

SASKATCHEWAN COURT OF QUEEN'S BENCH RULES RESPECTING PRE-TRIAL CONFERENCES

(SI/86-158, *Canada Gazette* (Part II), September 3, 1986.)

1 When an accused is to be tried with a jury, a pre-trial conference shall be held at a time, date, place and manner as directed by a judge of the court, or at such further dates and times as may be ordered by the judge who presides at the pre-trial conference. R.1.

2 Unless otherwise ordered, the pre-trial conference shall be attended by:

(a) the counsel who will represent the accused at trial, or the accused if he does not have counsel; and

(b) by the prosecutor who will appear at trial, or a senior counsel in charge of prosecutions. R.2.

3 The purpose of the pre-trial conference is to consider such matters as will promote a fair and expeditious trial. R.3.

4 Unless otherwise ordered, a pre-trial conference shall be an informal meeting conducted in chambers at which a full and free discussion of the issues raised may occur without prejudice to the rights of the parties. R.4.

5 At the pre-trial conference, counsel shall disclose to the judge the nature and particulars of any preliminary motion which counsel intend to make. R.5.

6 The presiding judge, in his discretion, may direct that such motion be reduced to writing and be heard at such time as he deems fit, prior to the date fixed for trial, or he may direct that the motion be heard at the outset of the trial. R.6.

7 At the pre-trial conference, counsel shall disclose to the presiding judge the nature and particulars of any matter which may arise in the course of the trial and which would ordinarily be dealt with in the absence of the jury after it has been sworn, and the anticipated length of time which such matter would require for hearing. R.7.

8 The trial judge, in his discretion, may direct that such matter be dealt with before any juror or a panel of jurors is called, at such date and time as the judge deems fit, or may direct that the matter be dealt with in the absence of the jury after it has been sworn. R.8.

9 A judge conducting a pre-trial conference shall upon its completion endorse the indictment, or a true copy thereof, as to the date the pre-trial conference was held. R.9.

10 Nothing contained in these rules shall preclude the court from conducting other informal pre-trial conferences in addition to the mandatory conference provided for in ss. 553.1(2), on such terms as the judge sees fit. R.10

APPLICATIONS AND HEARINGS CONCERNING A REDUCTION IN
THE NUMBER OF YEARS OF IMPRISONMENT WITHOUT
ELIGIBILITY FOR PAROLE

(SOR/90-74, *Canada Gazette* (Part II), January 31, 1990; erratum *Canada Gazette* (Part II), March 14, 1990.)

SHORT TITLE

1 These Rules may be cited as the *Saskatchewan Rules of Practice Respecting Reduction in the Number of Years of Imprisonment Without Eligibility for Parole*. R.1.

INTERPRETATION

2 In these Rules:

“**Act**” means the *Criminal Code*; (*Loi*)

“**applicant**” means a person who makes an application and includes, according to the context, counsel acting for that person; (*requérant*)

“**application**” means an application made by an applicant pursuant to subsection 745(1) of the Act; (*demande*)

“**Attorney General**” means the Attorney General of Saskatchewan and includes counsel acting for the Attorney General; (*procureur général*)

“**Chief Justice**” means the Chief Justice of the Court of Queen’s Bench for Saskatchewan; (*juge en chef*)

“**judge**” means the judge of the Court of Queen’s Bench for Saskatchewan designated by the Chief Justice to empanel a jury pursuant to subsection 745(2) of the Act in respect of an application; (*juge*)

“**local registrar**” means the local registrar of the Court of Queen’s Bench for Saskatchewan in Regina. (*greffier local*) R.2.

APPLICATIONS

3(1) An application shall be in writing in Form A of the schedule and shall be filed with the local registrar.

(2) An application shall be accompanied by a document verified by the Solicitor General of Canada that lists the name and place of each institution in which the applicant has been imprisoned since the time of the applicant’s arrest for the offence that is the subject of the application and the date of the applicant’s entry into each of those institutions. R.3.

4(1) On receipt of an application the local registrar shall cause a notice of motion in Form B of the schedule, in respect of the application, to be served on

- (a) the applicant;
- (b) the Solicitor General of Canada;
- (c) the Attorney General; and
- (d) the officer in charge of the institution in which the applicant is imprisoned.

(2) Service of a notice of motion may be effected by registered mail, in which case it shall be deemed to have been effected on the tenth day after the day on which the notice of motion was mailed.

(3) Proof of service of a notice of motion shall be established by filing with the local registrar an affidavit of the person who effected the service or by any other means satisfactory to the Chief Justice.

(4) The service of a notice of motion on the Solicitor General of Canada or on the officer in charge of the institution in which an applicant is imprisoned is for information purposes only and is not for the purpose of making the Solicitor General of Canada or the officer a party to the application. R.4.

5 Where the Attorney General is not opposed to the granting of an order designating a judge, the Attorney General may, prior to the day fixed in the notice of motion referred to in subsection (1), provide to the Chief Justice a written statement that the Attorney General is not opposed to the granting of the order. R.5.

ORDERS

6 The Chief Justice may, in respect of an application, make any orders the Chief Justice considers appropriate, including an order:

- (a) where the Chief Justice determines that subsection 745(1) of the Act does not apply to the applicant, dismissing the application;
- (b) where the Chief Justice determines that subsection 745(1) of the Act does apply to the applicant, designating a judge pursuant to subsection 745(2) of the Act;
- (c) fixing a date for a pre-hearing conference to be conducted by the judge; and
- (d) requiring the preparation, by a person designated by the Solicitor General of Canada, or a parole eligibility report in respect of the applicant and having regard to the matters referred to in subsection 745(2) of the Act and requiring the Solicitor General of Canada to provide a copy of the parole eligibility report and a true copy of the applicant's criminal record to the judge, the applicant and the Attorney General prior to the day fixed for the pre-hearing conference to be conducted in connection with the application. R.6.

