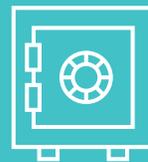




How to appeal your **CONVICTION**



A step-by-step guide to the criminal appeal process in BC



BC



Includes all the forms you need

Legal Aid BC



February 2019

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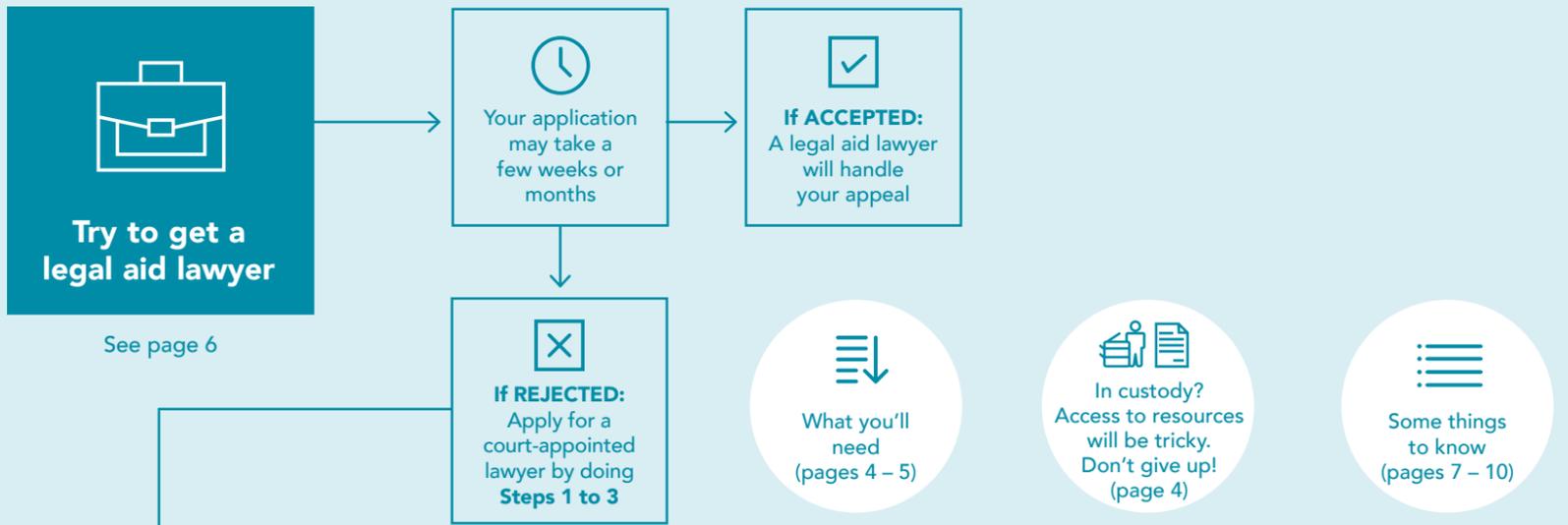
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This booklet explains the law in general. It isn't intended to give you legal advice on your particular problem. Because each person's case is different, you may need to get legal help. The information in this booklet is up to date as of February 2019.

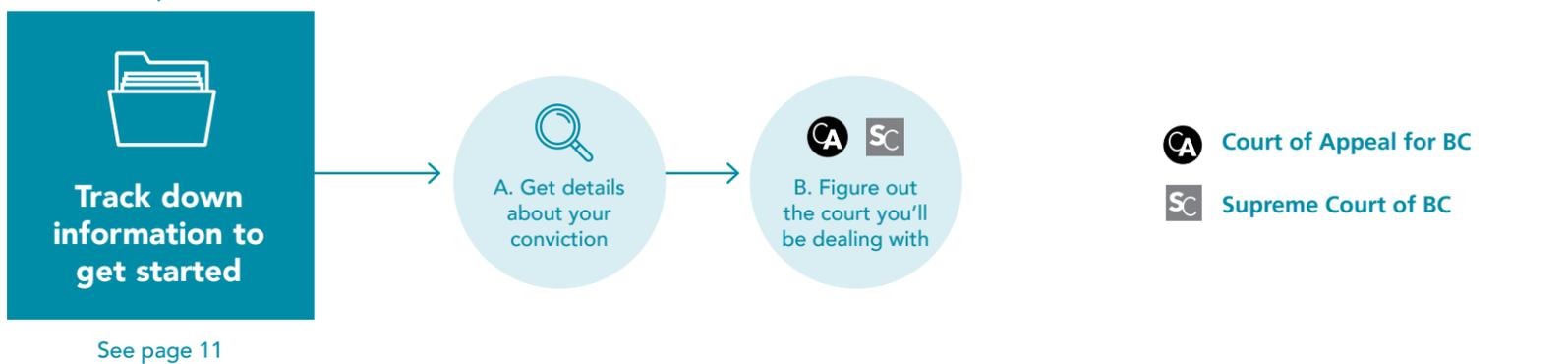
How to appeal your CONVICTION



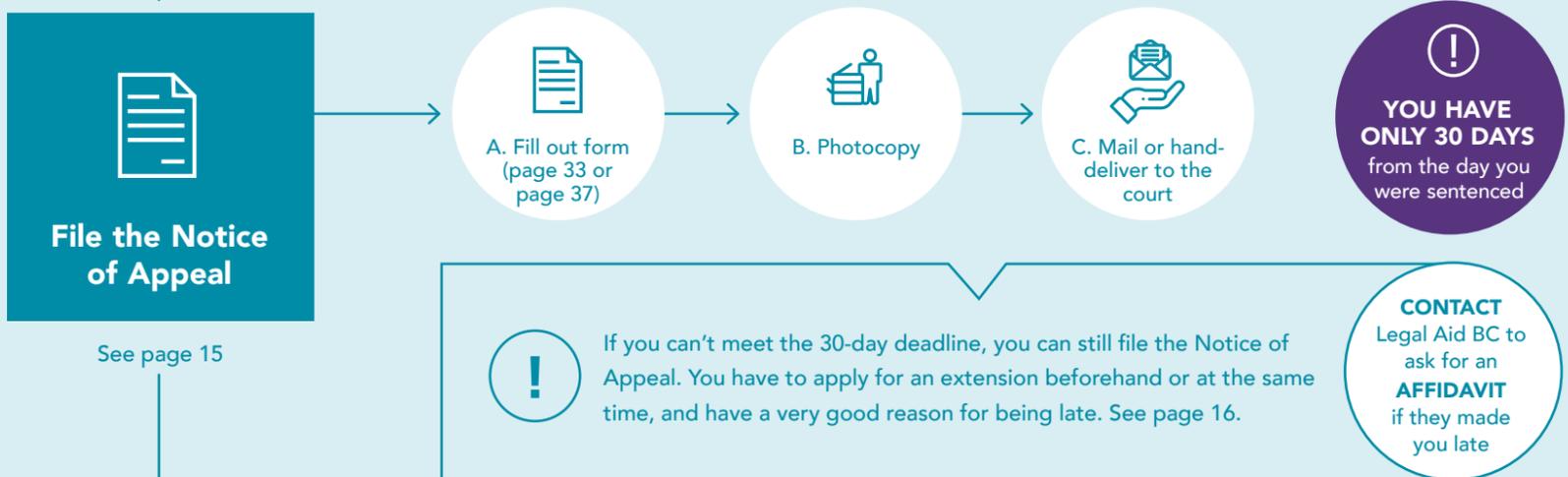
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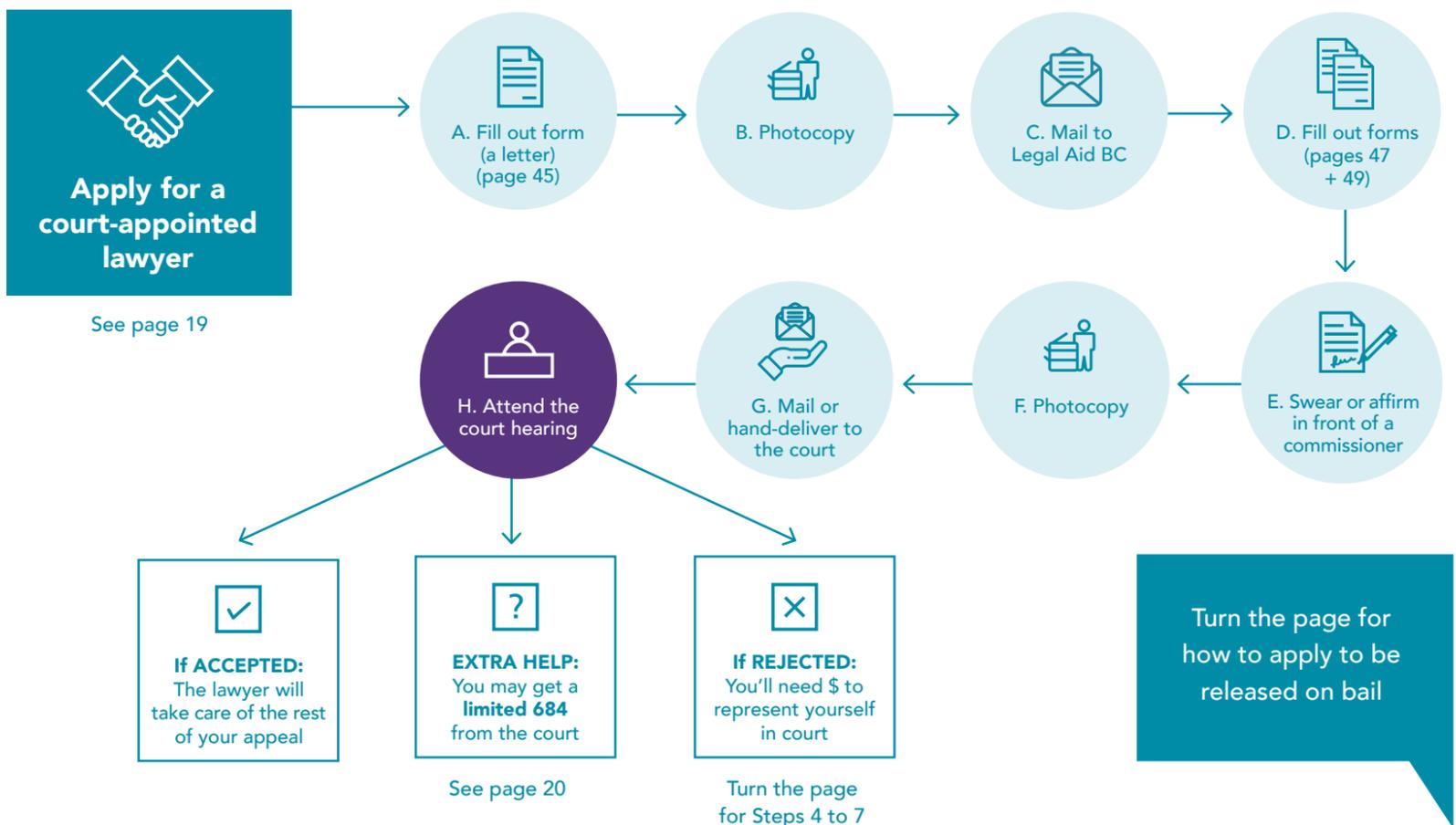
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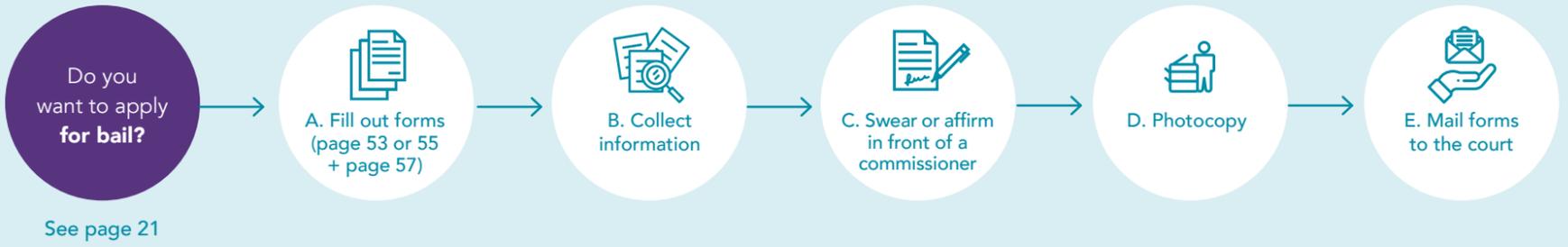


