia

defendant means the person who is subject to the order under appeal

judge means a judge of the appeal court

justice means a justice of the peace or a provincial court judge

order under appeal means the conviction, acquittal, sentence, finding, determination, or other order in respect of which the appeal is brought

prosecutor has the same meaning as in the *Criminal Code* or the *Offence Act*, as required by the circumstances

registry means an office of the Supreme Court registry closest to the courthouse where the trial was held, and

respondent means the person responding to the appeal

Starting an Appeal

Appeal by the Defendant

(2)(a) The defendant starts an appeal by filing in the registry four copies of a notice of appeal in Form 4, completed in accordance with the instructions on that form.

(b) The appeal is filed within 30 days of the pronouncement of the order under appeal. Where a sentence has been imposed, the appeal is filed within 30 days of the imposition of sentence.

Service on the Prosecutor

(3) The registry provides a copy of the notice of appeal to the prosecutor.

(4) Notwithstanding the service rules in rule 4, filing the notice of appeal in the registry constitutes service on the prosecutor.

Appeal by the Prosecutor

(5)(a) The prosecutor starts an appeal by filing in the registry four copies of a notice of appeal in Form 5, completed in accordance with the instructions on that form.

(b) The appeal is filed and served within 30 days of the pronouncement of the order under appeal. Where a sentence has been imposed, the appeal is filed and served within 30 days of the imposition of sentence.

Service on the Defendant

(6)(a) The prosecutor serves the defendant by leaving a copy of the notice of appeal and the notice of application to extend time (under rule 9(7)), if any, with the defendant personally.

(b) Personal service is not required if the defendant is represented by counsel and counsel indicates that they will accept service on the defendant's behalf.

(c) If, after reasonable efforts, the prosecutor is unable to serve the defendant as set out in rules 9(6)(a) or (b), the prosecutor may apply to the appeal court, without notice to the defendant, for an order for substituted service.

(d) The appeal court may make an order for substituted service in the manner and within the time period the appeal court considers just.

(e) Where the prosecutor serves the notice of appeal and the notice of application to extend time (under rule 9(7)), if any, in accordance with an order for substituted service, the defendant is deemed to be served with those documents.

Late Appeals

(7) Where the notice of appeal is not filed and served within the period specified in this rule, the appellant may apply for an extension of time to appeal by filing four copies of Form 6 (Notice of Application to Extend Time), and four copies of any affidavit in support.

(8)(a) If the application is to extend the time for filing and serving the notice of appeal, the documents in rule 9(7) are filed with the registry at the time when the notice of appeal is filed.

(b) If the application to extend time relates only to serving the notice of appeal, the documents in rule 9(7) may be filed separately from the notice of appeal on a later date.

(9) An affidavit in support of a notice of application to extend time explains why a late appeal should be permitted. Helpful information includes, but is not limited to

(a) when the appellant formed the intention to appeal

(b) when the appellant first informed the respondent of their intention to appeal

(c) why the appellant did not file the appeal within 30 days, and

(d) if applicable, why the appellant has been unable to serve the respondent.

(10)(a) Where the appellant is the defendant, the registry provides to the prosecutor a copy of the notice of application to extend time and a copy of the supporting affidavit. This constitutes service on the prosecutor.

(b) Where the appellant is the prosecutor, the prosecutor serves the notice of application to extend time and the supporting affidavit on the defendant personally.

(11) The application for an extension of time to appeal may be heard and determined on the hearing date for the appeal (fixed under rules 9(15), (16), and (17)), or a party may request from Supreme Court Scheduling an earlier date for the hearing of that application.

Ordering Transcripts

Where the Appeal Is From Conviction/Acquittal or Order Other Than Sentence

(12)(a) Within 30 days after filing the notice of appeal where the appeal is from conviction, acquittal, or an order other than sentence, the appellant files in the registry confirmation that they have ordered

(i) the transcript of the evidence and the oral submissions of the parties, and

(ii) the reasons for judgment.

Where the Appeal Is From Sentence Only

(b) Within 30 days after filing the notice of appeal where the appeal is from sentence only, the appellant files in the registry confirmation that they have ordered

(i) the transcript of the evidence, if any, and the oral submissions of the parties, and

(ii) the reasons for sentence.