7(1) The judge may make any order that the judge considers necessary and appropriate to expedite the hearing of an application, including an order

- (a) fixing the date and place for the hearing of an application and the empanelling of the jury;

- (b) requiring the applicant and the Attorney General to provide an outline of the evidence that they intend to present at the hearing of an application and the manner in which they intend to present it;
 - (c) requiring the preparation, by a person designated by the Solicitor General of Canada, of a parole eligibility report in respect of the applicant and having regard to the matters referred to in subsection 745(2) of the Act and requiring the Solicitor General of Canada to provide a copy of the parole eligibility report and a true copy of the applicant's criminal record to the judge, the applicant and the Attorney General, prior to the day fixed for the pre-hearing conference to be conducted in connection with the application;
 - (d) permitting the proof of facts by affidavit; and
 - (e) requiring that the applicant be brought before the court.
- (2) Where the judge makes an order pursuant to paragraph (1)(d), that judge may, on request by a party, require the attendance of the deponent at the hearing of the application for the purpose of cross-examination on the affidavit.
- (3) Where the judge makes an order pursuant to paragraph (1)(e), section 527 of the Act applies with such modifications as the circumstances require. R.7.

HEARINGS

- 8(1)** The hearing of an application shall be conducted and the jury shall be empanelled in accordance with Part XX of the Act, with the modifications set out in subsection (2) and with such other modifications as the circumstances require.
- (2) For the purposes of subsection (1), the applicant and the Attorney General shall be entitled to the same number of peremptory challenges as they would be entitled to if the applicant were being tried for the offence that is the subject of the application. R.8.
- 9(1)** At the hearing of an application, the Attorney General shall present evidence first and may, if the judge so permits, present rebuttal evidence after the evidence of the applicant is presented.
- (2) After the evidence is presented at the hearing of an application, the Attorney General shall address the jury first. R.9.
- 10** A duly certified transcript of the proceedings at the trial and the sentencing of the applicant for the offence that is the subject of an application shall be admissible as evidence at the hearing of the application. R.10.

SCHEDULE*(Sections 3 and 4)*

FORM A
APPLICATION**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 745(1)
OF THE CRIMINAL CODE FOR A REDUCTION IN THE NUMBER OF
YEARS OF IMPRISONMENT WITHOUT ELIGIBILITY FOR PAROLE**

TO: The Honourable Chief Justice of the Court of Queen's
Bench for Saskatchewan

APPLICATION

1 I, _____, of _____,
(insert given names, surname and any other names used by the applicant) *(insert the name and place of the institution where the applicant is imprisoned)*

hereby apply for a reduction in the number of years of my imprisonment without eligibility for parole.

2 I was convicted of the offence of _____
(specify the offence including Criminal Code section)
on _____.
(insert date of conviction).

3 My period of ineligibility for parole is _____.
(insert length of time)

4 For the offence referred to in paragraph 2 I have been imprisoned for a period of _____ years, which period includes the time that I spent in custody between the day on which I was arrested and taken into custody for that offence and the day on which the sentence was imposed.

5 The name of the officer in charge of the institution where I am imprisoned is _____.
(insert the name of the officer).

6 The type of evidence that I intend to present at the hearing of my application includes *(list the types of evidence that the applicant intends to present; for example, affidavit evidence, testimony of witnesses or oral evidence of the applicant, and list the name of any deponents and witnesses).*

7 My address for service is _____ .
(insert complete mailing address)

8 The name and address of my counsel is _____ .

(insert complete name and address of counsel, if applicable)

DATED at _____ in the Province of _____ ,
(insert place) *(insert province)*
_____, 20 _____ .
(insert date)

(Signature of Applicant)

FORM B

NOTICE OF MOTION

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 745(1) OF THE
CRIMINAL CODE FOR A REDUCTION IN THE NUMBER OF YEARS OF
 IMPRISONMENT WITHOUT ELIGIBILITY FOR PAROLE

BETWEEN:

____ Applicant
 (insert the name and address of the applicant)

-and-

THE ATTORNEY GENERAL OF SASKATCHEWAN (Respondent)

NOTICE OF MOTION

Take notice that the Chief Justice of the Court of Queen's Bench for Saskatchewan at 10:00 a.m. on _____, 20____, at the Court House, 2425 Victoria Avenue, Regina, Saskatchewan will determine whether subsection 745(1) of the *Criminal Code* applies to the applicant (a copy of the application is attached) and the Chief Justice may make any orders in respect of the application that the Chief Justice considers appropriate, including an order

- (a) dismissing the application;
- (b) designating a judge, pursuant to subsection 745(2) of the *Criminal Code*;
- (c) fixing a date for a pre-hearing conference to be conducted by the judge; and
- (d) an order requiring the preparation, by a person designated by the Solicitor General of Canada, of a parole eligibility report in respect of the applicant and having regard to the matters referred to in subsection 745(2) of the *Criminal Code* and requiring the Solicitor General of Canada to provide a copy of the parole eligibility report and a true copy of the applicant's criminal record to the judge, the applicant and the Attorney General, prior to the day fixed for the pre-hearing conference to be conducted in connection with the application.