Step 2

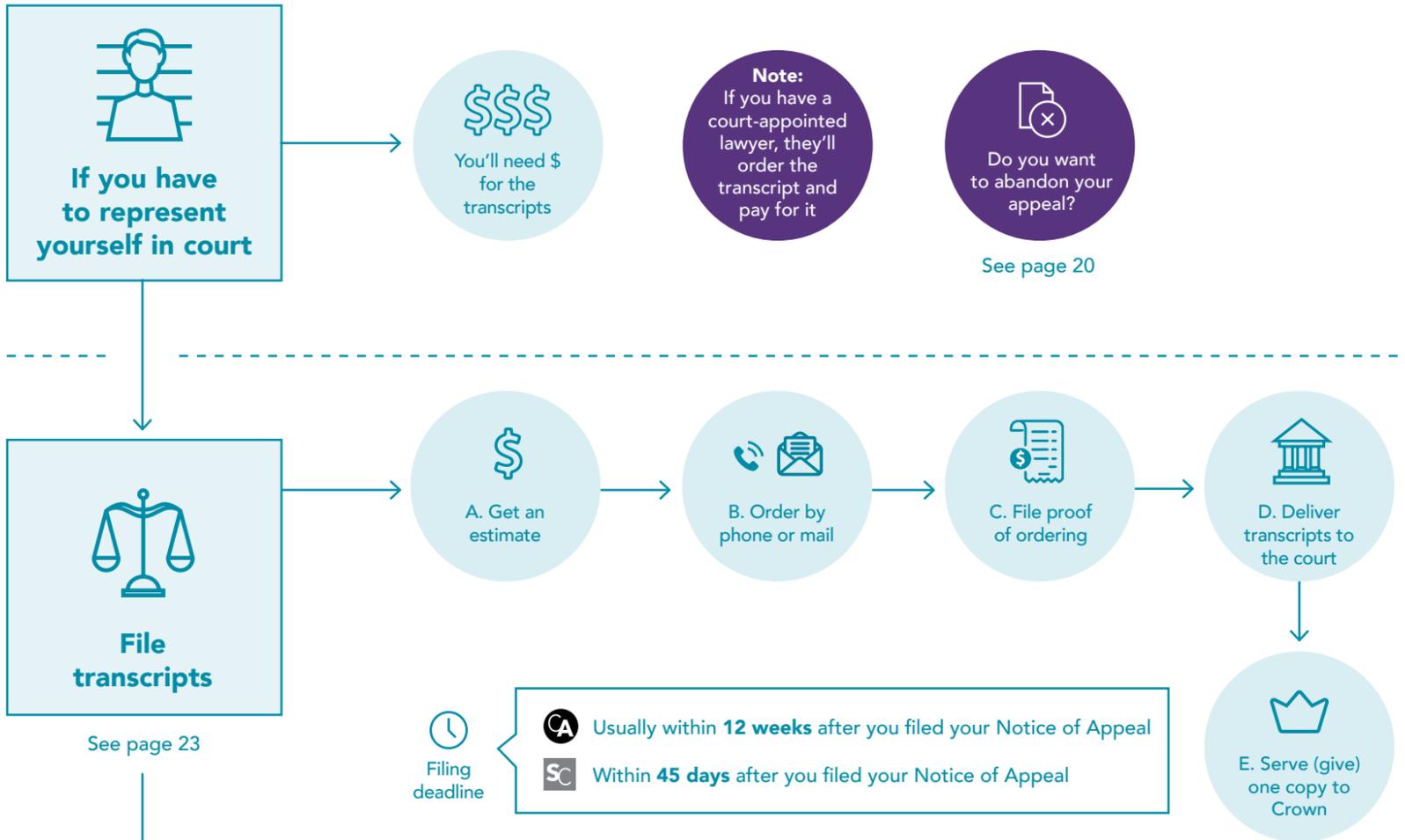


Step 3





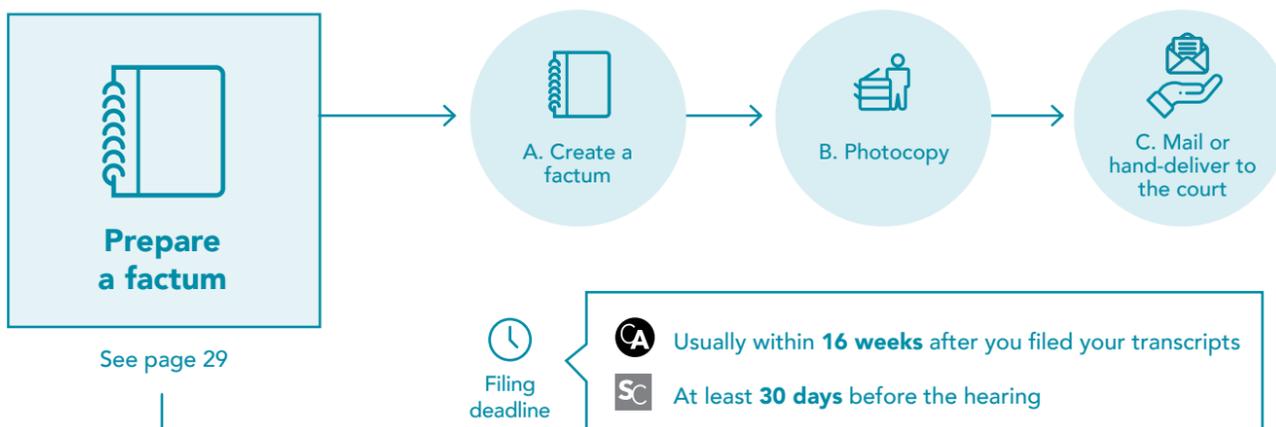
Step 4



Step 5



Step 6



Step 7





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List of forms

CA Court of Appeal for BC

SC Supreme Court of BC

<p>Notice of Appeal (Step 2)</p>	<p>CA Notice of Appeal or Application for Leave to Appeal (page 33)</p> <p>SC Notice of Appeal — Defence Appeals Against Conviction, Sentence or Other Order (page 37)</p>
<p>Extension (Step 2)</p>	<p>1 Notice of Application for Extension of Time to Appeal (page 39)</p> <hr/> <p>2 Affidavit in Support of Application for Extension of Time to Appeal (page 41)</p>
<p>Court-Appointed Lawyer (Step 3)</p>	<p>1 Letter of Authority (page 45)</p> <hr/> <p>2 Notice of Motion/Application for Appointment of Counsel (page 47)</p> <hr/> <p>3 Affidavit for Appointment of Counsel (page 49)</p>
<p>Bail</p>	<p>1</p> <p>CA Notice of Application for Release from Custody Pending Determination of Appeal (page 53)</p> <p>SC Notice of Application for Release from Custody Pending Determination of Appeal or Stay of Probation Order or Driving Prohibition (page 55)</p> <hr/> <p>2 Affidavit in Support of Application for Release from Custody Pending Determination of Appeal (page 57)</p>
<p>Factum (Step 6)</p>	<p>Appellant’s Factum (the cover page and index page) (page 61)</p>
<p>Abandoning Your Appeal</p>	<p>Notice of Abandonment of Appeal (page 65)</p>



Need extra forms?

Call Legal Aid BC for a free extra copy of this booklet. (See page 6.)



If a court found you guilty (it convicted you), you can ask another court to review that decision. You have a right to do this if you think there was an error at the trial that affected the decision. This is what it means to **appeal**. (Some of the phrases you'll hear in this booklet are *your appeal*, a *Notice of Appeal*, *appeal hearing*, *appeal period*. If you choose to make an appeal, you're the *appellant*.) There are different levels of courts, so you ask a *higher* court to go over a *lower* court's decision.

An appeal isn't a second try. When you appeal, you're not getting the court to hold another trial. It doesn't hear the evidence again (and rarely will it accept new evidence) to figure out whether you're guilty or not guilty. Your case may *eventually* go through a second trial, but first your appeal has to succeed. An appeal is about errors that may have happened in court. It can take a lot of legal know-how to convince a judge of this. You'll be facing either one or three judges, depending on the appeal court.

This booklet shows you how to appeal the conviction for a criminal offence:

- We start by going over how to apply for legal help.
- **Steps 1 to 3** tell you how to start the appeal process on your own and apply for a court-appointed lawyer.
- If you couldn't get a lawyer, **Steps 4 to 7** explain how to **represent** yourself (be your own lawyer) in court.

All the forms you need are in this booklet. There are forms in colour that say "Your draft" along the right side; use these to practise filling out the forms. After the draft is the actual form you can tear out and use.

In this booklet, words that you might not know are **bold**. These words are defined or explained, usually within the same sentence or paragraph. There is also a list of definitions on page 67.



Are you also appealing your sentence?

The booklet *How to Appeal Your Sentence* may help. Ask for this free publication from Legal Aid BC when you contact them, and they'll mail it to you. (If you're not in custody, you can also read the booklet online at legalaid.bc.ca/read.)



In custody? What you'll need

You'll have to make a special request for some of the following. Some may take several days. Ask a staff member, your parole officer, or someone on your case-management team.



Stamps and envelopes



Pen. Do not use a pencil to fill out the forms.



Access to a photocopier:

- When you ask for permission, mention that it's for your legal documents. If photocopying time simply isn't possible, you'll have to send your forms to the court without copies. They'll see that you're mailing from an institution, so chances are good that they'll accept your forms and not charge you a copying fee.



Information about your conviction and sentence:

- Look at a court document called the **Warrant of Committal** (see page 11). If you don't have it, you can ask for it.



Phone time:

- It's possible to do most of the steps by mail, but you may want to phone instead, to quickly get information or extra help. You may want to call Legal Aid BC, the court where your trial was, the appeal court (quick questions only), and the court transcription company. You have to get permission from your institution for some numbers.



An appointment with a commissioner for oaths:

- This is needed for swearing or affirming an affidavit (see page 17). You'll have to ask for an Inmate Request Form from a staff member, your parole officer, or someone on your case-management team. See page 17 for other options.



If you're refused a court-appointed lawyer, you have to do Steps 4 to 7. You'll need:

- Money to order a court transcript and possibly an appeal book (which can be expensive)
- Visits to a library to do legal research
- Blank paper to write out your factum (Step 6)
- A way to deliver court transcripts. You need someone to take them to the court registry to file them (get them stamped) and then deliver a stamped copy to the Crown lawyer. They're usually too large, heavy, and expensive to mail.

Not in custody? What you'll need



Stamps and envelopes. You can also take your forms to the court and to the Crown lawyer in person.



Access to a photocopier:

- Call a few places that offer photocopy services and ask for the price per page. This can vary quite a bit.



Information about your conviction and sentence:

- Look at the court papers you've received. This could be the **Warrant of Committal** (if you spent time in custody), **Conditional Sentence Order**, **Probation Order**, **Conditional Discharge Order**, or **Absolute Discharge Order**.
- If you lost these papers, contact the court where your trial was held and ask for a copy. Supreme Court registries are listed on page 14. Provincial court registries are listed at the back on page 71. They may charge you a small fee.



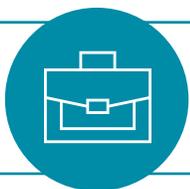
An appointment with a commissioner for oaths:

- This is needed for swearing or affirming an affidavit. Page 17 explains what this is and how to find one.



If you're refused a court-appointed lawyer, you have to do Steps 4 to 7. You'll need:

- Money to order a court transcript and possibly an appeal book (which can be expensive)
- Visits to a library and/or access to the Internet to do legal research
- Access to a computer and printer to prepare a factum (Step 6). Many libraries have computers, but printing isn't free.
- A way to deliver court transcripts. You or someone you know needs to take them to the court registry to file them (get them stamped) and then deliver a stamped copy to the Crown lawyer. They're usually too large, heavy, and expensive to mail.



Before Step 1: Try to get a legal aid lawyer

Before you try to do Step 1, apply for a legal aid lawyer through **Legal Aid BC**.

They provide free legal services to people with low incomes, although not everyone qualifies. A legal aid lawyer can take care of your appeal, which means you don't have to worry about doing any of the steps in this booklet yourself.

In custody?	Not in custody?
<p> Call</p> <p>The prisoners-only line: 1-888-839-8889 (no long-distance charges) Monday to Friday 9 am – 4 pm (Wednesday: until 2:30 pm)</p> <p>To call the Appeals Section directly: 604-601-6085 Monday to Friday 9 – 11 am and 2 – 4 pm (The prisoners-only line can also connect you.)</p> <p> Write</p> <p>Legal Aid BC Appeals Section 400 – 510 Burrard Street Vancouver, BC V6C 3A8</p>	<p> Call</p> <p>604-408-2172 (Greater Vancouver) 1-866-577-2525 (elsewhere in BC) Monday to Friday 9 am – 4 pm (Wednesday: until 2:30 pm)</p> <p>To call the Appeals Section directly: 604-601-6085 Monday to Friday 9 – 11 am and 2 – 4 pm</p> <p> Visit the nearest legal aid office</p> <p>Try to call before you go. For the location of the nearest office, go to legalaid.bc.ca. Search “legal aid locations.”</p> <p> Email: helpdesk.appeals@legalaid.bc.ca</p>

You may have to wait a few weeks to several months to get a final decision.

We suggest waiting to see if your application is accepted so that the lawyer can take care of your entire appeal. But this may make you miss the first deadline. If you have the resources to do Steps 1 and 2 in 30 days, you can do them while you wait to hear back from Legal Aid BC. If you're refused a legal aid lawyer and you missed the deadline, we show you how to ask for an extension (page 16).

Step 3 shows you how to apply for a **court-appointed lawyer**, which is how you get help if you were refused a legal aid lawyer.

If you can afford a lawyer, the **Lawyer Referral Service** can help you find a private lawyer to take your case. They'll give you the name of a lawyer who you can meet for a half-hour interview for \$25 plus taxes. If you decide to hire them, ask how much you can expect to pay.

- 604-687-3221 (Greater Vancouver)
- 1-800-663-1919 (elsewhere in BC)



Your first deadline

The first form you have to fill out is the Notice of Appeal (Step 2). The court registry needs to get it within **30 days** of the day you were sentenced. The 30 days is called the **appeal period**. You can mail the form, or take it in person if you're not in custody and you don't live far from the court. Faxing is usually an option as well.

When you fill out a legal document and send it to the right court, they stamp it and store it where they keep official records. This happens at the **court registry**. This is called filing a document.

If you don't remember the sentencing date, you'll have to look for it in a court document such as the Warrant of Committal. You can ask for it if you don't have it. See page 11.

If it's just not possible to file the Notice of Appeal on time, you have to ask the court for an extension (page 16). There's more paperwork to fill out, and you have to give a good reason why you're late. (We'll explain what to do if waiting for Legal Aid BC caused you to be late.)



How long does an appeal usually take?

If everything goes smoothly, there will be an appeal hearing, where you appear in front of the judge or judges who decide on your appeal. The time frame depends on whether you were convicted of a **summary** or **indictable** offence (see page 13):

- For a summary offence, the appeal hearing will be, at the latest, six months after the court receives your Notice of Appeal.
- For an indictable offence, the appeal hearing is usually 12 to 18 months after the court receives your Notice of Appeal.

There may be various delays, such as applying for a legal aid lawyer, or getting together the money for the court transcripts.



Some things to know

QUESTIONS & ANSWERS



Does an appeal mean doing the trial over again?

No. An appeal means you think the trial court made a mistake. Witnesses aren't called in appeal cases except in rare instances.

Usually, the appeal hearing can only deal with the evidence already given at the trial. (The appeal judge or judges are given the court transcript — a record of all that was said at the trial.) You can't refer to new evidence without the court's permission (**leave**).

I was given Dangerous Offender or Long-Term Offender status. Can I appeal this?

Yes. You can also appeal the length of any related jail sentence or Long-Term Supervision Order. These are all sentences, but you should still hang onto this booklet. You or your lawyer will have to file an appeal book, book of authorities, and factum (pages 23, 28, and 29), as well as *sentencing* transcripts. Get a copy of *How to Appeal Your Sentence* from Legal Aid BC (page 6).

Is it possible to make too many appeals?

Yes. There are different levels of courts. After your appeal is **dismissed** (rejected) in one court, you can apply to start another appeal at a higher court, although it gets harder to do so. You usually need permission from the higher court first. You do this by applying for **leave**. If your first appeal is to the Supreme Court of BC and it's dismissed, you can try to appeal to the Court of Appeal for BC. If your appeal to the Court of Appeal for BC is dismissed, you can try to appeal to the Supreme Court of Canada.



If I tried to do my own appeal and did a bad job, can I still hire a lawyer later on?