Where the Appeal Is From Conviction/Acquittal and Sentence

(c) Within 30 days after filing the notice of appeal where the appeal is from both conviction, acquittal, or other order, and sentence, the appellant files in the registry confirmation that they have ordered the material referred to in rules 9(12)(a) and (b).

Confirmation to Prosecutor

(13) The registry provides to the prosecutor the confirmation filed by a defendant under rule 9(12).

Agreed Statement of Facts

(14) A transcript of the evidence does not need to be ordered where the appeal will be based on an agreed statement of facts under s. 830(2) of the *Criminal Code.*

Booking a Hearing Date

(15) Within seven days of filing confirmation under rule 9(12) that transcripts have been ordered, the appellant requests a hearing date from Supreme Court Scheduling.

(16) The date for the hearing of the appeal will be within nine months of the date the notice of appeal was filed, unless the appeal court gives leave for a later hearing date.

(17) Where section 819 of the *Criminal Code* applies [*defendant in custody pending the hearing of their appeal*], the date for a hearing of the appeal will be fixed within 30 days. If necessary, a date for an appeal management conference will also be fixed.

(18) The hearing of an appeal will be scheduled for one half day (2.5 hours) unless the appeal court otherwise directs.

Filing Transcripts

(19)(a) Where an appeal is from conviction, acquittal, or an order other than sentence, the appellant, within 90 days of serving the notice of appeal, files two copies in the registry of the material referred to in rule 9(12)(a), and serves one copy on the respondent.

(b) Where an appeal is from sentence only, the appellant, within 60 days after serving the notice of appeal, files two copies in the registry of the material referred to in rule 9(12)(b) and serves one copy on the respondent.

(c) Where an appeal is from both a conviction, acquittal, or other order, and sentence, the appellant, within 90 days of serving the notice of appeal, files in the registry the material referred to in rules 9(12)(a) and (b), and serves one copy on the respondent.

(20) A transcript of the evidence does not need to be filed where an agreed statement of facts has been filed under s. 830(2) of the *Criminal Code.*

Appeal Management Conference

(21) At any time after the notice of appeal has been filed, either party may request an appeal management conference by letter to the Associate Chief Justice to be submitted through Supreme Court Scheduling.

(22) At an appeal management conference, the appeal court makes directions or orders to promote the efficient and effective hearing of the appeal, such as to

(a) set or vacate a hearing date for the appeal

(b) set or vary dates for the filing and service of materials

(c) dispense with the requirement for a statement of argument

or relating to

(d) the timing of the hearing of an application for an extension of time to appeal

(e) the application of section 819 of the *Criminal Code*

(f) the ordering or filing of transcripts

(g) the transfer of exhibits to the appeal court

(h) applications to be made before the hearing of the appeal, including applications to adduce fresh evidence

(i) whether appeals from conviction and sentence should be heard together or separately

(j) procedural steps to be followed where the appeal includes an allegation of ineffective assistance of counsel (see Criminal Practice Direction 12 (CPD-12): Ineffective Assistance of Counsel.)

(k) applications to have the appeal dismissed as abandoned, and

(l) any other order or direction the appeal court considers useful.

Ineffective Assistance of Counsel

(23) If a notice of appeal includes a direct or indirect allegation that the appellant's trial counsel provided ineffective assistance, the parties and the affected trial counsel follow the directions set out in Criminal Practice Direction 12 (CPD-12): Ineffective Assistance of Counsel.

Statement of Argument

(24) The appellant files two copies of a written statement of argument in the registry and serves a copy on the respondent

(a) if the appeal is from sentence only, at least 21 days before the hearing of the appeal

(b) for all other appeals, at least 45 days before the hearing of the appeal.

(25) The respondent files two copies of a written statement of argument in the registry and serves a copy on the appellant

(a) if an appeal is from sentence only, at least 7 days before the hearing of the appeal

(b) for all other appeals, at least 14 days before the hearing of the appeal.

(26) Where the defendant is self-represented and in custody, the registry will provide the defendant's statement of argument to the prosecutor.

(27) The statement of argument is on 8 ½ inch x 11 inch paper, double spaced, using 12 pt. font, numbered paragraphs and does not exceed 20 pages in length, single-sided.

(28) The appellant's statement of argument may be in Form 7, and sets out

(a) a concise statement of the facts the appellant says are relevant

(b) the errors the appellant says the trial judge committed

(c) the order(s) sought, and

(d) the law on which the appellant relies to support their argument.