DATED at Regina, Saskatchewan, _____, 2 _____.
 (insert date)

 Local Registrar of the Court of
 Queen's Bench for Saskatchewan

TO: The Applicant
 TO: The Solicitor General of Canada
 TO: The Attorney General of Saskatchewan

TO: _____
 (Insert the name of the officer in charge of the institution where the applicant is currently imprisoned and the name and place of the institution)

THE COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
SUMMARY CONVICTION APPEALS

Interpretation**1** In these Rules:

“appeal” means an appeal from a summary conviction court under Part XXVII of the *Criminal Code*, R.S.C. 1985, c. C, and *The Summary Offences Procedure Act*, 1990, S.S. 1990-91, c. S.1, as amended from time to time; (*appel*)

“appeal court” means the Court of Queen's Bench for Saskatchewan; (*tribunal d'appel*)

“authority” means:

- (a) a municipality;
- (b) the Meewasin Valley Authority;
- (c) the Wakamow Valley Authority;
- (d) the Wascana Centre Authority;
- (e) the University of Regina; or
- (f) the University of Saskatchewan; (*autorité*)

“file” means file with a local registrar; (*déposer*)

“Form” mean a Form as set out in the Appendix to these Rules; (*formule*)

“judge” means a judge of the appeal court; (*juge*)

“local registrar” includes a deputy local registrar of the appeal court; (*registraire local*)

“prosecutor” means;

- (a) with respect to an appeal in respect of an offence under the *Criminal Code*, a prosecutor as defined in section 2 of the *Criminal Code*;
- (b) with respect to an appeal in respect of an offence under an Act of Saskatchewan or a regulation made pursuant to an Act of Saskatchewan, the following persons, including counsel or an agent acting on behalf of any of them:
 - (i) the Attorney General for Saskatchewan; or
 - (ii) if the Attorney General for Saskatchewan does not intervene, the informant or person who issued the ticket for the offence;

(c) with respect to an appeal in respect of an offence under an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada, the following persons, including counsel or an agent acting on behalf of any of them:

- (i) the Attorney General of Canada; or
- (ii) if the Attorney General of Canada does not intervene, the informant or person who issued the ticket for the offence;

(d) with respect to an appeal in respect of a bylaw of an authority, the authority and includes anyone authorized by the authority to prosecute bylaws on its behalf. (*poursuivant*)

Appeal by defendant

2(1) A defendant who commences an appeal shall file with the local registrar nearest to the place where the decision was made a Notice of Appeal in Form 1 in accordance with the instructions on that form.

(2) The defendant shall commence the appeal under this Rule within 30 days after the pronouncement of the order under appeal, or within 30 days after the imposition of sentence if a sentence has been imposed, whichever is later.

(3) The defendant shall state their address for service on the Notice of Appeal, including:

- (a) their telephone number; and
- (b) if applicable, their fax number and email address.

(4) After filing a Notice of Appeal, the defendant shall notify the local registrar in writing of any change to that information.

(5) Filing of the Notice of Appeal with the local registrar constitutes service on the prosecutor.

(6) The local registrar shall forward a copy of the Notice of Appeal to the prosecutor.

Appeal by prosecutor

3(1) A prosecutor who commences an appeal shall file with the local registrar nearest to the place where the decision was made a Notice of Appeal in Form 2 in accordance with the instructions on that form.

(2) The prosecutor shall commence the appeal under this Rule within 30 days after the pronouncement of the order under appeal, or within 30 days after the imposition of sentence if a sentence has been imposed, whichever is later.

(3) The prosecutor shall state their address for service on the Notice of Appeal, including:

- (a) their telephone number; and
- (b) if applicable, their fax number and email address.

(4) The prosecutor shall serve the defendant with the Notice of Appeal not later than 10 days after it is filed with the local registrar.

Service on defendant

- 4(1) The prosecutor shall serve the Notice of Appeal and any other document required to be served on the defendant by personal service.
- (2) The prosecutor shall file proof of service with the local registrar.
- (3) If the prosecutor is unable to serve the Notice of Appeal or any other document that is required to be served on the defendant personally, the prosecutor may apply *ex parte* to a judge of the appeal court for an order to serve the defendant in the manner that the appeal court directs.
- (4) If the prosecutor serves the Notice of Appeal or any other document that is required to be served in accordance with an order for substituted service, the defendant is deemed to have been served with that document.
- (5) On the application of the defendant or prosecutor, the appeal court may:
 - (a) set aside or vary an order for substituted service as the appeal court considers just; and
 - (b) make any order respecting service of either or both of the Notice of Appeal and any other document.

Material from summary conviction court

5 After the Notice of Appeal has been filed, the local registrar shall obtain the material provided for in subsection 821(1) of the *Criminal Code* from the summary conviction court.

Transcripts

- 6(1) Within 14 days after serving the Notice of Appeal, the appellant shall furnish to the local registrar proof, satisfactory to the local registrar, that transcripts of the trial proceedings have been ordered.
- (2) Subrule (1) does not apply if the appellant has applied under Rule 8 for a trial *de novo*.

Transcript of evidence

7 Unless the appeal court otherwise orders, or an agreed statement of facts has been filed pursuant to subsection 830(2) of the *Criminal Code*, the appellant shall, within 10 days after receipt of the transcript,

- (a) if the appeal is against an order other than sentence;
 - (i) file:
 - (A) the original and one copy of the transcript of evidence; and
 - (B) the reasons for judgment from the summary conviction court; and
 - (ii) serve one copy of the transcript of evidence and the reasons for judgment on the respondent;

- (b) if the appeal is against sentence:
 - (i) file;
 - (A) the transcript of evidence, if any, of the sentencing proceedings, including the submissions of the prosecution and the defence as to sentence; and
 - (B) the reasons for sentence, and
 - (ii) serve one copy of the transcript of evidence mentioned in clause (i)(A) and the reasons for sentence on the respondent; or
- (c) if the appeal is against both sentence and an order other than sentence, file and serve on the respondent the material mentioned in paragraphs (a) and (b) within 10 days after receipt of the transcript.

Application for trial *de novo*

8(1) An appellant who applies for a trial *de novo* under subsection 822(4) of the *Criminal Code* shall submit a Notice of Application to the appeal court within 30 days after serving the Notice of Appeal.

(2) At least seven days before the hearing of the application, the appellant shall serve a copy of the Notice of Application and any supporting material on the respondent.