Yes. But once an appeal is decided, it's final. You'd have to appeal that decision to a higher court, and this can be hard to do. See the previous question.

Can appealing affect being able to take part in programs and getting parole?

You may be taking part in a program or correctional plan so you can eventually be moved to a lower-security facility or be released under certain requirements (a **conditional release**). In these programs, you're expected to speak openly about your crimes or what the judge found you guilty of. A parole board generally expects you to take responsibility and show remorse for your crimes.

But appealing your conviction means you think it was a mistake to be found guilty. This can be seen as not admitting guilt and not taking responsibility. This can make it hard to take part in these programs and to convince the parole board that you won't reoffend and can be safely returned to the community. Common advice is to not say anything about the crime you were convicted of because it could affect your appeal.



Can I appeal after a very long time?

It depends. You have to give a very good explanation for being late. (We show you how to apply for an extension of time on page 16.) The later it is, the more difficult it will be to get an extension.



I think my trial lawyer did a bad job. Can I appeal for that reason?

It's common to want to argue "ineffective assistance of counsel," but it's rare for these appeals to succeed. We don't explain how to do this in this booklet.

Can I use new evidence?

An appeal court rarely allows you to introduce new evidence that wasn't heard at the trial. To get the appeal court to hear that evidence, you must persuade the court of all of the following:

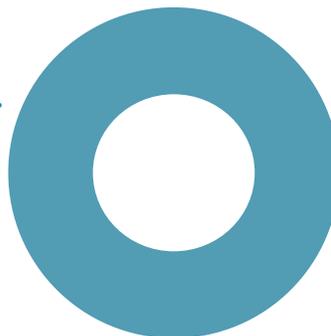
- The evidence couldn't have been brought up at the trial.
- The evidence relates to an issue that was a deciding factor.
- The evidence is reliable.
- If you had brought up this evidence at the trial (along with the other evidence), it probably would have affected the verdict.

It's hard to meet all of these conditions. Applications to introduce new evidence are rarely successful.

I'm not in custody, and I have a driving ban or probation order. Can I get it lifted temporarily while I wait for the appeal hearing?

Perhaps you were convicted of impaired driving and you have a court order that bans you from driving. Or you have a probation order that involves a no-contact order, community work, counselling, or regular reporting to a probation officer. You can apply to **stay** (suspend) the order until the results of the appeal hearing. You'll need to argue your case and back it up with **case law**.

If you're dealing with the Supreme Court of BC, use the same form for applying for bail (page 55). Cross out "(a)" and either "(b)" or "(c)." Contact the court registry to get help setting up the hearing date. If you're dealing with the Court of Appeal, you can try applying on your own, but you may want help from a lawyer.



Why do I have to make photocopies of the forms?

This booklet usually tells you to send three or five photocopies of a document, plus the original. (You'll have four or six printouts.) They're for:

- You
- The Crown counsel (the prosecutor)
- The judge or judges. In the Court of Appeal, there are three judges at the appeal hearing. For all other hearings, there is just one judge.
- The court's archives

The copies are first filed (stamped by the court) so that everyone knows they're looking at the same thing. This includes your own copy, which gets returned to you. If you're in custody and photocopying isn't possible, you'll have to send your forms to the court without copies. They'll see that you're mailing from an institution, so chances are good that they won't charge you a copying fee. However, they do expect photocopies of documents that are more than a few pages long.



Some things to know

Grounds for appeal

Your goal is to get the appeal court to **set aside** (cancel) your conviction. But there are only three reasons the judge or judges would do this. Your appeal has to argue at least one of these three points; it's your **grounds for appeal** (your reasons for appealing).

1 The verdict was unreasonable	2 The judge made an error of law	3 There was a miscarriage of justice
Was the evidence so weak that it's <i>unreasonable</i> to find you guilty? If so, the appeal court could consider changing the decision. But it can be hard to argue that a verdict was unreasonable. Generally, the appeal court won't change a conviction because you think a witness got it wrong or wasn't telling the truth. You'd need a really convincing argument and support it with evidence.	If you're saying the judge made a mistake (an error of law), you'll have to argue that this mistake affected the verdict. Let's say the judge didn't make the mistake. Would you still be found guilty? If so, your appeal can be dismissed (rejected).	"Miscarriage of justice" is a general legal phrase that comes up mostly when there's been a mistake in the way things were done in court that made the trial unfair.

When you make your grounds for appeal, just try to explain in your own words what you think went wrong at the trial. Some examples:

- The judge misunderstood the evidence.
- The judge didn't follow the correct procedure.
- The only evidence linking the accused to a bank robbery came from an eyewitness who wasn't sure they identified the right person.
- The judge allowed a certain piece of evidence to be used at the trial, but it shouldn't have been allowed.
- The judge gave wrong instructions to the jury.
- Your house was searched, but there weren't reasonable or probable grounds for a search warrant, and the judge didn't consider this. The judge made an error interpreting your rights under the Canadian Charter of Rights and Freedoms.
- You don't understand English very well. You asked for an interpreter, but the judge refused.

Track down information to get started

1

Step 1

You need to know some basic facts to fill out the forms, find out the deadlines, and find out what court you'll be dealing with. The checklist below is for your own records.

In custody?	Not in custody?
<p>Most of this information is on a court document called the Warrant of Committal. (It's a court order that authorizes your imprisonment.) If you don't have a copy, ask for it. Your institution has a copy. Talk to a staff member, your parole officer, or someone on your case-management team.</p> <p>If you have trouble understanding the document, Legal Aid BC may be able to help. (See page 6 for their contact info.)</p>	<p>Most of this information is on the court papers you've received, whether it's the Warrant of Committal (if you spent time in custody), Conditional Sentence Order, Probation Order, Conditional Discharge Order, or Absolute Discharge Order. If you lost these papers, the registry of the court where your trial was can give you a copy. Call, write, or go in person. (They may charge a small fee.) Supreme Court registries are listed on page 14, and Provincial Court registries are listed at the back on page 71.</p>

A



Get details about your conviction

Where your trial was: _____

The date you were sentenced: _____

Look for the word **adjudged**:

"It was *adjudged* on [date] . . ." "On [date], the court *adjudged* . . ."

The date you were convicted: _____

"Whereas on [date], John Doe (the 'offender') was convicted or found guilty. . . ."

The court file number of your trial: _____

On the court document, look at the top under "Court File No." If it starts with four numbers and a ":"— ignore those numbers. **4916:12345-1**

The offence or offences you were found guilty of:

Was it an **indictable** (*in-DITE-a-bull*) or **summary** offence? [*circle*]

"Proceeded: Summarily" → summary

"Proceeded: By indictment" → indictable

See page 13 for definitions.

If you can't find this on your papers, call, write, or visit the court registry where your trial was. Supreme Court registries are listed on page 14, and Provincial Court registries are listed at the back on page 71. Tell them your court file number. On the phone, you may have to press the button for "criminal" (not "civil") before you talk to someone.

Step 1

- If you were convicted of an indictable offence:
Was the trial in **Provincial Court** or **Supreme Court**? [circle]

Sometimes this is listed with the judge's name: "before *Provincial Court Judge J Doe*." Do you see "Provincial Court" or "Supreme Court" anywhere on the document?

If not, call, write, or visit any court registry. Supreme Court registries are listed on page 14, and Provincial Court registries are listed at the back on page 71. It doesn't have to be where your trial was. Tell them your court file number.

On the phone, you may have to press the button for "criminal" (not "civil") before you talk to someone.

- Your sentence:

- The name of the judge: The judge's name is in small print, usually *under* the bottom-right box with the clerk's name. Look for the word "**Judge**" or "**Madam Justice**" or "**Mr. Justice**."

- The length of the trial:

- Were you convicted under the Youth Criminal Justice Act?:
yes / no [circle]

This act applies to you if you were under 18 at the time of the offence.

- If you were convicted of a summary offence:
Under what act were you convicted (for example, the Criminal Code, the Controlled Drugs and Substances Act, the Fisheries Act, etc.)? Look for the words "**contrary to**" after the name of your offence. Include the section of the act:

B



Figure out which court you'll be dealing with

This is where you send (**file**) your forms and where the **appeal hearing** takes place. (This hearing is when you go to court to present your case in front of a judge or judges.) Other requests, such as for more time or for a court-appointed lawyer, are also heard at the same court. These may be by videoconference if you're in custody.

What were you convicted of?

Indictable offence

(*in-DITE-a-bull*) In general, more serious and can carry a heavier sentence.



**Appeal to the
Court of Appeal for BC**

Summary offence

In general, less serious with a lower maximum sentence.



**Appeal to the
Supreme Court of BC**

The appeal process and forms are a bit different for each court. Look out for the **black circle** or **grey square** throughout this booklet.

Court of Appeal registries

For your appeal, you can choose the registry you deal with. If you're going to mail your documents because you're in custody or live far away, use the Vancouver registry. (Mail to Victoria and Kamloops automatically gets forwarded to Vancouver.) If faxing is more convenient than mail or delivering in person, fax your forms to the Vancouver registry.

Court of Appeal Registry
400 – 800 Hornby Street
Vancouver, BC V6Z 2C5
604-660-2468
Fax: 604-660-1951

Court of Appeal Registry
850 Burdett Avenue
Victoria, BC V8W 1B4
250-356-1478

Court of Appeal Registry
223 – 455 Columbia Street
Kamloops, BC V2C 6K4
250-828-4344

Step 1

Supreme Court of BC registries

For your appeal, you *must* deal with the court nearest to where you were convicted. If you can, call to make sure you have the right registry and that the address hasn't changed. (Or go to www2.gov.bc.ca and look up "courthouse locations.") Address mail to "Supreme Court Registry." If faxing is more convenient than mail or delivering in person, call to find out the fax number.

Campbell River

500 – 13th Avenue
Campbell River, BC V9W 6P1
250-286-7650

Chilliwack

46085 Yale Road
Chilliwack, BC V2P 2L8
604-795-8350

Courtenay

Room 100 – 420 Cumberland Road
Courtenay, BC V9N 2C4
250-334-1115

Cranbrook

Room 147
102 – 11th Avenue South
Cranbrook, BC V1C 2P3
250-426-1234

Dawson Creek

1201 – 103rd Avenue
Dawson Creek, BC V1G 4J2
250-784-2278

Duncan

238 Government Street
Duncan, BC V9L 1A5
250-746-1258

Fort Nelson

This registry is just for filing. The *hearings* will probably be in Fort St. John.
Bag 1000, 4604 Sunset Drive
Fort Nelson, BC V0C 1R0
250-774-5999

Fort St. John

10600 – 100 Street
Fort St. John, BC V1J 4L6
250-787-3231

Golden

837 Park Drive
Golden, BC V0A 1H0
250-344-7581

Kamloops

223 – 455 Columbia Street
Kamloops, BC V2C 6K4
250-828-4344

Kelowna

1355 Water Street
Kelowna, BC V1Y 9R3
250-470-6900

Nanaimo

35 Front Street
Nanaimo, BC V9R 5J1
250-716-5918

Nelson

320 Ward Street
Nelson, BC V1L 1S6
250-354-6165

New Westminster

Begbie Square
651 Carnarvon Street
New Westminster, BC V3M 1C9
604-660-8522

Penticton

100 Main Street
Penticton, BC V2A 5A5
250-492-1231

Port Alberni

2999 – 4th Avenue
Port Alberni, BC V9Y 8A5
250-720-2424

Powell River

103 – 6953 Alberni Street
Powell River, BC V8A 2B8
604-485-3630

Prince George

J.O. Wilson Square
250 George Street
Prince George, BC V2L 5S2
250-614-2700

Prince Rupert

100 Market Place
Prince Rupert, BC V8J 1B8
250-624-7525

Quesnel

305 – 350 Barlow Avenue
Quesnel, BC V2J 2C1
250-992-4256

Revelstoke

This court is for *hearings*. File your documents at Salmon Arm.
1123 West 2nd Street
Revelstoke, BC

Rossland

PO Box 639
2288 Columbia Avenue
Rossland, BC V0G 1Y0
250-362-7368

Salmon Arm

550 – 2nd Avenue NE
PO Box 100, Station Main
Salmon Arm, BC V1E 4S4
250-832-1610

Smithers

No. 40, Bag 5000
3793 Alfred Avenue
Smithers, BC V0J 2N0
250-847-7376

Terrace

3408 Kalum Street
Terrace, BC V8G 2N6
250-638-2111

Vancouver

800 Smithe Street
Vancouver, BC V6Z 2E1
604-660-2874

Vernon

3001 – 27th Street
Vernon, BC V1T 4W5
250-549-5422

Victoria

In person:
850 Burdett Avenue
Mailing address:
PO Box 9248, Stn Prov Govt
Victoria, BC V8W 9J2
250-356-1478

Williams Lake

540 Borland Street
Williams Lake, BC V2G 1R8
250-398-4301

To let the court know you want to appeal, you must first file a Notice of Appeal. **Deadline:** The court has to receive the form within 30 days after you were sentenced. (See page 11 if you don't remember when this was.) If you can't meet the deadline, see the next page.

A

Fill out the form. (See page 13 if you don't know which form to use.)



page 33

Notice of Appeal or Application for Leave to Appeal

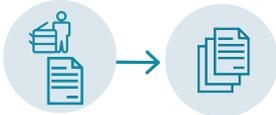
If you're appealing both your conviction and sentence, you only need to fill out one copy of the form above for both appeals.



page 37

Notice of Appeal — Defence Appeals Against Conviction, Sentence or Other Order

B



Photocopy the form

CA 3 photocopies **SC** 5 photocopies

C



File the form

Mail the original and photocopies to the court registry (or bring it in person).



What's next?

Wait for a response in the mail. The court will give you deadlines for filing transcripts (Step 4) and for setting a hearing date, two things you have to keep on top of if you don't get a court-appointed lawyer.

Some of the deadlines can be tricky, especially if you're in custody. For example, you need to send proof of ordering transcripts a few weeks after filing the Notice of Appeal. But you may be in the middle of applying for a legal aid lawyer or a court-appointed lawyer. These lawyers take care of ordering transcripts. If the court knows that you're applying for a lawyer but still expects you to meet the deadlines, consider starting Step 4 and getting a quote (an estimated cost) from the transcription company (see page 23).

Keep any documents you receive from the court. Write down the following:

When did the court receive and file the Notice of Appeal? (Look at the date stamp on the copy you get back.)

What is the court file number for your appeal? (This is important for the rest of the forms.) In the Court of Appeal, the format is "CA12345."

Step 2



Can't meet the deadline?