(29) The respondent's statement of argument may be in Form 8, and sets out

(a) the respondent's position in response to the appellant's statement of argument

(b) a concise statement of the facts that the respondent says are relevant

(c) the respondent's position on the order(s) sought by the appellant, and

(d) the law on which the respondent relies to support their argument.

(30) The statements of argument should include relevant references to the transcript and the case law, where possible and appropriate.

(31) The appeal court may direct that no statement of argument is required.

Application for Trial *de novo*

(32)(a) An appellant who applies for a trial *de novo* under subsection 822(4) of the *Criminal Code* files a notice of application in Form 1 to the appeal court within 30 days after serving the notice of appeal.

(b) At least seven days before the hearing of the application, the appellant serves a copy of the notice of application and any supporting material on the respondent.

(33) If the application for trial *de novo* is granted, rules 9(12), 9(19), 9(24), and 9(25) do not apply.

Abandonment

(34) An appellant may abandon an appeal by

(a) signing and filing a notice in Form 9, or

(b) informing the appeal court at an appearance on the record, in person or by counsel, that the appeal is abandoned.

Failure to Pursue the Appeal

(35) The respondent may apply to the appeal court for an order that the appeal be dismissed where the appellant fails to

(a) pursue the appeal diligently, or

(b) comply with rule 9.

(36) On an application under rule 9(35), the appeal court may dismiss the appeal or make any other order it considers just.

Application for Release or Stay

(37) An appellant who applies for release pending the hearing of an appeal, or a stay of any order made in relation to the matter under appeal, files in the registry

(a) a notice of application in Form 10, and

(b) an affidavit in support of the application.

(38)(a) The registry obtains a date from Supreme Court Scheduling for the hearing of the application that is within 3 days of receiving the material from the appellant.

(b) The registry provides the materials to the prosecutor. Filing in the registry constitutes service on the prosecutor.

(c) The registry notifies the appellant and the respondent of the hearing date.

(39) A stay of an order is not available if the order was mandatory or was made automatically after a conviction, unless the conviction is under appeal.

(40) The appellant may file, along with the application, any other material that the appellant considers relevant to the application.

(41) Where the appellant is represented by counsel and is in custody, and wishes to attend the hearing of the application under rule 9(37), appellant's counsel applies for the orders necessary to facilitate the appellant's attendance at the hearing.

(42) Where the appellant is self-represented and is in custody, the prosecutor applies for the orders necessary to facilitate the appellant's attendance at the hearing of the application under rule 9(37).

Time Limits

(43) The appeal court may extend or shorten any time limit provided for in rule 9.

RULE 10 – *Habeas Corpus* and Other Extraordinary Remedies

General

Application

(1) This rule applies to *habeas corpus* applications and applications for other extraordinary remedies, including *certiorari*, *mandamus,* and prohibition, that are criminal in nature. Applications for such remedies that are civil in nature are dealt with under rule 21-3 of the *Supreme Court Civil Rules*, BC Reg 168/2009 and not under these rules.

Form of Relief

(2) If an application for *habeas corpus* or another extraordinary remedy is granted, the relief will be set out in an order. No writ in the nature of the extraordinary remedy that has been sought will issue.

Case Management Conferences

(3) An applicant or respondent may request a case management conference through Supreme Court Scheduling to seek directions regarding matters relevant to an application made under this rule, including directions regarding the filing of materials, the preparation of written submissions, if any, and the setting of a hearing date.

Habeas Corpus

Filing and Service

(4) An application is started by filing a notice of application in Form 1 in the Supreme Court criminal registry.

(5) The notice of application is titled "Notice of *Habeas Corpus* Application" and identifies the deprivation of liberty to which the application relates.

(6) The notice of application is accompanied by an affidavit from the applicant or someone on their behalf. The affidavit

(a) sets out the circumstances under which the applicant's liberty is being deprived, and

(b) attaches copies of all documents that are relevant to that deprivation as exhibits to the affidavit.

(7) Where it is not practicable for the applicant to provide an affidavit, the court may consider accepting the applicant's *viva voce* (spoken) evidence.

(8) If the applicant is represented by counsel, their counsel serves the notice of application and any supporting materials on the Attorney General of British Columbia or the Attorney General of Canada, or both, depending on the circumstances of the application.

(9) If the applicant is not represented by counsel, the Supreme Court criminal registry provides a copy of the filed notice of application and supporting materials to the respondent(s).