Date, time and place of hearing

9(1) The appellant is not required to state a date, time or place for the hearing of the appeal in a Notice of Appeal.

(2) On receipt of the material required to be transmitted by the summary conviction court pursuant to subsection 821(1) of the *Criminal Code* and a transcript of the evidence, unless dispensed with by order of the appeal court, the local registrar shall set a date, time and place for the hearing of the appeal.

Notice of date, time and place of hearing

10 As soon as the appeal is set for hearing, the local registrar of the appeal court shall give notice to the appellant and to the respondent that the appeal has been set down for hearing as well as notice of the date and time when, and the place where, the appeal will be heard.

Memorandum of argument required

11 Unless the appeal court otherwise orders, the appellant and respondent shall each file a memorandum of argument with the local registrar.

Appellant's memorandum of argument

12 The appellant's memorandum of argument shall be in Form 3 and shall contain the following information:

- (a) a concise statement of the facts;
- (b) a concise statement of the law to be argued;
- (c) references to the relevant evidence;
- (d) the authorities relied on; and
- (e) the relief requested.

Respondent's memorandum of argument

13 The respondent's memorandum of argument shall be in Form 4 and shall contain the following information:

- (a) those facts in the appellant's memorandum of argument that the respondent accepts;
- (b) those facts in the appellant's memorandum of argument that the respondent rejects;
- (c) a concise statement of the facts to be argued in response;
- (d) a concise statement of the law to be argued in response;
- (e) references to the relevant evidence;
- (f) the authorities relied on; and
- (g) the relief requested.

Service by appellant

14 At least 30 days before the date set for the hearing of the appeal, the appellant shall file their memorandum of argument and serve a copy on the respondent.

Service by respondent

15 At least 15 days before the date set for the hearing of the appeal, the respondent shall file their memorandum of argument and serve a copy on the appellant.

Application to dismiss appeal

16(1) The respondent may apply to the appeal court for an order that the appeal be dismissed if the appellant fails to:

- (a) pursue the appeal diligently; or
- (b) comply with these Rules.

(2) The respondent shall serve the appellant with 14 days' notice of the date, time and place of the hearing of the application.

Reference to appeal court

17 If the local registrar considers that the appellant has not pursued the appeal diligently or has not complied with these Rules, the local registrar may refer the matter to the appeal court.

Notice of reference

18 If the local registrar makes a reference under Rule 17, the local registrar shall serve the appellant and the respondent with 14 days' notice of the date, time and place of the hearing of the reference, by mailing the notice to each party's address for service.

Order of appeal court

19 On an application under Rule 16 or a reference under Rule 17, the appeal court may dismiss the appeal or make any other order it considers just.

Power of court if appellant fails to file memorandum or to appear

20 If an appellant fails to file a memorandum of argument as required by Rule 14 and fails to appear at the hearing on the date and at the time and place set out in the notice given by the local registrar under Rule 10, the appeal court may dismiss the appeal or make any other order it considers just.

Abandonment

21 An appellant may abandon an appeal by

- (a) signing and filing a notice in Form 5; or
- (b) informing the appeal court in person or by counsel that the appeal is abandoned.

Time limits

22 Any judge may, on application, extend or shorten the time provided for the giving of any notice or the doing of any act, even if an application for extension or an order granting an extension is made after the time has expired.

Application for release or stay

23 An appellant who applies for release, a stay of a probation order, a stay of a driving prohibition, or any other stay order, shall file with the local registrar:

- (a) a Notice of Application in Form 6;
- (b) an affidavit verifying the facts on which the appellant relies in support of the application; and
- (c) any other material on which the appellant relies in support of the application.

Service of application on prosecutor

24 On filing an application under Rule 23, the appellant shall serve the application and accompanying material on the prosecutor.

Notice of hearing

25 If an appellant applies pursuant to Rule 23, the local registrar shall:

- (a) within three days after receiving the material from the appellant, set a date for the hearing of the application; and
- (b) notify the appellant and the respondent of the date and time when, and the place where, the hearing will be held.

When appeal court may make orders re application without prosecutor

26 With the written consent of the prosecutor, the appeal court may make any order on an application pursuant to Rule 23 without the attendance of the prosecutor.

General procedure and practice of appeal court to be followed

27 Unless provided otherwise by statute or by these Rules, the general procedure and practice of the appeal court shall be applied, with necessary modification, in a summary conviction appeal, including an application to dismiss an appeal and an application for release or stay.

Repeal

28 The *Saskatchewan Court of Queen's Bench Summary Conviction Appeal Rules* are repealed.

Coming into effect

29 These Rules come into effect on April 1, 2011. New. Gazette 25 Mar 2011.

APPENDIX
FORM 1
(NOTICE OF APPEAL BY DEFENDANT)

Q.B.G. No. _____ of 20 _____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF APPEAL

THE APPELLANT hereby appeals from: *(check one of the following)*

- ☐ the order made;
- ☐ the conviction entered;
- ☐ the sentence imposed; or
- ☐ both the conviction entered and the sentence imposed;

in the Summary Conviction Court.