You have to ask for an extension. You'll have to show that you meant to appeal within the 30-day period and give valid reasons why you didn't. Maybe you didn't know you had a right to appeal and only learned about it after the 30-day deadline. Or maybe Legal Aid BC took a long time to respond with their refusal letter and caused a delay.

CA File these forms at the same time as the Notice of Appeal.

SC Do all of the steps below, but *do not file the Notice of Appeal*. There will be a court hearing where the court decides whether to **grant** (give) you the extension. Once you're granted the extension, you can file the Notice of Appeal.

If the court doesn't grant you an extension, you can't go ahead with your appeal.

1

Fill out the Notice of Application for Extension of Time to Appeal (page 39)

Ask for an affidavit from Legal Aid BC

You only need to do this if you applied for a legal aid lawyer (page 6). This affidavit proves that you had a valid reason for being late. See page 6 for Legal Aid BC's phone number and address.

2

When did you apply for a legal aid lawyer?

Before the 30-day deadline: Skip to Step 5 below.

After the 30-day deadline: Legal Aid BC is just part of why you're late. You'll also write your own affidavit explaining your other reasons.

3

Fill out the Affidavit in Support of Application for Extension of Time to Appeal

 (page 41)

This is where you write down the reasons you were late. You can skip this step (and Step 4 below) if you applied for a legal aid lawyer before the 30-day deadline.

4

Swear or affirm your affidavit

Do this in front of a commissioner for taking affidavits for BC. (See next page.)

5

Photocopy

- Notice of Application for Extension of Time to Appeal: 3 photocopies
- Affidavit from Legal Aid BC (if needed): 3 photocopies
- Affidavit in Support of Application for Extension of Time to Appeal (if needed): 3 photocopies

6

File the forms

Mail the originals and the photocopies to the court registry (or take it in person). Ask the registry about how to serve a copy of the Notice and affidavit(s) on Crown counsel. (See next page.)



Serving documents on Crown counsel

The Crown counsel, or Crown lawyer, is the prosecutor in your appeal. They'll be at your court hearings, and you have to make sure they get a copy of your documents right after you file them. Giving a court document to the other party is called **servicing**. Before documents are served, they must first be stamped at the court registry (filed).

- **In custody?** Write a note asking the registry if they could serve Crown counsel for you by putting the filed document in Crown counsel's mail slot. Mention that you're in custody and a **self-represented litigant** (you're your own lawyer). Also ask for Crown's address. Some of the forms need this information. If you have to serve the document yourself, they'll send you two of the filed copies; mail one copy to Crown.
- **Not in custody?** Ask the registry for Crown's address. You'll get back two filed copies; mail one copy to Crown or deliver it in person. Most Crown lawyers will also accept faxes, but ask them first. Most places that offer photocopying services offer faxing as well.

The only form you don't have to worry about serving is the Notice of Appeal. The court registry will do this automatically. You're responsible for getting all the other forms and documents to Crown.



Swearing or affirming an affidavit

An affidavit is a written statement. It contains facts that you swear under oath or affirm to be true. You have to do this in front of a commissioner — a person who was given the power to hear and accept oaths and affirmations. You both sign the affidavit in front of each other. This is called having your affidavit sworn.

- **In custody?** Federal institutions have someone on staff who can provide this service, but this isn't always the case at provincial institutions. Start by asking for an Inmate Request Form from a staff member, your parole officer, or someone on your case-management team. Ask different people. If you don't have any luck, explain your situation to the judge if you go to case-management conferences (see page 18). You can also try getting help from Prisoners' Legal Services (see page 71).
- **Not in custody?** Lawyers and notaries public can always act as a commissioner. And there's often a commissioner at a court registry or government office who can do it. If you want to use a notary, look for one through the Society of Notaries Public in BC website (notaries.bc.ca) or in the Yellow Pages under "Notaries Public." Shop around as prices vary. Bring government-issued picture ID with you.

Step 2

Case management

At some point, the court may think that your case needs extra attention. For example, your form has confusing or vague information, your affidavits aren't sworn, or you missed important deadlines — things that prevent an appeal from moving forward. Someone at the court or Crown counsel can ask for case management. This means you appear before a case-management judge to talk over what you need to do. The judge can give you new instructions, and they can make sure you understand the next steps. The same judge can follow up with more meetings (called **pre-hearing conferences**).

Case management is common in the Court of Appeal. It's less common in the Supreme Court of BC. You'll get a letter with a date and time to appear in court. If you're in custody, this appearance is usually done by video. Sometimes you can ask for case management yourself. You apply to appear before a judge.

These conferences take place in a courtroom called **Chambers**. They can feel quite formal. Think of it as a chance to make it clear to the court what your plans and goals are. You may feel emotional, but it's always a good idea to stay calm and be as polite as possible.



Words you may hear at a court hearing

allege (*ah-LEDGE*) — To claim something wrong happened but that hasn't been proven yet. For example, you could allege that you didn't get an interpreter at your trial after you had asked for one. If you allege something, what you say is an *allegation*.

consent — Agree, allow.

Crown counsel — The prosecutor in your appeal. *Counsel* means lawyer. In court, they may refer to themselves in the third person. For example, instead of "I applied," they'll say "Crown counsel applied."

denied funding — Usually referring to being refused legal aid (a form of financial support).

grant — To allow or give. For example, the judge may grant you an extension.

My Lady (for a female judge), My Lord (for a male judge) — How to address the judge in court. It's a form of respect, similar to "Your Honour."

intention to proceed — The plan for what to do next.

practice directives — Guidelines from the court.

preliminary matters — The issues at the beginning that need to be sorted out.

sit — To hold a hearing. You need to know the sitting dates to schedule a court hearing.

substantiate — To prove the truth of. For example, you substantiate a claim with an affidavit or evidence.

supplementary — Additional or extra. For example, supplementary information.

Other words and phrases are in a list of definitions at the back of this booklet (page 67).

Apply for a court-appointed lawyer

3

In some cases, you can get a lawyer arranged (**appointed**) by the court. The government pays their fees. This is written in the law, under section 684 of the Criminal Code. So you may sometimes hear this being referred to as a **section 684 application**.

You can apply if you can check all three boxes:

- You don't have money to hire a lawyer.
- You applied for legal aid and were refused.
- You filed your Notice of Appeal (you completed Step 2).

You must show the court that you can't afford a lawyer and that you can't **represent yourself** (be your own lawyer) in any effective way. You'll have to tell them:

- Your financial situation
- Your education and lack of legal training
- That you were refused legal aid
- The main points you'll argue (see "Grounds for appeal" on page 10)
- That you don't have a lawyer's skills to organize and present a case
- How complex your case is
- Why you think your appeal will succeed

A



page 45

Fill out the Letter of Authority (Exhibit A)

You need to show that you were refused legal aid. Legal Aid BC can confirm this to the court. But you have to write to Legal Aid BC to give them permission to send your information to the court.

B



Photocopy

1 photocopy of the Letter of Authority

C



Mail the letter

Mail the **original** to Legal Aid BC. The address is on the form. Write down when you sent the letter: _____
You'll need this date to fill in the affidavit in the next step.

D



1. page 47
2. page 49

Fill out 2 forms

1

Notice of Motion/Application for Appointment of Counsel

2

Affidavit for Appointment of Counsel

Step 3

E



Swear or affirm the affidavit

You need to go to a commissioner for taking affidavits for BC. (See page 17.)

F



Photocopy

3 photocopies of the Notice of Motion/Application *and* the sworn affidavit. To the original affidavit, attach the photocopy of the Letter of Authority (see Step B).

G



File the forms

Mail the originals and the photocopies to the court registry (or take it in person). Ask the registry about serving the forms on Crown counsel (see page 17). If you're not in custody, also talk to them for help with setting a date for the hearing.

H



Attend the hearing

You appear in court (called **Chambers**) in front of a judge. (If you're in custody, this will be by videoconference. If you're not in custody and the court is far from where you live, ask for a phone conference.) The judge will look at your application and decide whether to **grant** (give) you a court-appointed lawyer.

Limited 684

When the judge looks at your application for a lawyer, they may decide to give you extra help with the application. They get another lawyer to make the argument that you should get a court-appointed lawyer. This is called a **limited 684 appointment**.



What's next?

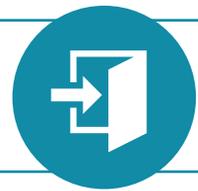
If you don't get a court-appointed lawyer, you'll have to do Steps 4 to 7 yourself. Step 4 — ordering transcripts — can cost a lot of money. This could be a few hundred to a few thousand dollars. (If you have a court-appointed lawyer, they'll take care of this and the rest of your appeal.) You'll need access to a legal library or the Internet for Step 5.



page 65

Do you want to abandon your appeal?

Did you file an appeal but then decide you don't want to go ahead with it? **Fill out the Notice of Abandonment of Appeal**. Get another person to witness your signature. It doesn't have to be a commissioner. Then mail it to the court registry. Be sure you want to do this. It's extremely hard to reopen your appeal case once it's been abandoned.



Do you want to apply for bail while you wait for the appeal hearing?

If you're in custody and want to apply for bail, it helps to get a friend or relative to act as a **surety** (*SHUR-ri-tee*). This is someone who makes sure that you follow the rules and conditions when you're released on bail, and that you go to court when you have to. They may have to pay money if you break these bail terms. They have to show that they have money or property so they can pay if necessary.

You have to persuade the court that:

- Your appeal isn't **frivolous** (it has a chance of succeeding). (Provide a summary of your grounds for appeal, and refer to case law — see Step 5.)
- You'll give yourself up into custody when you have to. (This is usually the date of your appeal hearing.)
- Keeping you in custody isn't in the public interest. (There are two aspects to public interest: people's safety and people's confidence in the legal system.)

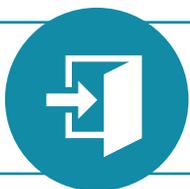
Make your case in writing or in person

You need to make your case in writing or in person, or both. To do it in writing, file a **written argument** that says why you think you should be released. (There's no form for this.) However, some people feel that they could be more convincing and increase their chances of success if they do it in person.

- CA** You need the court's permission to do it in person. Even if you get permission, they may still ask you to make a written argument, so we recommend you file one with the other forms. Ask at a case-management conference if you go to them. Or write to the court registry to ask, and send a copy of your request to Crown. You can say, "I'd like the opportunity to speak in court on the day my application is being considered."
- SC** You have a choice of doing it in writing or in person. There's a checkbox at the bottom of the Notice of Application (page 55).



If you plan to go ahead with Steps 4 to 7 yourself, it will generally be easier to do so outside of custody. You can visit libraries and go on the Internet to do legal research, make calls, get access to photocopying services, and possibly deliver transcripts yourself (to the court registry and Crown counsel) instead of trying to arrange it from your institution.



Applying for bail

A



Fill out forms

1. page 53
page 55

2. page 57

1

CA Notice of Application for Release from Custody Pending Determination of Appeal

SC Notice of Application for Release from Custody Pending Determination of Appeal or Stay of Probation Order or Driving Prohibition

2

Affidavit in Support of Application for Release from Custody Pending Determination of Appeal

3

Your written argument (see previous page)

B



Collect information

Any information or materials that support your case. Examples:

- A letter from your surety
- Other letters of reference (for example, from your relative, boss, Elder)
- A letter of employment
- Medical records (for example, if you need treatment for a disease that makes it hard to be kept in custody)
- Legal cases you plan to rely on (Step 5); attach this to the written argument if you're writing one

C



Swear or affirm the affidavit. See page 17.

D



Photocopy

1

Your filled-out form, sworn affidavit, written argument, and letters of reference: 3 photocopies

2

Supporting information, such as medical records, if you want to keep the original copy: 4 photocopies

E



File the documents

Mail the originals and the photocopies to the court registry. Ask the registry about serving the documents on Crown counsel (see page 17). Also talk to them for help with setting a date for the hearing.



Do Steps 4–7 only if you don't get a court-appointed lawyer

Long before your appeal hearing, you have to file the **court transcripts** of your criminal trial. Transcripts are the typed records of everything that was said at the trial. The appeal court needs this, as it's the basic information you use for your argument. (If you're appealing to the Court of Appeal, you'll also need to file an **appeal book**, which we explain on page 25; transcription companies can put these together as well.)

A



Get an estimate from the transcription company

See below to find out which company to contact. It depends on where your trial was. (If your trial was in Provincial Court for an indictable offence, sometimes the transcripts and appeal books are done by a separate company. Verbatim Words West or JC WordAssist will let you know.)

Verbatim Words West

#207 – 14888 – 104th Avenue
Surrey, BC V3R 1M4
604-591-6677
1-866-860-6677

For **Provincial Court** trials that took place in **Abbotsford, Chilliwack, New Westminster, Port Coquitlam, Richmond, or Surrey**.

JC WordAssist

111 Skinner Street
Nanaimo, BC V9R 5E8
250-754-7822
1-888-811-9882

If your trial didn't take place in the courts listed under Verbatim Words West, order from this company.

Let them know:

- You're ordering transcripts for your *appeal*
- Whether you're ordering an appeal book too
- Whether the trial was at Supreme Court or Provincial Court
- When the trial was, and for how long
- The court file number of your trial and of your appeal

They won't be able to tell you the exact cost right away. It depends on a few things, such as exactly how long the trial was (sometimes the last day of a trial is a half day). Also, the price is reduced if someone else has already ordered the transcripts or part of the transcripts. They may ask you if you want it done faster (called an **expedited** or **priority** transcript), but it will cost more.

Step 4

B



Order the transcripts

CA Order 6 copies (the original plus 5 photocopies), plus a digital version, of the transcripts **and** the appeal book.

SC Order 4 copies (the original plus 3 photocopies), plus a digital version, of the transcripts.

- Ask the transcription company about filing. If they're going to file the original at the appeal court for you, tell them that the court registry *won't* accept just one copy. Ask them if they'd offer to file *all* the copies. (The copies are for the judge or judges, you, Crown counsel, and the appeal court's archives.)
- Let them know the filing deadline (see Step D).
- Make sure you get a receipt of the order right away. (The transcripts and appeal books will take longer to get to you.)

C



File proof that you ordered the transcripts

The proof can be a copy of the transcription company's receipt of your order. Mail it to the registry (or send it in person). Include a note that says you're enclosing proof of ordering transcripts, and include your court file number.

CA Deadline for filing proof: You usually have **4 weeks** from the day you filed your Notice of Appeal (the day it was received and stamped).

When did you file your Notice of Appeal?