Setting a Hearing Date

(10) The application is scheduled for a fix-date appearance to set a date for the hearing of the application, and for directions, if necessary. The fix-date appearance takes place on a date that is not more than 7 days after the application was filed.

(11) If the parties agree upon a hearing date before the fix-date appearance, they may arrange the date directly with Supreme Court Scheduling, and a fix-date appearance is not required.

Mode of Appearance

(12) If the applicant is required to appear, or wishes to appear at any pre-hearing appearances, including fix-date appearances and case management conferences, they will do so by videoconference unless the court otherwise directs.

(13) For the hearing of the application, the applicant appears in person in the courtroom, as required by s. 774.1 of the *Criminal Code*, unless the applicant requests to appear by videoconference and the court so directs.

(14) If the applicant is represented by counsel, counsel for the applicant prepares and files the necessary documents to facilitate the applicant's attendance for any court appearances.

(15) If the applicant is not represented by counsel, counsel for the Attorney General prepares and files the necessary documents to facilitate the applicant's attendance for any court appearances.

Order if Applicant to be Discharged

(16) On the hearing of the application, the court may direct that an order be drawn up forthwith for the discharge of the applicant. For any person having custody of the applicant, the order is a sufficient warrant for the discharge of the applicant.

Other Extraordinary Remedies, including *Certiorari*, *Mandamus*, and Prohibition

(17) An application for an extraordinary remedy other than *habeas corpus* is commenced by filing a notice of application in Form 1 in the Supreme Court criminal registry.

(18) The application is filed within 30 days from the date of the alleged act or failure to act to which it relates.

(19) The notice of application is titled "Application for [*name of the extraordinary remedy that is being sought*]".

(20) The notice of application

(a) identifies the subpoena, warrant, conviction, or other order or determination that is the subject of the application

(b) identifies the jurisdictional or other error that the applicant says was made

(c) sets out the legal basis for the application, and

(d) sets out the specific order(s) sought if a remedy is granted.

(21) The notice of application is accompanied by

(a) an affidavit from the applicant or someone on their behalf setting out the facts that are relevant to the application

(b) all relevant documents, which are attached as exhibits to the affidavit, including

(i) a copy of the subpoena, warrant, conviction, or other order or determination that is the subject of the application, and

(ii) any relevant records or exhibits from the criminal proceeding from which the application arises, and

(iii) where the application is based on the outcome of a court hearing, a transcript of that hearing, and the reasons for judgment, if any.

(22) The applicant serves the notice of application and copies of the supporting material described in rule 10(21) in accordance with rule 4 on

(a) the provincial court judge, judicial justice, justice of the peace, or other official whose alleged act or failure to act is the subject of the application

(b) the prosecuting agency or agencies to which the application relates (British Columbia Prosecution Service, Public Prosecution Service of Canada, or both)

(c) where the applicant is the Attorney General of British Columbia or the Attorney General of Canada, the respondent's counsel of record or, where the respondent is self-represented, the respondent, and

(d) any other parties to the proceedings to which the application relates.

(23) Once the notice of application and all supporting material have been filed and served, the applicant may obtain a date for the hearing that is at least 21 days after service of the filed materials. The applicant forthwith serves notice of the hearing date on the respondent(s).

RULE 11 – Applications for a Reduction in the Number of Years of Imprisonment Without Eligibility for Parole

General

(1) This rule applies to all applications made under s. 745.6(1) of the *Criminal Code*.

(2) The Chief Justice or Associate Chief Justice, or a judge designated under this rule, may at any time make any orders and give any directions that they consider necessary for the fair and efficient hearing and disposition of an application under s. 745.6.

Application Materials

(3) An applicant under s. 745.6(1) of the *Criminal Code* for a reduction in the number of years of imprisonment without eligibility for parole files

(a) a notice of application in Form 11, which includes

(i) the applicant's full name and date of birth

(ii) the date of the offence in respect of which the application is made

(iii) the place of the conviction

(iv) the dates of the conviction and the sentencing

(v) the number of years of imprisonment without eligibility for parole imposed

(vi) the number of years of imprisonment served as of the date of the application, including the time spent in custody between the day on which

the applicant was arrested and taken into custody in respect of the offence in issue in the application and the date the sentence was imposed (s. 746 of the *Criminal Code*)

(vii) if the applicant was convicted of more than one murder, the reason why s. 745.6(2) of the *Criminal Code* does not apply to the application