Information About the Conviction and/or Sentence Under Appeal:

1. Name of Summary Conviction Court
2. Location of Summary Conviction Court
3. Name of Presiding Judge or Justice in Summary Conviction Court
4. Date on which the Conviction was Entered
5. Description of Conviction Entered *(state fully offence(s) on which convicted)*
6. Date on which the Sentence was Imposed
7. Description of Sentence Imposed

Grounds of Appeal: *(set out briefly the basis of the Appeal)*

Order Sought: *(set out briefly what order the Appellant is seeking)*

Information About the Appellant:

1. The Appellant is: *(check one of the following)*
☐ incarcerated at _____ ; or
☐ not incarcerated.
2. The Appellant: *(check one of the following)*
☐ will be represented by a lawyer on the Appeal; or
☐ will not be represented by a lawyer on the Appeal.
3. The Appellant wishes to present the Appeal: *(check one of the following)*
☐ by memorandum of argument; or
☐ by oral presentation and by memorandum of argument.
4. The Appellant's address for service is:
(include telephone number, email address and fax number if applicable)

DATED at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature of Appellant or Appellant's Lawyer)

TO: The Local Registrar of the Judicial Centre of _____

This document was delivered by: _____
(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)

FORM 2
(NOTICE OF APPEAL BY PROSECUTOR)

Q.B.G. No. _____ of 20 _____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF APPEAL

THE PROSECUTOR hereby appeals from: *(check one of the following)*

- ☐ the order made;
- ☐ the dismissal order made;
- ☐ the sentence imposed; or
- ☐ both the dismissal order made and the sentence imposed;

in the Summary Conviction Court.

Information About the Conviction and/or Sentence Under Appeal:

1. Name of Summary Conviction Court
2. Location of Summary Conviction Court
3. Name of Presiding Judge or Justice in Summary Conviction Court
4. Date on which the Order was Made
(complete if Appeal relates to order or dismissal order)
5. Description of Order Made
(if dismissal order, state fully the offence or offences charged in the information dismissed)
6. Date on which the Sentence was Imposed
(complete if Appeal relates to sentence imposed)
7. Description of Sentence Imposed

Grounds of Appeal: *(set out briefly the basis of the Appeal)*

Order Sought: *(set out briefly what order the Appellant is seeking)*

Information About the Appellant:

1. The Appellant wishes to present the Appeal: *(check one of the following)*

☐ by memorandum of argument; or

☐ by oral presentation and by memorandum of argument.

2. The Appellant's address for service is:

(include telephone number, email address and fax number if applicable).

DATED at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature of Prosecutor)

TO: The Respondent, _____

AND TO: The Local Registrar of the Judicial Centre of _____

This document was delivered by: _____.

(name, address, telephone number, fax number and email address of appellant)

FORM 3

Q.B.G. No. _____ of 20 _____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

APPELLANT'S MEMORANDUM OF ARGUMENT**1. Facts:***(concisely state the facts that the Appellant will argue in the Appeal)**(insert more pages numbered 1a, 1b, 1c, etc. if necessary)***2. Law:***(concisely state the law that the Appellant will argue in the Appeal)**(insert more pages numbered 2a, 2b, 2c, etc. if necessary)***3. Evidence:***(state the page numbers and line numbers from the transcript relating to the evidence that is relevant to the facts and law the Appellant will argue in the Appeal)**(insert more pages numbered 3a, 3b, 3c, etc. if necessary)***4. Authorities***(list the statutory provisions and/or cases the Appellant will rely on in the Appeal)**(insert more pages numbered 4a, 4b, 4c, etc. if necessary)***5. Relief:** *(state the relief the Appellant is seeking in the Appeal)*

DATED at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature of Appellant or Appellant's Lawyer)

TO: The Local Registrar of the Judicial Centre of _____

AND TO: The Respondent, _____

This document was delivered by: _____.
(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)

FORM 4

Q.B.G. No. _____ of 20 _____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

RESPONDENT'S MEMORANDUM OF ARGUMENT**1. Facts Accepted:**

(state the facts in the Appellant's Memorandum of Argument that the Respondent accepts)
(insert more pages numbered 1a, 1b, 1c, etc. if necessary)

2. Facts Rejected:

(state the facts in the Appellant's Memorandum of Argument that the Respondent rejects)
(insert more pages numbered 2a, 2b, 2c, etc. if necessary)

3. Facts:

(concisely state the facts that the Respondent will argue in response to the Appellant's Memorandum of Argument)
(insert more pages numbered 3a, 3b, 3c, etc. if necessary)

4. Law:

(concisely state the law that the Respondent will argue in response to the Appellant's Memorandum of Argument)
(insert more pages numbered 4a, 4b, 4c, etc. if necessary)

5. Evidence

(state the page numbers and line numbers from the transcript relating to the evidence that is relevant to the facts and law the Respondent will argue in the Appeal)
(insert more pages numbered 5a, 5b, 5c, etc. if necessary)

6. Authorities:

(list the statutory provisions and/or cases the Respondent will rely on in the Appeal)
(insert more pages numbered 6a, 6b, 6c, etc. if necessary)

7. Relief: *(state the relief the Respondent is seeking in the Appeal)*

DATED at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature of Respondent or Respondent's Lawyer)

TO: The Local Registrar of the Judicial Centre of _____

AND TO: The Appellant, _____

This document was delivered by: _____.
(name, address, telephone number, fax number and email address of respondent or respondent's lawyer)

FORM 5

Q.B.G. No. _____ of 20 ____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF ABANDONMENT

THE APPELLANT hereby abandons this appeal.

DATED at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature of Appellant or Appellant's Lawyer)*[if this document is signed by the Appellant, the attached Affidavit of Execution must also be completed]*

This notice was signed by the Appellant in the presence of:

(subscribing witness)_____
(print name of subscribing witness)

TO: The Local Registrar of the Judicial Centre of _____

This document was delivered by: _____ .
(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)

AFFIDAVIT OF EXECUTION

I, _____, of _____,
in the Province of _____,

MAKE OATH AND SAY:

1. That I was personally present and did see _____,
the Appellant named in the Notice of Abandonment, who is personally known to me to
be the person named in it, duly sign and execute the Notice of Abandonment;
2. That the Notice was executed at _____,
in the Province of _____
and that I am a subscribing witness to it;
3. That I know the said _____ and he/she is in my belief
eighteen years of age or more.

SWORN BEFORE ME AT _____
in the Province of Saskatchewan,
this _____ day of _____, 20_____.