SC Deadline for filing proof: You have **14 days** from the day you filed your Notice of Appeal (the day it was received and stamped).

When did you file your Notice of Appeal?

_____ + 14 days = _____

D



File the transcripts

Deliver all of the copies to the court registry, or get someone to do it for you. (They may be too large, heavy, and expensive to mail.)

CA Deadline: The letter from the court will tell you the date. You usually have **12 weeks** from the day you filed the Notice of Appeal.

When did you file your Notice of Appeal?

Note down when the transcripts were filed:

SC Deadline: You have **45 days** from the day you filed the Notice of Appeal.

When did you file your Notice of Appeal?

_____ + 45 days = _____

Note down when the transcripts were filed:

E



Serve one copy on Crown counsel

You'll get two filed copies back. One is for yourself, and the other is for Crown. See page 17 for serving Crown.

CA Your appeal book

An appeal book is a collection of documents that includes:

- An **index** (a table of contents)
- A copy of the **Information** or indictment. It's the government document you received back when you were charged with a crime. It contains what you've been charged with, the kind of offence, and the date, time, and place of your first court appearance.
- A copy of the **charge** to the jury (the instructions) if your trial was by judge and jury
- A list of important rulings or judgments. These are the smaller decisions that were made during the trial (called **voir dire**, which means a trial within a trial). They're usually about whether certain evidence should be allowed ("admissibility of evidence").
- A copy of all **exhibits** (evidence that was filed in court)
- A list of exhibits and affidavits
- A copy of the Reasons for Judgment. If you didn't have a jury trial, the judge provides an explanation of their decision.
- A copy of the order under appeal
- A copy of the Notice of Appeal

The appeal book should show the mistakes (errors) you think the judge or decision maker made at your trial.

Step 4



Can't meet the deadline?

You're sure you can come up with the money to order the transcripts (and if needed, the appeal book), but what happens if you need more time and you miss the filing deadline? The court registry or Crown counsel will notice that you've missed the deadline and contact you.

Be prepared to explain the steps you're taking to raise the money. Find out exactly how much the transcription company would charge you. You may have to explain yourself in writing, or they may set up a hearing so you can explain yourself in court. (If you're in custody, this will probably be by videoconference.) If you can't convince the judge, your appeal will be dismissed (rejected).



Setting up your appeal hearing

CA After you file the court transcripts, the person at the court registry (the registrar or associate registrar) will arrange a hearing date. They do this by finding out the judges' and Crown counsel's schedules. The hearing is usually within 12 to 18 months after you filed the Notice of Appeal. Crown counsel will let you know the date.

SC You have to set up the date for the appeal hearing yourself, although you can ask the court registry for help. The hearing needs to be between three to six months after you filed the Notice of Appeal. Some court locations have a separate phone number for scheduling. Find out when the judges are available to sit (that is, when they're in court), and then ask the Crown lawyer which of those times they're available. Then contact the court to book the hearing. You also have to tell the court about how long you think the hearing will take (between 15 minutes and two hours).

If you're out of custody and your appeal court is in Vancouver, you can see when the judge is available by going to courts.gov.bc.ca/supreme_court/scheduling/ and clicking on "SCA Available Dates.pdf." ("SCA" stands for "summary conviction appeals.")



Do Steps 4–7 only if you don't get a court-appointed lawyer

Do legal research

5

You'll need access to legal materials at a library, or at least access to the Internet, for this step. If you're in custody and your institution doesn't have a library, this step will be difficult.

Look up **court decisions**, or **judgments** (decisions made by a judge), that support your position. Are there successful legal cases involving an appeal similar to yours? Court decisions can affect future cases and are referred to as **case law**. Try to find decisions of the Supreme Court of Canada (the highest court in Canada), the Court of Appeal for BC, or courts of appeal from other provinces. Decisions made in lower courts (such as the Supreme Court of BC) can also be persuasive.

You could also look up Canadian **legislation** (our written laws, called **acts** or **statutes**). You can analyze the exact wording of the offence you were convicted of, or what law you think the judge or court didn't follow.

When it comes time to write out your argument (Step 6), here's an example of how you'd refer to a case: "Someone travelling has a reasonable expectation of privacy in their baggage (*R. v. Kang-Brown*, 2008 SCR 18)."



- Visit the branches of the BC Courthouse Libraries. For the nearest branch, call **604-660-2841** (Greater Vancouver) or **1-800-665-2570** (elsewhere in BC), or go to courthouselibrary.ca.
- If you're in Vancouver, Victoria, or Kamloops, visit the law school libraries at the University of British Columbia, University of Victoria, or Thompson Rivers University.



- Look for the book *Martin's Annual Criminal Code*. It goes through Canada's Criminal Code (our main criminal law), with useful summaries of important decisions related to most sections of the Code.
- See if there's a textbook related to your grounds for appeal — for example, *The Law of Search and Seizure in Canada*.



- Go to courts.gov.bc.ca for Court of Appeal and Supreme Court of BC judgments.
- Go to scc-csc.ca for Supreme Court of Canada judgments.
- Go to canlii.org (Canadian Legal Information Institute) for Canadian legislation and legal cases.

Ask a librarian for help. Library computers may have access to databases and other digital resources; ask a librarian about that too. When you find a relevant **court decision** or **judgment**, photocopy it or print it out. When you find relevant **legislation**, use the computer to "copy and paste" the text to a file that you save. There's a section in the factum (Step 6) where you paste or type out the exact wording of the law.

Step 5

With each relevant legal case or law, make a note of the **citation**. This is the name, along with letter and number codes for the court, year, edition, location, and so on. You'll compile them in the "List of Authorities" and "Appendix" sections of your factum (Step 6). This helps lawyers and judges looking at your situation to find what you're referring to. Examples:

- *R. v. Oakes*, [1986] 1 S.C.R. 103, 24 C.C.C. (3d) 321 at para. 7
- *R. v. Lacasse*, 2015 SCC 64 at paras. 43-44
- *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, R. 5



It's worth looking at a 48-page guide called *The CanLII Primer: Legal Research Principles and CanLII Navigation for Self-Represented Litigants*. (A **self-represented litigant** is a person who acts as their own lawyer.) It talks about how to use the CanLII website mentioned on the previous page, but also explains the Canadian legal system and tells you how to use past legal cases to build your argument. Go to representyourselfcanada.com/new-srl-resource-announcing-the-can-lll-primer.

Book of Authorities

If you're not in custody, and you're referring to two or more legal cases (case law) in your argument, photocopy them to make a "Book of Authorities." Just like with the factum (Step 6), you'll need a table of contents, the covers on beige paper, and the booklets bound at a photocopy centre. You file five copies and serve one on Crown. (The court registry doesn't need a copy for its archives.) People out of custody are expected to follow these rules. To save time, we recommend you file the Book of Authorities and the factum together, although the court only expects the book 30 days before your hearing.

The book should be double-sided (using the front and back of each page). Use Form 21 for the cover page (available at courts.gov.bc.ca/Court_of_Appeal/practice_and_procedure/Civil_Rules_Forms.aspx), and put in divider tabs to separate the cases.



Do Steps 4–7 only if you don't get a court-appointed lawyer

Prepare a factum

6

Before your hearing in the Court of Appeal, you must write down your argument and file it at the court registry. This is called a **factum** or a **statement of argument**. This is optional in Supreme Court of BC, but we still encourage it. At the hearing, you can base your arguments on what you've written down. It will help you clearly explain your argument to the court.

A		Create an Appellant's Factum
	page 61	We provide a blank cover page and index page to fill in. You'll need to produce the rest of the pages. The headings you should use are on the next page.
B		Photocopy your factum
	CA 5 photocopies (If you're not in custody, you also need to get the copies bound. See the bottom of the next page.)	SC 3 photocopies
C		File the factum
CA	Mail your original factum and photocopies to the court registry (or take them in person). Ask the registry about serving Crown counsel's copy. See page 17.	
	You usually have 16 weeks from the day you filed your transcripts (see above).	
	When did you file your transcripts?	

SC	Mail your original factum and photocopies to the court registry (or take them in person). Ask the registry about serving Crown counsel's copy. See page 17.	
	You have to file your factum at least 30 days before the appeal hearing.	
	When is your hearing?	
	_____ – (minus) 30 days = _____	

Formatting guidelines

A factum is a bound booklet. When you open it, there's a left-hand page and a right-hand page. The cover page and **index page** (table of contents) are right-hand pages. (Page 61 has a version you can fill out.) After the index page, the rest of the factum must be printed on the left-hand page only. Keep the rest of the right-hand pages blank so the judge can write notes. Page 62 has an illustration with instructions about how to number the pages.

The total number of pages depends on your situation, but there's a limit to how long it can be — 20 pages for Supreme Court of BC, 30 pages for the Court of Appeal for BC.

Parts 1 to 4 should be double spaced (a blank line in between the lines of text). However, quotes from cases or laws can be single spaced. Number each of your paragraphs.

Step 6

Headings to use in your factum

In the table below, the left column has the headings you should use in your factum. We describe what to put under each heading.

"Part 1: Statement of Facts"	<p>Briefly describe the facts of your case. Start with the offence and sentence, the name of the judge, and the court dates.</p> <p>Then describe the facts of your offence. Talk about the first event, and carry on in chronological order. Tell the story as it happened, one step after the other. List the sources that back it up — for example, testimony or exhibits (evidence that was filed in the court) or the reasons the judge gave for your conviction.</p> <p>Write down the page or line number where you can find these facts in the court transcripts or your appeal book (see page 25).</p>
"Part 2: Errors in Judgment"	<p>Briefly state the errors (mistakes) you think the judge made. It could be how they instructed the jury, or what was in the judgment or order.</p>
"Part 3: Argument"	<p>What is your argument for appeal? Explain what errors or mistakes were made and what evidence or law backs up your argument. If the information is in the court transcript or appeal book (page 25), include the page and line number. Laws and previous legal cases you bring up here should be listed in the appendix and List of Authorities.</p>
"Part 4: Nature of Order Sought"	<p>Describe what kind of order you want the court to make. You can say, "The Appellant seeks an order allowing the appeal, and quashing the conviction and directing that verdicts of acquittal be entered on all counts or, in the alternative, ordering a new trial." (<i>Quashing the conviction</i> means deciding it's wrong and no longer valid.)</p>
"Appendix"	<p>The specific law or laws you talk about in Part 3. List the citation and type out the law as it's written. Do not add other items to the appendix.</p>
"List of Authorities"	<p>In alphabetical order, list all the legal cases you've referred to in the other parts of the factum. At the end of each legal case, write the factum page number where you referred to the case.</p>

 If you're out of custody and dealing with the Court of Appeal for BC, you'll be expected to follow all the formatting rules. Do not handwrite the factum; use 12-point Arial font. Libraries usually have computers with word-processing software; you can also use Google Docs or Microsoft Word Online for free using a web browser. Ask the photocopy centre to bind the copies (ask for "Cerlox binding"), with the cover pages on beige paper. Finally, buy a USB flash drive or blank CD, and transfer your factum file onto it. Send this with your package.



Do Steps 4–7 only if you don't get a court-appointed lawyer

Go to the appeal hearing

7

At the appeal hearing, you'll face one or three judges:



CA In the Court of Appeal for BC, **three judges** will be at the hearing. (The judges are sometimes referred to as a **division**.)



SC In the Supreme Court of BC, **one judge** will be at the hearing.

Usually the appellant's side (your side) is the first to speak to the court and give it basic information. But you don't have a lawyer, so the court will often ask Crown counsel to do this.

You're then asked to give the reasons why you think the appeal should be allowed:

- State the **grounds for appeal** that you're using.
- Present your argument (for example, about what went wrong at the trial).
- Point out the parts of the court transcripts that support your arguments.
- Bring up any previous court decisions (judgments and case law) that support your position.

The Crown lawyer will then make their arguments. You'll have a chance to briefly reply to any of these.

The court can now make a decision. However, this isn't always immediate. They sometimes **reserve judgment** (delay their decision) for weeks or months.



Tips

- Say your points clearly and politely. Be as persuasive as you can.
- If the judges ask questions, listen and take your time to answer.
- Even if you feel frustrated and angry, it's always a good idea to stay calm and be as polite as possible.



What's next?

The appeal court may allow your appeal or dismiss your appeal. If it's allowed, the court can do one of three things:

- It can order a new trial.
- It can **acquit** you. (The charges are dropped and your name is cleared.)
- It can replace your conviction with a conviction for a different offence.

A new trial is usually the result. (Acquittals aren't common. Generally, you're only acquitted if the evidence used at your trial was extremely weak, meaning that a new trial couldn't end in a conviction.) You may be in custody until the new trial. You can try to persuade the new trial court to **grant** you bail.

After your hearing

Do you want to appeal to a higher court?

If your appeal to the Supreme Court of BC was dismissed, you can try appealing your case in the Court of Appeal for BC. You'll first need **leave** (permission). Fill out Form 1A, which is for summary conviction appeals in the Court of Appeal. We don't include it in this booklet. Go to courts.gov.bc.ca/Court_of_Appeal/practice_and_procedure/criminal_rules_forms.aspx.

If your appeal to the Court of Appeal for BC was dismissed, you can try appealing to the Supreme Court of Canada, which is the highest court in Canada. You almost always need **leave** from judges to appeal to this court. This can be hard to get. The judges need to see that the legal issues raised in the case are important to the public. However, if one of the three judges at your appeal hearing disagreed with the other two, you won't need leave to appeal.



Supreme Court of Canada

301 Wellington Street
Ottawa, ON K1A 0J1
613-995-4330 or 1-888-551-1185 (call no charge)
registry-greffe@scc-csc.ca

Contact the Supreme Court of Canada registry to ask for appeals materials. Tell them that you're an "unrepresented criminal litigant." The materials are also available at scc-csc.ca. (From the Parties menu, click on Resources for Self-Represented Litigants.)

Ministerial review

If all your appeals were denied, and you find yourself in the extraordinary situation of having new information that casts doubt on the conviction, you can apply for a **ministerial review**. This means asking the federal Minister of Justice to look at your conviction and see if there has been a miscarriage of justice (a wrongful conviction). They may order a new trial or have you go through the Court of Appeal again.

To apply, you have to fill out three forms and compile all the documents from your trial and appeal and your new evidence. You can't just write a letter explaining your situation. If you're in custody, you'll need outside help putting the application together. The forms and instructions are online at canada.ca/en/services/policing/justice/convictionreview.html.



A note about the forms

The forms begin on the next page. There are forms in colour that say "Your draft" along the right side; use these to practise filling out the forms. After the draft is the actual form you can tear out and use.