(viii) the dates of the determination of any previous applications for a reduction in the number of years of imprisonment without eligibility for parole, and any directions given regarding subsequent applications

(ix) the name and address of the institution in which the applicant is currently detained

(x) the name and place of each institution in which the applicant has been detained since the time of the applicant's arrest for the offence that is the subject of the application, and, if known, the dates of entry into each of those institutions

(xi) any sentence, in addition to the sentence in respect of which the application is made, that the applicant is serving at the time of the application and the date and place of the imposition of that sentence, and the offence in respect of which the sentence was imposed

(xii) the grounds to be relied on in support of the application

(xiii) an outline of the evidence the applicant expects to rely on

(xiv) the relief sought, and

(xv) the applicant's address for service, and

(b) an affidavit of the applicant in Form 12 swearing or affirming that the facts stated in the application are true.

(4) The applicant files the notice of application and affidavit in the Supreme Court criminal registry in the court location where the applicant was sentenced for the offence that is the subject of the application.

Service

(5) The applicant serves a filed copy of the notice of application and affidavit on

(a) the Attorney General of British Columbia (B.C. Prosecution Service) either

(i) by registered mail to Ministry of Attorney General, Legal Services Branch, PO Box 9290 STN PROV GOVT, 1001 Douglas Street, Victoria, BC, V8W 9J7, Attention: Duty Counsel or

(ii) by email to CLD-PSU.Victoria@gov.bc.ca

(b) the Commissioner of the Correctional Service of Canada either

(i) by registered mail to 340 Laurier Avenue West, 9B-18, Ottawa, ON, K1A 0P9 or

(ii) by email to dojbcrimapps@justice.gc.ca, and

(c) the institutional head of the institution at which the applicant is detained.

(6) If proof of service is required in a particular case, such proof may be given in accordance with rule 4(5).

Judicial Screening

(7) Upon receipt of a copy of the application, counsel for the Attorney General of British Columbia (Crown counsel) requests, forthwith, the designation of a judicial screening judge under s. 745.61(1) by letter to the Chief Justice or Associate Chief Justice, submitted through Supreme Court Scheduling in the location where the application was filed.

(8) The Chief Justice or Associate Chief Justice designates a judge to

(a) determine whether the applicant is eligible to make an application according to the criteria in s. 745.6, and

(b) if the applicant is eligible, conduct the judicial screening process.

Case Management Conference for Judicial Screening Process

(9) On the designation of a judicial screening judge, Supreme Court Scheduling notifies the applicant through their address for service and Crown counsel, and arranges a case management conference before the judicial screening judge at the earliest opportunity.

(10) The case management conference with the judicial screening judge addresses

(a) whether there are any issues regarding the applicant's eligibility, and if there are, how eligibility will be determined, and

(b) if the applicant is eligible, matters relating to a fair and efficient judicial screening process under s. 745.61 of the *Criminal Code*, which may include

(i) directions regarding any written evidence the Attorney General wishes to present

(ii) directions regarding any additional written evidence the applicant wishes to present

(iii) directions regarding any report to be provided by the Correctional Service of Canada or other correctional authorities

(iv) whether it is necessary to order a parole eligibility report for the judicial screening process, and if it is, the timelines for filing

(v) the process for hearing any applications for production of records from the Correctional Service of Canada, and at what stage such applications will be heard, and

(vi) whether an in-court oral hearing will be held for the judicial screening process, and, if a hearing is to be held

(1) the date for the hearing

(2) how the applicant will attend the hearing, either in person or by videoconference

(3) directions regarding the form of evidence the parties may tender at the hearing, including whether there will be cross-examination on the parole eligibility report, and

(4) any directions regarding written submissions.

(11) Crown counsel should obtain in advance of the case management conference the information necessary for them to address any matters pertaining to the Correctional Service of Canada. Alternatively, Crown counsel may arrange for counsel for the Correctional Service of Canada to appear at the case management conference to discuss those matters.

(12) Additional case management conferences may be held upon the request of a party or the direction of the court.

(13) If the applicant is represented by counsel, the applicant is not required to attend a case management conference unless the applicant wishes to do so, in which case, the applicant attends by videoconference unless the court otherwise orders.

(14) An applicant who is self-represented attends a case management conference by videoconference unless the court otherwise orders.