A Commissioner for Oaths

In and for the Province of Saskatchewan.

My commission expires: _____

OR

Being a Solicitor.

FORM 6

Q.B.G. No. _____ of 20 ____

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF _____

BETWEEN:

APPELLANT

AND

RESPONDENT

NOTICE OF APPLICATION

TAKE NOTICE that the Appellant will make an application at the Court House, Judicial Centre of _____, Saskatchewan, at a date and time to be set by the Local Registrar, for an Order that:

(check one or more of the following)

- ☐ the appellant be released from custody;
- ☐ the probation order in this matter be stayed; or
- ☐ the driving prohibition in this matter be stayed pending the determination of the Appellant's Appeal.

(if the appellant seeks an order other than one mentioned above, the appellant must here set out the nature of the stay order sought)

AND TAKE NOTICE that the application will be made on the following grounds:

(briefly state grounds for application)

AND FURTHER TAKE NOTICE that in support of the said application will be read this Notice of Application, Affidavit of _____

and proof of service where necessary, all filed.

DATED at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature of Appellant or Appellant's lawyer)

TO: The Local Registrar of the Judicial Centre of _____

AND TO: The Respondent _____

This document was delivered by: _____.
(name, address, telephone number, fax number and email address of appellant or appellant's lawyer)

COURT OF APPEAL FOR SASKATCHEWAN APPEALS TO THE COURT OF APPEAL

Notices to be signed and directed to registrar

1 Every notice of appeal and every notice of an application for leave to appeal shall be signed by the appellant his counsel or agent and shall be directed to the Registrar of the Court of Appeal for Saskatchewan. R. 1.

Contents of notice of appeal; powers of court; form of notice

2 In an appeal against conviction and/or sentence by a person convicted and/or sentenced, the notice, whether of appeal or of an application to the Court of Appeal or a judge thereof for leave to appeal, shall set forth the offence of which the appellant was convicted, the date of the conviction and of sentence, and the place where the trial was held, the court which made the conviction and the sentence passed upon the appellant, shall state whether the appellant desires to be present in person on the hearing of the appeal, and shall specify the nature of the order which the appellant intends to ask the court to make and the reasons therefor, but the court may make any order allowed by law notwithstanding that it is not asked for in the notice, or that proper reasons are not stated therein. The notice of appeal, or of an application for leave to appeal, shall set out the grounds to be argued, and may be in accordance with Form 1 in the appendix hereto, varied as the circumstances may require. *(It is to be noted that the appellant may in his notice, in the cases referred to in subsection 686(5) of the Criminal Code, request that if a new trial be granted, he be tried by a jury.)* R.2.

Filing of notice

3 The appellant, as defined in the preceding rule, shall, if his application is to the Court of Appeal or a judge thereof, within one calendar month from the date of conviction, if the appeal is from the conviction only, or from the date of the sentence if the appeal is from both conviction and sentence, or from sentence only, send by prepaid registered mail three copies of the notice addressed to the Registrar of the Court of Appeal, Regina, Saskatchewan, or he may within the said period file three copies of the notice in the office of the said registrar. The registrar shall retain and file one copy of the notice and shall forthwith after the receipt thereof deliver or send one copy by prepaid registered mail to the Attorney General, and the third copy by prepaid registered mail to the local registrar of the court before which the appellant was tried or to the magistrate who convicted him. R. 3.

Appeal by Attorney General, contents of notice

4 In an appeal by the Attorney General, or counsel instructed by him for the purpose, the notice, whether of appeal or of an application to the Court of Appeal, or a judge thereof, for leave to appeal, shall set forth the offence on which the accused was acquitted or sentenced, the date of acquittal or sentence, the place where the trial was held, the court which made the acquittal or passed the sentence, and shall specify the nature of the order which the court will be asked to make and the reasons therefor. The notice of appeal or of an application for leave to appeal, shall set forth the grounds to be argued. R. 4.

Appeal by Attorney General, filing and service of notice

5 The Attorney General, or counsel instructed by him, shall, if the application is to the Court of Appeal or a judge thereof for leave to appeal against sentence, within one calendar month from the date of the sentence, or if the appeal is from an order or judgment of acquittal within one calendar month from the date of the judgment or order of acquittal, send by prepaid registered mail two copies of the notice addressed to the Registrar of the Court of Appeal, Regina, Saskatchewan, or may, within the said period, file two copies of the notice in the office of the registrar and shall also serve a copy thereof personally upon the respondent. If the respondent to be so served is in custody, service may be effected by forwarding a copy of the notice to the warden or gaoler in whose custody the respondent is, and such warden or gaoler shall forthwith hand the said copy to the said respondent. Such service by the warden or gaoler upon the person convicted shall be made within the said period of one calendar month after the date of the sentence. A certificate purporting to be signed by the warden or gaoler and the date upon which such service was made, shall be sufficient proof of such service. R. 5.

Where leave granted, no further notice required

6 If an application for leave is granted by the Court of Appeal or a judge thereof, no further notice of appeal shall be necessary, but, upon the granting of the application the court or judge may give such directions as to the hearing of the appeal as may be deemed necessary. R. 6.

Service of notices

7 Any notice required or authorized by the Act or these rules to be given shall be deemed to be duly given if sent by registered post (prepaid) addressed to the person to whom such notice is to be given, but where an appeal is by the Attorney General or counsel for the Crown from the sentence under section 676 of the *Criminal Code* notice shall be personally served on the person convicted. R.7.