Notice of Appeal or Application for Leave to Appeal

Solicitor means lawyer. For now, you don't have a lawyer.

(Where appellant not represented by a solicitor)

The court file number of your trial.

Lower Court Registry Number _____

Where the documents related to your trial are filed. (If your trial was in Revelstoke, your documents are filed in Salmon Arm. If your offence was in Fort Nelson and your trial was in Fort St. John Supreme Court, your documents are filed in Fort Nelson.)

Lower Court Registry Location _____

You're the **appellant** (the one making an appeal). Include your middle name(s).

To the Registrar:

Name of appellant: JOHN DOE

Place of trial: _____

Name of court: _____

Name of judge: _____

List the city (or town). No need for the address.

Was this a jury trial? _____

Was your trial in Provincial Court or Supreme Court?

Offence(s) of which convicted: _____

Provincial Court: **The Honourable Judge** [last name]. Supreme Court of BC: **The Honourable [Mr. or Madam] Justice** [last name].

Was there a jury, where a group of people instead of a single judge decided you were guilty?

Plea at trial: _____

Sentence imposed: _____

For example: **theft, forgery**, etc. (Were you convicted under the Youth Criminal Justice Act? It applies if you were under 18 at the time of the offence. Add "My appeal is under the Youth Criminal Justice Act" here.)

Date of conviction: _____

Date of imposition of sentence: _____

Guilty or Not guilty.

Name and address of place at which appellant is in custody: _____

For example: "Three months' jail and a one-year probation order." For more than one offence, you can put the total sentence ("a total of three years' jail") or break it down.

Or if not in custody, appellant's address: _____

The day you were sentenced.

If you're in custody, your institution.

Your address. Don't use a PO box. Also list your phone number and email address (if you have one).

If in custody, address other than institution: _____

A home address if someone you know still lives there and can help you with court documents.

your draft

Write "conviction"; if you're also appealing your sentence, write "conviction and sentence."

I, the above named appellant, hereby give you notice that I desire to appeal to the Court of Appeal against my CONVICTION on the grounds set out on this notice.

Put a line through (a) or (b) to cross it out. Most people choose to present their case in person.

I desire to present my case and argument whether it be for leave to appeal or by way of appeal where leave is not necessary,
(a) in writing
(b) in person

You can keep this blank for now and decide later on. A legal aid lawyer or court-appointed lawyer can help you decide.

If a new trial is ordered and you have a right to trial by jury, do you wish trial by jury?

Dated this _____ day of _____, 20 _____.
[1st, etc.] [month] [year]

Your signature.

_____ [Signed] _____
Appellant

Notes

- 1. (a) If your appeal against conviction involves a question of law alone, you have a right of appeal.
- (b) If your appeal against conviction is upon any other ground than a question of law, then you have no right of appeal unless leave to appeal is first granted. Your Notice of Appeal includes an application for leave to appeal where leave is necessary.
- (c) You have no right to appeal against sentence unless leave to appeal is first granted by the Court of Appeal or a justice. Your Notice of Appeal includes an application for leave to appeal.
- 2. Further take notice that if you appeal from sentence the Court of Appeal may increase your sentence.
- 3. (a) If your appeal is against conviction or sentence alone, or against both conviction and sentence, this notice must be filed within 30 days of the date of imposition of the sentence.
- (b) If this notice is filed beyond this time, then you must apply for an extension of time by completing Form 7 [Notice of Application for Extension of Time to Appeal].

Leave means permission. If your reason for appealing isn't under the category "error of law" (see page 10), you need leave. This form covers asking for leave. At the hearing, you may have to show that what you're asking for isn't frivolous. (Frivolous means it has little weight and is not at all serious.)

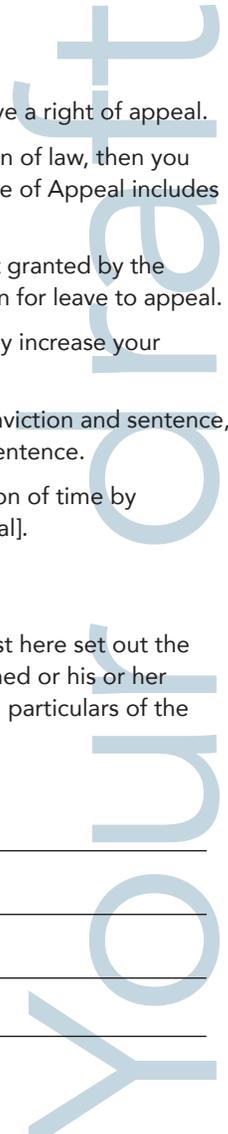
Grounds of Appeal

These must be filled in before notice is sent to the Registrar. The appellant must here set out the grounds or reasons he or she alleges why his or her conviction should be quashed or his or her sentence reduced. If one of the grounds set out is "misdirection" by the judge, particulars of the alleged misdirection must be set out in this notice.

[Use additional separate sheet if necessary]

What do you think the court got wrong? Explain it as best you can. Legally, the mistake has to fall under one of three categories: unreasonable verdict, error of law, or miscarriage of justice. See page 10.

If you think you can add to this argument later on, either with the help of a lawyer or with more legal research, add "Such further grounds as I may advise and this Honourable Court may permit."





Notice of Appeal or Application for Leave to Appeal

(Where appellant not represented by a solicitor)

Lower Court Registry Number _____

Lower Court Registry Location _____

To the Registrar:

Name of appellant: _____

Place of trial: _____

Name of court: _____

Name of judge: _____

Was this a jury trial? _____

Offence(s) of which convicted: _____

Plea at trial: _____

Sentence imposed: _____

Date of conviction: _____

Date of imposition of sentence: _____

Name and address of place at which appellant is in custody: _____

Or if not in custody, appellant's address: _____

If in custody, address other than institution: _____

I, the above named appellant, hereby give you notice that I desire to appeal to the Court of Appeal against my _____ on the grounds set out on this notice.

I desire to present my case and argument whether it be for leave to appeal or by way of appeal where leave is not necessary,

(a) in writing

(b) in person

If a new trial is ordered and you have a right to trial by jury, do you wish trial by jury?

Dated this _____ day of _____, 20 _____.
[1st, etc.] [month] [year]

[Signed] _____

Appellant

Notes

1. (a) If your appeal against conviction involves a question of law alone, you have a right of appeal.
(b) If your appeal against conviction is upon any other ground than a question of law, then you have no right of appeal unless leave to appeal is first granted. Your Notice of Appeal includes an application for leave to appeal where leave is necessary.
(c) You have no right to appeal against sentence unless leave to appeal is first granted by the Court of Appeal or a justice. Your Notice of Appeal includes an application for leave to appeal.
2. Further take notice that if you appeal from sentence the Court of Appeal may increase your sentence.
3. (a) If your appeal is against conviction or sentence alone, or against both conviction and sentence, this notice must be filed within 30 days of the date of imposition of the sentence.
(b) If this notice is filed beyond this time, then you must apply for an extension of time by completing Form 7 [Notice of Application for Extension of Time to Appeal].

Grounds of Appeal

These must be filled in before notice is sent to the Registrar. The appellant must here set out the grounds or reasons he or she alleges why his or her conviction should be quashed or his or her sentence reduced. If one of the grounds set out is "misdirection" by the judge, particulars of the alleged misdirection must be set out in this notice.

[Use additional separate sheet if necessary]

Notice of Appeal — Defence Appeals Against Conviction, Sentence or Other Order

SUPREME COURT OF BRITISH COLUMBIA

(Regina is Latin for Queen, our official Head of State.)

REGINA
v.

Respondent

You're the **appellant** (the one making an appeal). Include your middle name(s).

JOHN DOE

Appellant

Particulars of Conviction, Sentence or Other Order

The city (or town) where you were convicted, and the court file number of your trial.

1. Place of conviction, sentencing or other order and court file number:

Write "**The Honourable Judge**" before the last name. (This title is for judges in Provincial Court.)

2. Name of judge: THE HONOURABLE JUDGE

For example: **theft, forgery**, etc.

3. Offence(s) of which appellant convicted:

The act you were convicted under (for example, the Criminal Code, the Controlled Drugs and Substances Act, the Fisheries Act, etc.), and the section of the act.

4. Section of Criminal Code or other act under which defendant was convicted:

(Were you convicted under the Youth Criminal Justice Act? It applies if you were under 18 at the time of the offence. Write "My appeal is under the Youth Criminal Justice Act.")

[State here if appeal is under the Youth Criminal Justice Act.]

Guilty or Not guilty.

5. Plea at trial:

6. Length of trial:

For example: "Three months' jail and a one-year probation order." For more than one offence, you can put the total sentence ("a total of three years' jail") or break it down.

7. Sentence imposed:

8. Date of conviction:

9. Date of sentence:

If you're in custody, the name of your institution.

10. If defendant in custody, place of incarceration:

Put a line through what doesn't apply.

TAKE NOTICE that the appellant: [Strike out inapplicable provisions.]

What do you think the court got wrong? Explain it as best you can. Legally, the mistake has to fall under one of three categories: unreasonable verdict, error of law, or miscarriage of justice. See page 10.

(a) appeals against conviction

(b) appeals against sentence

(c) other:

[Specify nature of appeal.]

If you think you can add to this argument later on, either with the help of a lawyer or with more legal research, add "Such further grounds as I may advise and this Honourable Court may permit."

The grounds for appeal are

your draft



Notice of Appeal — Defence Appeals Against Conviction, Sentence or Other Order

SUPREME COURT OF BRITISH COLUMBIA

REGINA

Respondent

v.

Appellant

Particulars of Conviction, Sentence or Other Order

1. Place of conviction, sentencing or other order and court file number:

2. Name of judge: _____

3. Offence(s) of which appellant convicted: _____

4. Section of Criminal Code or other act under which defendant was convicted:

[State here if appeal is under the Youth Criminal Justice Act.]

5. Plea at trial: _____

6. Length of trial: _____

7. Sentence imposed: _____

8. Date of conviction: _____

9. Date of sentence: _____

10. If defendant in custody, place of incarceration: _____

TAKE NOTICE that the appellant: *[Strike out inapplicable provisions.]*

(a) appeals against conviction

(b) appeals against sentence

(c) other: _____

[Specify nature of appeal.]

The grounds for appeal are _____

Notice of Application for Extension of Time to Appeal

[The court handling your appeal.]

-  Court of Appeal for BC
-  Supreme Court of BC

REGINA
v.

Respondent

Appellant

IN THE MATTER OF _____
[name]

convicted at _____ before _____
[place where convicted] [judge]

_____ of _____
[offence]

on the _____ day of _____, 20_____
[1st, etc.] [month] [year]

and sentenced to _____
[length/description of sentence]

on the _____ day of _____, 20_____.
[1st, etc.] [month] [year]

TAKE NOTICE that an application will be made on behalf of the above named to this Court, or a Judge thereof, at such time and place as the Registrar may direct, for an extension of time within which ("an appeal may be brought" or "an application for leave to appeal may be made"), upon the following grounds:

If you need one extra page for your affidavit, use the back of the first page. For more pages, you'll need blank paper. After you're finished, add page numbers to the bottom of your affidavit.

Your draft

Letter of Authority (Exhibit A)

Tick one or the other.

[The court handling your appeal.]

-  Court of Appeal for BC
-  Supreme Court of BC

Legal Aid BC
400 – 510 Burrard Street
Vancouver BC V6C 3A8

Attention: Appeals

I intend to apply under section 684 of the Criminal Code for assignment of counsel in my appeal of my conviction for the offence(s) of

Describe the conviction (offence) you're appealing. If you're also appealing a sentence, describe it too.

The registry where you filed your Notice of Appeal. Include the city. For example: "Court of Appeal for BC – Vancouver registry" or "Supreme Court of BC – Nelson registry."

Please send your letter with the following information to:

- 1 Whether you have refused me legal aid for my appeal.
- 2 Whether the refusal was for financial reasons.
- 3 The grounds of appeal you considered.
- 4 The materials from the trial record that you reviewed (enclosing a copy of those materials).

This is my authority for you to release this information in your letter to the court.

Once signed, make one photocopy of the letter. Send the **original** to Legal Aid BC:

Appeals Section
Legal Aid BC
400 – 510 Burrard Street
Vancouver, BC V6C 3A8

Don't forget to note down when you sent the letter.

JOHN DOE
[Print your name] _____ [your signature]

Dated at _____ on _____
[city/town] [day, month, year]

your draft

Letter of Authority (Exhibit A)

[The court handling your appeal.]

-  Court of Appeal for BC
-  Supreme Court of BC

Legal Aid BC
400 – 510 Burrard Street
Vancouver BC V6C 3A8

Attention: Appeals

I intend to apply under section 684 of the Criminal Code for assignment of counsel
in my appeal for the offence(s) of

Please send your letter with the following information to:

- 1 Whether you have refused me legal aid for my appeal.
- 2 Whether the refusal was for financial reasons.
- 3 The grounds of appeal you considered.
- 4 The materials from the trial record that you reviewed
(enclosing a copy of those materials).

This is my authority for you to release this information in your letter to the court.

[Print your name]

[your signature]

Dated at _____ on _____ .
[city/town] [day, month, year]

Notice of Motion/Application for Appointment of Counsel

[The court handling your appeal.]

Tick one or the other.

-  Court of Appeal for BC
-  Supreme Court of BC

The court file number of your appeal (not your trial). The court's reply to your Notice of Appeal should have this number.

Court File No. _____

The city (or town) of your appeal court (where you've been filing your forms).

_____ Registry

Your full name.

REGINA
v.
JOHN DOE
Appellant/Applicant

Respondent

Street address of your appeal court. This is where your hearing for a court-appointed lawyer will be. If it's by videoconference, it's where the judge is.

TAKE NOTICE that an application will be made by JOHN DOE,

the appellant, to the Presiding Judge in Chambers at the Courthouse at

_____ in the city of _____

in the province of British Columbia, at 9:30 in the morning on

If you're in custody, put "a date to be set by the Registrar." If you're not in custody, contact the registry for help with setting a date for the hearing.

A DATE TO BE SET BY THE REGISTRAR

for an Order that counsel be assigned on behalf of the appellant, pursuant to section 684 of the Criminal Code.

AND TAKE NOTICE that in support of the application will be read the affidavit of

JOHN DOE, the appellant, sworn

on _____.

[day, month, year]

You'll also be filling out an affidavit (page 49). When you swear or affirm the affidavit in front of a commissioner, write down the date here.