Appearances by the Applicant

(15) If the applicant is to appear at a hearing in relation to the application, either in person or by videoconference, counsel for the applicant prepares and files the necessary documents to facilitate the applicant's appearance. Crown counsel prepares and files the necessary documents if the applicant is not represented by counsel.

Parole Eligibility Report

(16) At any stage after the first case management conference, the designated judge may order that a parole eligibility report be prepared in respect of the applicant, having regard to the matters referred to in s. 745.63(1).

(17) A parole eligibility report is prepared by a person designated by the Commissioner of the Correctional Service of Canada and contains, where available

(a) a summary of the applicant's social and family background

(b) a summary of the applicant's security classification and discipline evaluations

(c) a summary of the regular reports of the applicant's conduct

(d) a summary of any psychological and psychiatric assessments that have been made of the applicant

(e) any information relevant to a complete description of the applicant's character and conduct, and

(f) any other information relevant to the issue of the parole eligibility of the applicant.

(18) The parole eligibility report is filed in the applicable Supreme Court criminal registry in accordance with the direction of the judge who ordered the report.

(19) A party who wishes to cross-examine the author on any portion of the parole eligibility report applies to the judge at a case management conference.

Judicial Screening Process

(20) If, at the case management conference described above, the judicial screening judge directs that an in-court oral hearing will be held for the judicial screening process, the hearing takes place in the court location where the application was filed, unless the court otherwise directs.

(21) The judicial screening judge determines whether the application meets the applicable threshold in accordance with the process established by that judge after the case management conference.

(22) If the judicial screening judge determines that the application meets the applicable threshold, the application proceeds in accordance with the remainder of this rule.

The Application Process

(23) The application is heard by a jury empanelled by an application judge designated under s. 745.61(5) by the Chief Justice or the Associate Chief Justice. The application judge may be the judge who conducted the judicial screening process.

(24) The application hearing takes place in the court location where the application was filed, unless the court otherwise directs.

(25) A case management conference is held to promote a fair and efficient application process. Rules 11(11) to 11(14) apply to this case management conference.

(26) In addition to any matters set out in rule 11(10)(b) that may be applicable to the application process, a case management conference before the application hearing may address

(a) the preparation of an agreed statement of facts relating to the offence to which the application relates

(b) the form of any other evidence to be tendered

(c) whether and how information from victims of the offence will be received in accordance with s. 745.63(1)(d) & (1.1)

(d) how the applicant will attend the jury selection and the hearing, either in person or by videoconference

(e) dates for the jury selection and the hearing, and

(f) any other issues necessary for a fair and efficient hearing.

(27) The jury is empanelled in accordance with Part XX of the *Criminal Code*, with any modifications that the circumstances require.

(28) At the hearing of the application, the applicant presents evidence first and may, if the judge so permits, present rebuttal evidence after the evidence of the Attorney General is presented.

(29) After the presentation of the evidence at the hearing, the applicant, followed by the Attorney General, addresses the jury and the applicant may reply after the address of the Attorney General.

RULE 12 – Disposition of Exhibits

(1) The Attorney General of British Columbia may direct the disposition (including destruction) of all exhibits in criminal proceedings subject to the timelines, notice requirements, and other conditions set out in this rule, and to any other requirements or limitations imposed by law.

(2) At the conclusion of the criminal proceedings, the Attorney General notifies the parties in writing of the procedure for the return or disposition of the exhibits.

(3) If a party's contact information changes between the conclusion of the criminal proceedings and the end of the applicable exhibit holding period, the party provides updated contact information to the Supreme Court criminal registry in order to be notified before the exhibit is disposed of.

(4) After at least 15 months have elapsed since the conclusion of the proceeding in which the exhibit was filed, including any appeal, the Attorney General gives notice of an intention to dispose of an exhibit or exhibits in the following manner

(a) in writing

(b) to the last known email address or mailing address of the party who filed the exhibit(s) or to their counsel of record, or to both, and

(c) describing the exhibit claim procedure and the timeframe for disposal of exhibits that remain unclaimed.

(5) An application to the court for directions about whether, how, or to which individual or organization an exhibit will be disposed of may be made by

(a) any party, within 30 days of receiving notice that the Attorney General intends to dispose of the exhibit, or

(b) any person, at any time before the end of that 30-day notice period.

(6) The Attorney General may dispose of an exhibit if notice has been given in accordance with rule 12(4) and no application to the court for directions has been made within 45 days of sending the notice.