Obtaining certificate of trial judge that case proper for appeal

8 An application, to the trial court or judge or magistrate, for a certificate under subclause 675(1)(a)(ii) of the *Criminal Code* may be made *ex parte* but such court, judge or magistrate may, if it or he think proper, require notice of the application for the certificate to be given to the Attorney General. If the certificate be granted the same with a copy thereof shall be forwarded to or filed with the registrar, along with the regular notice of appeal, and the registrar shall forward the copy to the Attorney General along with the copy of the notice of appeal. If the court, judge or magistrate requires notice of an application for such certificate to be given, a copy of such notice shall be forwarded to, or filed with the registrar. The application for such certificate shall be made within one calendar month after the date of the conviction, but if the trial court, judge or magistrate requires notice of the application for the certificate to be given, the notice may be given within two clear days after the first application to such trial court, judge or magistrate and may be returnable at such time as the court, judge or magistrate may fix notwithstanding that the calendar month may have elapsed. If the certificate be granted, the appellant shall have two clear days after the granting of the same within which to mail or file his notice of appeal notwithstanding that the calendar month may have elapsed, but otherwise the notice may be mailed or filed at any time before the expiration of the said period. R.8.

Material to be obtained by registrar

9(1) Immediately after the filing of a notice of appeal or of an application for leave to appeal, the registrar shall procure the material provided for by section 682 of the *Criminal Code*, including the opinion of the trial judge or magistrate upon the case.

(2) The trial judge or magistrate shall, upon receiving a request from the registrar, give such report as to his opinion upon the case as he may think proper to make and shall also, if so requested by the judge presiding at the hearing of any appeal or application for leave to appeal, furnish in writing to the Court of Appeal his opinion upon any point of the case referred to in such request.

(3) The production of a copy of the judge's or magistrate's notes of the trial verified by his signature shall be considered by the Court of Appeal as a sufficient compliance with the requirements of section 682 of the *Criminal Code* with respect to the judge's or magistrate's notes of the trial.

(4) In the case of shorthand notes of evidence, a certificate signed by the shorthand writer who made or extended the said notes as to the correctness thereof shall be *prima facie* proof of the accuracy of the said notes and transcript thereof. R.9.

Notice need not state time or place of hearing

10(1) No time or place for the hearing need be stated in any notice of appeal or of application for leave to appeal, but the registrar shall, forthwith after the receipt of the notice other than a notice to a judge for leave to appeal from a sentence, enter the case on the list of appeals whereupon directions may be given as to the hearing of the appeal or application.

Appointment for hearing application

(2) Where the application is to a judge of the Court of Appeal for leave to appeal from the sentence, the applicant shall, within seven days after filing his notice, apply to a judge for an appointment for the hearing of the application, and the judge, in making the appointment, shall give directions as to its service and the application may be heard by any judge of the Court of Appeal.

Registrar to give notice of date for hearing

(3) As soon as the appeal or application for leave to appeal is ready for hearing, the registrar shall give notice to the appellant, and to the Attorney General, of the date that has been fixed for the hearing of the application, and shall place the case upon the list for hearing upon that day.

Discretion of court

(4) Where upon an application for leave to appeal the court is of the opinion that leave to appeal should be granted, the court may, thereupon and without further delay, hear the appeal upon its merits, or may, if it sees fit, direct the case to be placed upon the list for hearing at such future time as the court may determine. R.10.

Charges for copies of evidence

11 The charges which may be made under subsection 682(4) of the *Criminal Code* for copies of the notes of evidence shall not exceed 10 cents per folio. The charges for the notes of evidence necessary for an appeal shall be paid by the appellant and the registrar may require such amount as he may deem sufficient to cover such charges to be deposited with him in cash before proceeding under subrule 9(1). R.11.

Argument may be presented in writing

12 Any convicted person may present his argument in writing if he so desires by filing the same with the registrar at any time before the day fixed for the hearing. R.12.

Contents of notice on application to extend time

13 A notice under subsection 678(2) of the *Criminal Code* of an application to extend the time for appealing or for applying for leave to appeal shall contain the same information as required by Rule 2 and shall be given in the same way, and dealt with by the registrar, and proceeded with, in the same manner as a notice of appeal or of application for leave to appeal under the foregoing rules. R.13.

Rules, etc. to be sent to gaolers

14 A sufficient number of copies of these rules shall be sent by the registrar to every keeper of a provincial gaol or place of detention in Saskatchewan, and to the warden of the penitentiary at Prince Albert, and the registrar shall therewith also send to said gaolers and warden a copy of section 684 of the *Criminal Code*, and the said gaolers and warden shall furnish a copy of these rules to any convicted person in his custody who asks for the same. R.14.

Crown to be provided with certain material

15 The local registrar of every court before whom a person has been tried and convicted, and every magistrate who has convicted any person under Part XIX of the *Criminal Code*, shall furnish to the Attorney General and to the counsel who acted for the Crown at the trial, whenever requested so to do, certified copies of such documents, exhibits, and other things connected with the proceedings being in his custody or control as they may require for the purposes of their duties in respect to appeals and applications for leave to appeal. R.15.

Disposition of exhibits, etc., after trial

16(1) All documents, exhibits or other things connected with the proceedings on the trial of any person in the Court of Queen's Bench, who has been convicted, shall, subject to the provisions of subrules (2), (4) and (5) hereof, be retained by the local registrar of the trial court in his possession or, in the case of chattels of inconvenient size, in the possession of the sheriff under the local registrar's direction, for a period of one calendar month after the date of the sentence, and thereafter shall continue to be so retained until a fiat by a judge of the court in which he was tried has been made for the disposition of the same.

(2) The judge or magistrate who presided at the trial of any person, or any judge of the court in which he was tried, may, at any time after the trial, make a special order as to the custody or conditional release of any such documents, exhibits or other things, as the special circumstances or special nature thereof may make desirable and proper, and upon such terms as he may impose.

(3) A magistrate presiding at a trial under Part XIX of the *Criminal Code* shall, subject to the provisions of subrules (2), (4) and (5) hereof, retain all documents, exhibits or other things connected with the trial of any person convicted at such trial, or in the case of chattels of inconvenient size, shall direct them to be retained by the proper police officers for 35 days after the sentence, unless in the meantime an order has been made by a judge of the Court of Queen's Bench respecting the custody and control of the same.