Dated at the CITY of VANCOUVER in the
[write "city" or "town"] [city/town]

Your draft

Province of British Columbia, this _____ day of _____, 20____.
[1st, etc.] [month] [year]

Your signature.



[Signature of appellant/applicant]

[Print name]

Put "Court of Appeal for BC" or "Supreme Court of BC."

TO: The Registrar, _____

Street address of your appeal court.



Street address of the Crown counsel. Ask the registry for the address.



AND TO: Crown counsel _____

If you're in custody, the name and address of your institution. If you're not in custody, your home address (not a PO box), as well as a phone number and email address (if you have one).



This NOTICE OF MOTION/NOTICE OF APPLICATION is filed by
JOHN DOE _____, appellant, whose address for service is

Your draft

Notice of Motion/Application for Appointment of Counsel

[The court handling your appeal.]

 Court of Appeal for BC

 Supreme Court of BC

Court File No. _____

_____ Registry

REGINA

Respondent

v.

_____ Appellant/Applicant

TAKE NOTICE that an application will be made by _____,

the appellant, to the Presiding Judge in Chambers at the Courthouse at

_____ in the city of _____

in the province of British Columbia, at 9:30 in the morning on

_____ for an Order that counsel be assigned on behalf of the appellant, pursuant to section 684 of the Criminal Code.

AND TAKE NOTICE that in support of the application will be read the affidavit of

_____, the appellant, sworn

on _____.

[day, month, year]

Dated at the _____ of _____ in the

[write "city" or "town"]

[city/town]

Province of British Columbia, this _____ day of _____, 20____.
[1st, etc.] [month] [year]

[Signature of appellant/applicant]

[Print name]

TO: The Registrar, _____

AND TO: Crown counsel _____

This NOTICE OF MOTION/NOTICE OF APPLICATION is filed by
_____, appellant, whose address for service is

Affidavit for Appointment of Counsel

This affidavit contains the reasons why you think the court should arrange a lawyer for your appeal.

[The court handling your appeal.]

Tick one or the other.

-  Court of Appeal for BC
-  Supreme Court of BC

The court file number of your appeal (not your trial). The court's reply to your Notice of Appeal should have this number.

Court File No. _____

The city (or town) of your appeal court.

REGINA

Respondent

v.

You're the **appellant** (the one making an appeal).

JOHN DOE

Appellant

Street address if you're not in custody.

I, JOHN DOE, presently residing at _____

If you're in custody, the name of your institution.

or incarcerated at _____

in the _____ of _____ in the province of
[write "city" or "town"] [city/town]

Fill out paragraphs 2 to 10 as accurately as you can.

British Columbia, MAKE OATH (OR SOLEMNLY AFFIRM) AND SAY AS FOLLOWS:

1 I am the appellant and personally know about the matters referred to in this Affidavit, except where they are based on information and belief, in which case I believe them to be true.

2 I cannot afford a lawyer because of my financial circumstances:

Write "**was**" and "**were**" if you're in custody.

a) My income _____ \$ _____ /year.
["is" (or "was")]

If you were on social assistance or disability, fill that in here. If you had a job, attach a recent tax return as an **exhibit** (supporting material attached to an affidavit).

My sources of income _____ as follows:
["are" (or "were")]

Write "**were**" if you're in custody.

b) My expenses _____ \$ _____ /month. They include:
["are" (or "were")]

your draft

c) My debts total \$_____.

For example, a car, RRSPs, your current bank account balance.

d) All the things that I own have a value of \$_____. They include:

e) Other relevant information is as follows:

Provide other important details about your financial situation. Do you have family members who could possibly lend you money?

The highest grade you reached.

3 I am not able to present the appeal myself. I have no legal training and my education level is: _____

The date you were refused legal aid (on the refusal letter).

4 I have been refused legal aid. I applied for legal aid but was refused on the _____ day of _____, 20_____.
[1st, etc.] [month] [year]

The day you sent the Letter of Authority (page 45) to Legal Aid BC. See page 19.

5 On the _____ day of _____, 20_____,
[1st, etc.] [month] [year]

I sent a letter to Legal Aid BC authorizing the release of the materials on my appeal to the registry. A copy of this letter is attached. It is marked Exhibit A.

List what you think were errors in the court's decision.

6 At the appeal I will be arguing the following points: _____

An example would be "it involves a breach of my rights under the Canadian Charter of Human Rights and Freedoms."

7 I need a lawyer to argue my case because I do not have the necessary skills to organize the facts, research the law, and present the case myself.

8 I believe that my case is complex because: _____

For example: "the evidence was too weak to find me guilty."

9 I believe that my case will succeed because: _____

your draft

"I **have not** appealed at a lower court": This is your first appeal.
 "I **have** appealed at a lower court": You appealed to the Supreme Court of BC, the appeal was dismissed, and now you're trying again in the Court of Appeal. List the city (or town) of the Supreme Court. The date is when the appeal court judge made their decision.

10 I _____ appealed at a lower court
 ["have not" or "have"]
 at _____
 on the _____ day of _____, 20____
 [1st, etc.] [month] [year]

I swear (or affirm) this Affidavit in support of an application that the Court or a Judge of that Court assign counsel to act on my behalf.

The commissioner fills out the place and date, and signs. ("Me" is the commissioner.) Write down this date on your Notice of Motion/Application (page 47).

SWORN (OR AFFIRMED) BEFORE (ME) at)
 the city/town of _____,)
 in the province of British Columbia, this)
 _____ day of _____, _____)
 [1st, etc.] [month] [year])

Your signature. Don't sign until you're in front of a commissioner.

_____) Signature of affiant
 A commissioner for taking affidavits for)
 British Columbia)
 _____)
 [Print name or affix stamp of commissioner.]) [Print name.]

Your draft

Affidavit for Appointment of Counsel

[The court handling your appeal.]

 Court of Appeal for BC

 Supreme Court of BC

Court File No. _____

_____ Registry

REGINA

Respondent

v.

_____ Appellant

I, _____, presently residing at _____

or incarcerated at _____

in the _____ of _____ in the province of
[write "city" or "town"] [city/town]

British Columbia, MAKE OATH (OR SOLEMNLY AFFIRM) AND SAY AS FOLLOWS:

1 I am the appellant and personally know about the matters referred to in this Affidavit, except where they are based on information and belief, in which case I believe them to be true.

2 I cannot afford a lawyer because of my financial circumstances:

a) My income _____ \$ _____ /year.
["is" (or "was")]

My sources of income _____ as follows:
["are" (or "were")]

b) My expenses _____ \$ _____ /month. They include:
["are" (or "were")]

c) My debts total \$_____.

d) All the things that I own have a value of \$_____. They include:

e) Other relevant information is as follows:

3 I am not able to present the appeal myself. I have no legal training and my education level is: _____

4 I have been refused legal aid. I applied for legal aid but was refused on the _____ day of _____, 20_____.
[1st, etc.] [month] [year]

5 On the _____ day of _____, 20_____,
[1st, etc.] [month] [year]

I sent a letter to Legal Aid BC authorizing the release of the materials on my appeal to the registry. A copy of this letter is attached. It is marked Exhibit A.

6 At the appeal I will be arguing the following points: _____

7 I need a lawyer to argue my case because I do not have the necessary skills to organize the facts, research the law, and present the case myself.

8 I believe that my case is complex because: _____

9 I believe that my case will succeed because: _____

10 I _____ appealed at a lower court
["have not" or "have"]

at _____

on the _____ day of _____, 20____
[1st, etc.] [month] [year]

I swear (or affirm) this Affidavit in support of an application that the Court or a Judge of that Court assign counsel to act on my behalf.

SWORN (OR AFFIRMED) BEFORE ME at)

the city/town of _____,)

in the province of British Columbia, this)

_____ day of _____, _____)
[1st, etc.] [month] [year]

_____) _____
A commissioner for taking affidavits for)
British Columbia)

_____) _____
Signature of affiant)

_____) _____
[Print name or affix stamp of commissioner.])

_____) _____
[Print name.])

Notice of Application for Release from Custody Pending Determination of Appeal

You're the **appellant** (the one making an appeal).

This is the date of your bail hearing. Ask the court registry if you can keep this blank and if they can help you set a date. If not, you'll have to look at the judge's schedule and contact Crown counsel to see when they're free. Crown needs at least two days' notice.

The city of your appeal court.

Provincial Court: **the Honourable Judge** [last name].
Supreme Court of BC: **the Honourable [Mr. or Madam] Justice** [last name].

For example, **theft, forgery**, etc.

When were you convicted?

Fill in this section if you're appealing your sentence at the same time.

For example: "Three months' jail and a one-year probation order."
For more than one offence, you can put the total sentence ("a total of three years' jail") or break it down.

Provincial Court: **the Honourable Judge** [last name].
Supreme Court of BC: **the Honourable [Mr. or Madam] Justice** [last name].

When were you sentenced?

For example, **theft, forgery**, etc.

COURT OF APPEAL

REGINA
v.

Respondent

JOHN DOE

Appellant

TAKE NOTICE that an application will be made on _____
[day, month, year]

at _____ to a Justice of the Court for an order that the
[city]

appellant be released from custody pending the determination of his or her
appeal against his or her conviction at _____
[city/town where convicted]

by _____ of
[judge]

_____ of
[offence]

on the _____ day of _____, 20____.
[1st, etc.] [month] [year]

Or

against the sentence of _____
[sentence]

imposed on him or her at _____
[city/town where sentenced]

by _____
[judge]

on the _____ day of _____, 20____, after conviction of the appellant of
[1st, etc.] [month] [year]

_____ of
[offence]

your draft

Your current city or town, and the date you sign this form.

→ Dated at _____ this _____ day of _____, 20 _____.
[city/town] [1st, etc.] [month] [year]

Your signature.

_____ → _____
[signature of appellant or his or her solicitor]

Print your name.

_____ → _____
[Print the name of appellant or solicitor.]

If you're in custody, just put the name of your institution. If you're not in custody, put your address here. It can't be a PO box.

_____ → _____

[name and address for service of solicitor, or, if no solicitor, an address, not being a prison, where documents may be served on the appellant if he or she is not in custody]

City of your appeal court.

→ To the Registrar of the Court at _____

Your draft

Notice of Application for Release from Custody Pending Determination of Appeal

COURT OF APPEAL

REGINA

Respondent

v.

Appellant

TAKE NOTICE that an application will be made on _____
[day, month, year]

at _____ to a Justice of the Court for an order that the
[city]

appellant be released from custody pending the determination of his or her

appeal against his or her conviction at _____
[city/town where convicted]

by _____ of
[judge]

[offence]

on the _____ day of _____, 20____.
[1st, etc.] [month] [year]

Or

against the sentence of _____
[sentence]

imposed on him or her at _____
[city/town where sentenced]

by _____
[judge]

on the _____ day of _____, 20____, after conviction of the appellant of
[1st, etc.] [month] [year]

[offence]

Notice of Application for Release from Custody Pending Determination of Appeal or Stay of Probation Order or Driving Prohibition

SUPREME COURT OF BRITISH COLUMBIA

REGINA

Respondent

v.

JOHN DOE

Appellant

You're the **appellant** (the one making an appeal).

This is the date of your bail hearing. You can keep the date and time blank. (The time is usually 9:30 am, sometimes 9 am.) Ask the court registry if they can help you set a date. If they can't help, look at the judge's schedule and contact Crown counsel to see when they're free.

TAKE NOTICE that an application will be made on the _____ day of [1st, etc.]

_____, 20_____, at _____ to the court for an order that:
[month] [year] [time]

Cross out "b" and "c," unless you're out of custody and want these things. (See page 9.)

- (a) the appellant be released from custody
- (b) the probation order in this matter be stayed
- (c) the driving prohibition in this matter be stayed

Write "**the Honourable Judge**" before the last name. (This title is for judges in Provincial Court.)

pending the determination of the appeal against the appellant's conviction at _____ by _____
[city where convicted] [judge]

For example, **theft, forgery**, etc.

of _____
[offence]

When were you convicted?

on the _____ day of _____, 20_____.
[1st, etc.] [month] [year]

OR

Fill in this section if you're appealing your sentence at the same time.

pending the determination of the appeal against the appellant's sentence of

For example: "Three months' jail and a one-year probation order." For more than one offence, you can put the total sentence ("a total of three years' jail") or break it down.

_____ [sentence]

imposed at _____ by _____
[city where sentenced] [judge]

on the _____ day of _____, 20_____, after conviction of the
[1st, etc.] [month] [year]

your draft

Fill this in if you're appealing your sentence at the same time. For example, **theft, forgery**, etc.

appellant of _____
[offence]

Your current city or town, and the date you sign this form.

Dated at _____ this _____ day of _____, 20____.
[city/town] [1st, etc.] [month] [year]

Your signature.

[signature of appellant or his or her counsel]

Print your name.

[Print the name of appellant or counsel.]

If you're in custody, just put the name of your institution. If you're not in custody, put your address here. It can't be a PO box.

[name and address for service of counsel, or, if no counsel, an address other than a prison where documents may be served on the appellant if he or she is not in custody]

The city (or town) of your appeal court.

To the Registrar of the Court at _____

[Will you be applying in person or in writing?]

- The Appellant acts on his or her own behalf and wishes to make this application **in person**.
- The Appellant acts on his or her own behalf and wishes to make this application **in writing**.

You can choose to make your case in person (see page 21). If you don't want to, check off the second option.

Your draft

Notice of Application for Release from Custody Pending Determination of Appeal or Stay of Probation Order or Driving Prohibition

SUPREME COURT OF BRITISH COLUMBIA

REGINA

Respondent

v.

Appellant

TAKE NOTICE that an application will be made on the _____ day of
[1st, etc.]

_____, 20_____, at _____ to the court for an order that:
[month] [year] [time]

- (a) the appellant be released from custody
- (b) the probation order in this matter be stayed
- (c) the driving prohibition in this matter be stayed

pending the determination of the appeal against the appellant's conviction at

_____ by _____
[city where convicted] [judge]

of _____
[offence]

on the _____ day of _____, 20_____.
[1st, etc.] [month] [year]

OR

pending the determination of the appeal against the appellant's sentence of

[sentence]

imposed at _____ by _____
[city where sentenced] [judge]

on the _____ day of _____, 20_____, after conviction of the
[1st, etc.] [month] [year]

appellant of _____
[offence]

Dated at _____ this _____ day of _____, 20_____.
[city/town] [1st, etc.] [month] [year]

[signature of appellant or his or her counsel]

[Print the name of appellant or counsel.]

[name and address for service of counsel, or, if no
counsel, an address other than a prison
where documents may be served
on the appellant if he or she is not in custody]

To the Registrar of the Court at _____

[Will you be applying in person or in writing?]

The Appellant acts on his or her own behalf and wishes
to make this application **in person**.

The Appellant acts on his or her own behalf and wishes
to make this application **in writing**.

Affidavit in Support of Application for Release from Custody Pending Determination of Appeal

General rules for affidavits: Stick to the facts (not opinions). Keep it simple, organized, and short.

Tick one or the other.

[The court handling your appeal.]

-  Court of Appeal for BC
-  Supreme Court of BC

The court file number of your appeal (not your trial). The court's reply to your Notice of Appeal should have this number.

Court File No. _____

The city (or town) of your appeal court.

_____ Registry

You're the **appellant** (the one making an appeal).

REGINA
v.
JOHN DOE

Respondent

Appellant

Print your name again, with your job and address. If you're in custody, it's the job you had before you were jailed. List the name of the institution (you don't need to put the address).

I, _____,
[name, occupation, and address of appellant]

Number your paragraphs. After 1, put 2, 3, etc. for each paragraph. You can also use headings if you want to group the information.

MAKE OATH (OR SOLEMNLY AFFIRM) AND SAY THAT:

1. I am the appellant and personally know about the matters referred to in this Affidavit, except where they are based on information and belief, in which case I believe them to be true.
2. _____

Include:

- A list of all the places you've lived in the three years (at least) before you were convicted
- Where you plan to live if you're released
- Where you worked (and your employer's name) before you were in custody
- What kind of work you'll probably get if you're released
- Relatives or friends who are willing to act as your surety, and their addresses
- Any other criminal convictions you received during the five years before the conviction you're appealing. List the offences, and sentences you received. You may include anything to show that the offences aren't as bad as they sound, as long as it's true.

Your draft

If you need one extra page for your affidavit, use the back of the first page. For more pages, you'll need blank paper. After you're finished, add page numbers to the bottom of your affidavit.

Your draft

Appellant's Factum

[The court handling your appeal.]

Tick one or the other.

-  Court of Appeal for BC
-  Supreme Court of BC

The court file number of your appeal (not your trial). The court's reply to your Notice of Appeal should have this number.

File No. _____

The city (or town) of your appeal court.

_____ Registry

Was your trial at **Provincial Court** or **Supreme Court**?

ON APPEAL FROM THE _____ OF BRITISH COLUMBIA,

Name of the judge:
Provincial Court: **Judge** [last name].
Supreme Court of BC: **[Mr. or Madam] Justice** [last name].

BEFORE THE HONOURABLE _____,

FROM THE VERDICT PRONOUNCED ON THE ____ DAY OF _____,
[1st, etc.] [month]

The day you were convicted.

20_____.
[year]

Your full name.

REGINA
v.
JOHN DOE

Respondent
Appellant

APPELLANT'S FACTUM

This means you're a **self-represent litigant** (you're your own lawyer). Put "**his**" if you're male.

[Name of counsel for appellant] _____

APPELLANT, ON **HER** OWN BEHALF

Counsel

Fill in the name of the Crown counsel.

[Name of counsel for respondent] _____

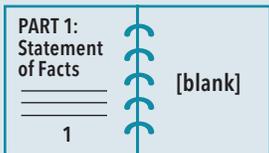
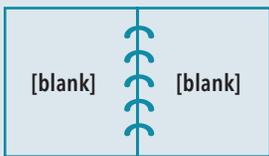
Counsel

your draft

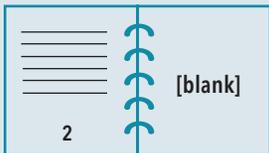
This page is purposely left blank.

The factum is a bound booklet. When you open it, there's a left-hand page and a right-hand page. The cover page and the index page are on the right-hand pages. The rest of the factum is printed *only* on the left-hand pages. The right-hand pages are blank so the judge can write notes. They don't have page numbers. (See page 29.)

Part 1, the Statement of Facts, is page 1. (Put "1" at the bottom of that page. The next page with text on it is page 2.)



Page "1" starts here.



Page "2" continues here.

Your draft

Index means the table of contents.

Once you've finished the factum, write the page number each part starts on in this column.

Index

	Page
Part 1: Statement of Facts	1
Part 2: Errors in Judgments	_____
Part 3: Argument	_____
Part 4: Nature of Order Sought.....	_____
Appendices (if any).....	_____
List of Authorities.....	_____

Your draft

Appellant's Factum

[The court handling your appeal.]

 Court of Appeal for BC

 Supreme Court of BC

File No. _____

_____ Registry

ON APPEAL FROM THE _____ OF BRITISH COLUMBIA,

BEFORE THE HONOURABLE _____,

FROM THE VERDICT PRONOUNCED ON THE ____ DAY OF _____,
[1st, etc.] [month]

20_____.
[year]

REGINA

v.

Respondent

Appellant

APPELLANT'S FACTUM

[Name of counsel for appellant] _____
Counsel

[Name of counsel for respondent] _____
Counsel

Index

	Page
Part 1: Statement of Facts	_____
Part 2: Errors in Judgments	_____
Part 3: Argument	_____
Part 4: Nature of Order Sought.....	_____
Appendices (if any).....	_____
List of Authorities.....	_____

Notice of Abandonment of Appeal

[The court handling your appeal.]

Tick one or the other.

-  Court of Appeal for BC
-  Supreme Court of BC

The court file number of your appeal (not your trial). The court's reply to your Notice of Appeal should have this number.

File No. _____

You're the **appellant**. Write down your full name.

REGINA
v.
JOHN DOE
Respondent
Appellant

I hereby give notice that I, JOHN DOE, abandon this appeal for:

Tick this box.

Conviction appeal

If you also appealed your sentence at the same time, check off the second box too.

Sentence appeal

Other (specify nature of appeal) _____

Dated at _____, British Columbia, this _____ day of _____

[city/town]

[1st, etc.]

_____, 20____.

[month]

[year]

Your signature. Sign in front of another person (a witness).

[Signature of appellant or his or her solicitor]

Print your name.

[Print the name of appellant or solicitor.]

Where signed by the appellant, this notice was signed in the presence of:

The signature and printed name of a witness. (This doesn't have to be a commissioner.)

[Witness]

[Print name of witness.]

To the Respondent
To the Registrar

your draft

Notice of Abandonment of Appeal

[The court handling your appeal.]

 Court of Appeal for BC

 Supreme Court of BC

File No. _____

REGINA

Respondent

v.

Appellant

I hereby give notice that I, _____, abandon this appeal for:

Conviction appeal

Sentence appeal

Other (specify nature of appeal) _____

Dated at _____, British Columbia, this _____ day of
[city/town] [1st, etc.]

_____, 20_____.
[month] [year]

[Signature of appellant or his or her solicitor]

[Print the name of appellant or solicitor.]

Where signed by the appellant, this notice was signed in the presence of:

[Witness]

[Print name of witness.]

To the Respondent

To the Registrar



684 application — An application for a court-appointed lawyer. Section 684 of the Criminal Code says that everyone has a right to a lawyer and that the court will arrange for one.

affidavit — A written statement of facts. You swear or affirm an affidavit to show that the facts are true. See “swear or affirm an affidavit.”

appeal — To ask a higher court to review a lower court’s decision.

appeal book — A collection of documents that includes a copy of your Notice of Appeal, a copy of all of the exhibits at your criminal trial, a list of important decisions made at the trial, and the document you received when you were charged with a crime.

appeal hearing — When you go to court to present your case (or have your lawyer present your case) for your appeal in front of a judge or judges.

appeal period — The 30 days after the day you were sentenced. The 30th day is the deadline for filing a Notice of Appeal.

appellant — The person making the appeal.

application — A form you file to apply for something in court that leads to a court hearing and court order.

case law — Court decisions, or judgments (decisions made by a judge), that may affect future cases.

case management — For appeals, it refers to meetings with a case-management judge when the appeal is not moving forward as expected and to make sure the appellant knows what to do next.

citation — The name of a case or act (legislation), along with letter and number codes of the court, year, edition, location, and so on.

commissioner for taking affidavits — A person who has the power to hear and accept oaths and affirmations. They help you swear or affirm an affidavit.

conviction — You have a conviction if the court finds you guilty of a crime.

court-appointed lawyer — A lawyer arranged by the court.

court registry — Where official records are filed and kept at the courthouse.

Crown counsel — The prosecutor in your appeal. *Counsel* means lawyer.

dismiss an appeal — To reject an appeal.

division — In the Court of Appeal for BC, there are three judges at the appeal hearing. The three judges are called a division.

factum — In the Court of Appeal for BC, the appellant’s written argument that they can file before the appeal hearing. Called a **statement of argument** in the Supreme Court of BC.

file — When you fill out a legal document and send it to the right court, it’s filed — that is, stamped and usually kept at the court registry. The date it was stamped is the filing date.

frivolous — Not at all serious. An appeal that *isn’t* frivolous has a chance of succeeding.

grant — Allow or give.

grounds for appeal — Reasons for appealing.

hearing — A court appearance in front of a judge (or judges) that generally isn’t as long as a trial. When you apply for an appeal, the court decides at the appeal hearing whether to grant you one. There are also hearings if you want an extension, a court-appointed lawyer, or a release on bail.



Definitions

indictable offence (*in-DITE-a-bull*) — Generally more serious than a summary offence, and carries a heavier sentence.

Information (or indictment) — The government document a person receives when they're charged with a crime. It contains the offence or offences the person's been charged with and when and where they happened.

leave — Permission. You need the court's permission to introduce new evidence, for example.

legislation — Written laws, including acts and statutes.

limited 684 — When you apply for a court-appointed lawyer, the court may decide to give you extra help with the application. They get another lawyer to make the case that you should get a court-appointed lawyer.

Notice of Appeal — The court form you fill out and file to let the court know that you want to appeal your conviction and/or sentence.

offence — The crime you're charged with. There are less serious offences (summary) and more serious offences (indictable). Some offences carry minimum mandatory sentences.

order — A court order is a judge's formal instructions to do or not do something.

party — There are two parties in a court case. In a criminal appeal, the other party is the Crown. The word is also used when you order transcripts — you are the "ordering party."

pre-hearing conference — A meeting with the judge and the other party before a hearing.

registry — See **court registry** above.

represent — Be someone's lawyer.

self-represented litigant (SRL) — When a person acts as their own lawyer.

sentence — The punishment for someone found guilty of a crime.

serve — To give a court document to the other party.

set aside — To cancel or make void.

solicitor — Used on some forms to mean "lawyer."

statement of argument — In the Supreme Court of BC, the appellant's written argument that they can file before the appeal hearing. Called **factum** in the Court of Appeal for BC.

stay an order — To stop a court order. The stay can be temporary.

summary offence — Generally less serious than an indictable offence, and carries a lower maximum sentence.

surety (*SHUR-ri-tee*) — When you're released on bail, a surety is someone who makes sure that you follow the rules and conditions, and that you go to court when you have to. They may have to pay money if you break these bail terms. They have to show that they have assets or property so they can pay if necessary.

swear or affirm an affidavit — In front of a commissioner, you swear under oath or affirm that the affidavit contains true facts. Then you both sign the affidavit. Lying under oath is a very serious crime (perjury).

sworn — Past tense of "swear."

transcript — A typed record of everything that was said in a trial.

Notes





Notes



Provincial Court registries: Some Provincial Courts have the same address and phone number as the Supreme Court. Page 14 lists the Supreme Court registries. If you don't see where your trial was below, it may have been held at a temporary court (a **circuit court**). Call the registry nearest to where your trial was. If you can, call beforehand to make sure the address hasn't changed. (Or go to www2.gov.bc.ca and look up "courthouse locations.")

Abbotsford
32203 South Fraser Way
Abbotsford, BC V2T 1W6
604-855-3200

Burns Lake
PO Box 251
508 Yellowhead Highway
Burns Lake, BC V0J 1E0
250-692-7711

Campbell River
Chilliwack
Courtenay
Cranbrook
Dawson Creek
Duncan

Fort Nelson
Fort St. John
Golden

Kamloops
Kelowna

Same as Supreme Court (page 14).

Mackenzie
PO Box 2050
64 Centennial Drive
Mackenzie, BC V0J 2C0
250-997-3377

Nanaimo
Nelson

New Westminster
Same as Supreme Court (page 14).

North Vancouver
200 East 23rd Street
North Vancouver, BC V7L 4R4
604-981-0200

Penticton
Port Alberni
Same as Supreme Court (page 14).

Port Coquitlam
Unit A, 2620 Mary Hill Road
Port Coquitlam, BC V3C 3B2
604-927-2100

Port Hardy
Box 279, 9300 Trustee Road
Port Hardy, BC V0N 2P0
250-949-6122

Powell River
Prince George
Prince Rupert
Quesnel
Same as Supreme Court (page 14).

Richmond
7577 Elmbridge Way
Richmond, BC V6X 4J2
604-660-6900

Rosland
Salmon Arm
Same as Supreme Court (page 14).

Sechelt
Box 160, 5480 Shorncliffe Avenue
Sechelt, BC V0N 3A0
604-740-8929

Smithers
Same as Supreme Court.

Surrey
14340 – 57th Avenue
Surrey, BC V3X 1B2
604-572-2200

Terrace
Same as Supreme Court (page 14).

Valemount
1300 4th Avenue, PO Box 125
Valemount, BC V0E 2Z0
250-566-4652

Vancouver
222 Main Street
Vancouver, BC V6A 2S8
604-660-4200

Downtown Community Court
211 Gore Avenue
Vancouver, BC V6A 0B6
604-660-8754

Vernon
Victoria
Same as Supreme Court (page 14).

For communities west of Victoria (Colwood):
1756 Island Highway
PO Box 9269
Victoria, BC V9B 1H8
250-391-2888

Williams Lake
Same as Supreme Court (page 14).

Prisoners' Legal Services: If you're in custody and think that you were treated unfairly or harshly or that your human rights were abused, you can call Prisoners' Legal Services for legal help. (Note: They can't help you with your appeal.) You may want to call them if:

- You're being charged with an offence at your institution.
- You're in segregation.
- You're being denied health care.
- You're recommended to be transferred to higher security.
- You had your parole suspended.
- You're being recommended for detention past your statutory release date.

Call Legal Aid BC's prisoners-only line: 1-888-839-8889
Tell them you want help from Prisoners' Legal Services and ask for a referral. After you get a referral, call:
From a federal institution: **1-866-577-5245**
From a provincial institution: **604-636-0464**
(no long-distance charges)