(4) The local registrar of the court at which any person was tried or the magistrate before whom he was tried under Part XIX of the *Criminal Code*, may, at any time after the trial, upon having filed with him the written consent, whether absolute or upon terms, of the counsel who acted for the Crown at the trial and of the counsel who acted for the accused, or, if the accused was not represented by counsel, of the accused personally, deliver any document, exhibit or other thing produced at the trial to the person producing the same.

Transmission of exhibits, etc., where appeal commenced

(5) Subject to the provisions of subrule (2) hereof the local registrar of every court before which a person has been tried and convicted and every magistrate who has convicted any person under Part XIX of the *Criminal Code* shall, after he has received from the registrar a copy of a notice of appeal or of an application for leave to appeal, upon the request of the Attorney General or his agent, or of the convicted person, or his counsel, or of the registrar, forward by registered mail to the registrar all documents, exhibits and other things used or produced at the trial which are in his custody or control except such things as cannot conveniently be sent by mail. R.16.

Securing property pending appeal

17 A judge or magistrate who, after a conviction makes any order for the restitution of any property to any person or any order under section 725 or 726, of the *Criminal Code*, shall, upon making such order, make such further order as he may think proper for securing the safe custody of any such property or of any money referred to in any such order for the period during which the operation of such order of restitution is suspended by virtue of the provisions of section 689 of the *Criminal Code*.

'Magistrate' defined

18 In these rules the word "**magistrate**" shall include any provincial court judge acting under the provisions of the *Criminal Code*. R.18.

Effect of non-compliance

19 Non-compliance with these rules shall not render any proceeding void, but the same may be amended, or may be set aside as irregular or otherwise dealt with, as may be just. R.19.

Extension of time

20 The times limited by the statute or by these rules may, subject to the provisions of the statute, be extended by the court or a judge of the Court of Appeal, either before or after the expiry of the times limited. R.20.

Notice to Attorney General

21 Notice of any application to extend time shall, unless otherwise directed, be given to the Attorney General. R.21.

Applications for bail

22 Applications by an appellant for release under section 679 of the *Criminal Code* shall be made upon notice to the Attorney General. Such notice shall set out the amount of bail which the appellant is prepared to give. R.22.

Attendance of appellant where in custody

23 When an appellant who is in custody is entitled and desires to be present at the hearing of his appeal, the registrar of the Court of Appeal shall issue directions to the proper officer or officers to enable the provisions of section 688 of the *Criminal Code* to be carried into effect. R.23.

Application of Crown Practice Rules

24 The practice and procedure laid down in the Crown Practice Rules shall apply to all similar proceedings taken in respect to criminal matters. R.24.

Procedure in Crown Practice appeals in criminal matters

25 The practice and procedure in respect to appeals made in proceedings under the Crown Practice Rules in criminal matters shall be the same as in appeals from orders made by a Queen's Bench judge in chambers in respect to civil matters originating in that court. R.25.

Application of Queen's Bench Rules

26 In matters not herein specifically provided for, the Rules of the Court of Queen's Bench shall *mutatis mutandis* apply. R.26.

Rules apply to Minister of Justice, Attorney General of Canada

27 These rules shall apply *mutatis mutandis* to appeals by the Minister of Justice and by the Attorney General of Canada and to appeals in which the Minister of Justice or the Attorney General of Canada is interested rather than the Attorney General, and in the latter case the notices and documents directed to be sent to the Attorney General shall be sent or delivered to the Minister of Justice or to the Attorney General of Canada or to their legal representative in the appeal. R.27.

APPENDIX

FORM 1

NOTICE OF APPEAL (R. 2 AND 13)
In the Court of Appeal for SaskatchewanIN THE MATTER OF AN APPEAL BY _____
(name of appellant)convicted by _____ at _____
(state by whom) (state place of conviction)of _____
(state fully the offence or offences on which convicted)on the _____ and was sentenced to _____
(date of conviction) (state sentence imposed)on the _____ and now a prisoner in _____ (or as the case may be).
(date of sentence) (state where is a prisoner)

I hereby give you notice that I desire to appeal to the Court of Appeal against my conviction.

or

I hereby give you notice that I desire to apply to the Court of Appeal, or a judge thereof, for leave to appeal against my conviction.

or

I hereby give you notice that I desire to apply to the Court of Appeal, or a judge thereof, for leave to appeal against my sentence.

(See section 675 of the Criminal Code)

The following are my grounds of appeal (here set out the grounds of appeal fully).

I desire to present my case and argument _____ .
(state 'by oral argument', or 'in writing' *as the case may be*)

If a new trial is directed I desire to be tried _____ .
(state 'by judge and jury' or 'by single judge')

I desire (or do not desire *as the case may be*) to be present in person on the hearing of the appeal.

My address for service is: _____

Dated the _____
(date)

(Signature of appellant or his solicitor.)

TO: The Registrar of the Court of Appeal.

Extract from

PENITENTIARY SERVICE REGULATIONS

Consolidated Regulations of Canada, 1978
Volume XIII C. 1251

Inmates Appearing as Witnesses

26 Where, pursuant to a judicial process, an inmate is required to give evidence in judicial proceedings in Canada, whether or not those proceedings are being conducted in the same territorial division as that in which the inmate is confined, the institutional head shall make available the inmate concerned for that purpose if the party to the proceedings that requires the inmate:

- (a) pays to the institutional head the cost of transportation, maintenance and custody for the inmate while he is absent from the institution pursuant to the process; or
- (b) where the inmate is required by the Crown, undertakes to provide or to pay the cost of transportation, maintenance and custody for the inmate while he is so absent.