

Nunavut Court of Appeal
Criminal Appeal Rules
Approved by the Court of Appeal XX
DRAFT NUCA #3

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Nunavut Court of Appeal

Criminal Appeal Rules

These Rules are made by the Court of Appeal under section 482 of the Criminal Code.

Division 1

Interpretation and Application

What these Rules apply to

1 These Rules apply to all criminal appeals to the Nunavut Court of Appeal, including those arising from or under the appeal procedures set out in

- (a) the *Criminal Code*;
- (b) the *Extradition Act*;
- (c) the *Youth Criminal Justice Act*; and
- (d) the *Summary Convictions Procedures Act*, R.S.N.W.T. 1988, c. S-15.

References: *Criminal Code*: s. 482 - power to make rules of court. *Extradition Act*: s. 52 - rules of court. *Summary Convictions Procedures Act*: s. 2 - procedure.

Defined Terms: *Criminal Code*: s. 2 & s. 673 - Court of Appeal. *Civil Appeal Rules*: rule 1 - appeal; *Criminal Appeal Rules*: rule 2 - criminal appeal.

Definitions

2(1) Unless otherwise specified, and as the context requires, terms used in these rules have the same meaning as in the *Criminal Code* and the *Civil Appeal Rules*.

(2) In these rules:

“address for service” means a street or mailing address of a residence, office, or other place of business in Nunavut at which a party may be served;

“Attorney General” has the meaning set out in section 2 of the *Criminal Code*;

“Civil Appeal Rules” means the *Rules of the Nunavut Court of Appeal Respecting Civil Appeals* established by Nunavut instrument R-014-2018.

“conviction appeal” means an appeal from a conviction, acquittal or stay, or any decision that otherwise concludes criminal proceedings, other than a sentence appeal, including

- (a) any decision described in section 672.72, subsection 675(3), and sections 676, 784 and 839 of the *Criminal Code*,
- (b) an appeal from a costs order in a criminal matter,
- (c) an appeal or review of a decision under the *Extradition Act*, and
- (d) an appeal from a decision that a person is unfit to stand trial or is not criminally responsible on account of mental disorder under Part XX.1 of the *Criminal Code*,

“Court” means the Nunavut Court of Appeal;

“criminal appeal” means an appeal to which these Rules apply;

“date of decision” means the later of

- (a) the date that the decision being appealed is made, and
- (b) for a conviction appeal, where the sentencing occurs later than the conviction decision, the date that the sentencing decision is made.

“file” means to present the correct document and obtain an acknowledgement from the Registrar that the document is part of the Court record, and includes filing by any electronic method approved by the Registrar;

“permission to appeal” means

- (i) an application for leave to appeal, and
- (ii) an application under section 680 of the *Criminal Code* for review of an interim release decision;

“Registrar” means the person appointed as the Registrar of the Court under the *Judicature Act*, R.S.N.W.T. 1988, c. J-1;

“Rules of the Nunavut Court of Justice” means the Rules of the Supreme Court of the Northwest Territories, N.W.T. Reg. R-010-96, or any rules amending or replacing those rules;

“self-represented appellant” means an appellant who is not represented by counsel; and

“sentence appeal” means an appeal from a sentence, direction respecting parole, or other disposition following conviction, including the declarations, orders and dispositions listed in section 673, paragraph 675(1)(b) and paragraph 676(1)(d) of the *Criminal Code*.

References: *Criminal Code*: s. 2 and s. 673 - definitions; s. 680 - review of bail.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel; s. 2 & s. 673 - Court of Appeal; s. 673 & s. 785 - sentence; s. 672.1 - disposition. *Civil Appeal Rules*: rule 1 - appeal, appellant, decision.

Application of civil appeal rules

3(1) Subject to these rules, to any enactment, and to any direction by a single appeal judge, if these rules do not deal with a matter, the Civil Appeal Rules (including rule 2 of those Rules) apply to criminal appeals, subject to any modifications or exceptions required to make them appropriate for the administration of criminal justice.

(2) For greater certainty, the following provisions of the Civil Appeal Rules do not apply to criminal appeals

- (a) Rule 3 [*Appeals as of Right*];
- (b) Rule 4 [*Appeals with Permission*];
- (c) Rule 9 [*Cross appeals*];
- (d) Rule 47 [*Settlement Using Court Processes*]; and
- (e) Rule 53 [*Security for Costs*].

(3) Provisions of the Rules of the Nunavut Court of Justice respecting Discovery of Documents, Examinations for Discovery, Security for Costs, and Costs, do not apply to criminal appeals.

References: *Criminal Code*: s. 482 - power to make rules; s. 683(3) - powers in civil appeals apply.
Extradition Act: s. 52 - rules of procedure.

Defined Terms: *Civil Appeal Rules*: rule 1 - appeal, judge; *Criminal Appeal Rules*: rule 2(2) - civil appeal rules, criminal appeal.

Division 2

Starting an Appeal

Application for permission to appeal

4(1) An appellant may bring an Application for Permission to Appeal in Form CRA-A under rule 23 if permission to appeal is required because

- (a) leave to appeal to the Court is required under the *Criminal Code* in a summary conviction matter, or by section 2 of the *Summary Convictions Procedure Act*,
- (b) a direction is required under section 680 of the *Criminal Code* for review of an order respecting judicial interim release, or
- (c) the appeal is of an order respecting costs.

(2) If permission to appeal is granted the appellant shall file a notice of appeal under rule 6 [*How to start an appeal*].

(3) In any case referred to in subrule (1), the Application for Permission to Appeal must be brought within

- (a) the time stated in any enactment for commencing the appeal, or
- (b) if paragraph (a) does not apply, one month after the date of the decision.

(4) Where permission to appeal is required in a case not referred to in subrule (1)

- (a) the appellant shall file a notice of appeal under rule 6 [*How to start an appeal*], and
- (b) unless otherwise ordered the application for permission to appeal is deemed to be included in the notice of appeal, and will be heard at the same time as and by the panel hearing the appeal.

References: *Criminal Code*: s. 675(1)(a)(ii and iii) - leave to appeal other than on question of law; s. 675(1)(a)(ii) - certificate of trial judge allowing appeal; s. 675(1)(b) & 676(1)(d) - leave to appeal against sentence; s. 675(1.1) & 676(1.1) - combined indictable and summary conviction appeal; s. 676.1 - appeal re costs; s. 678 - notice of appeal; s. 680 - review of bail; s. 839 - summary conviction appeals. *Extradition Act*: s. 49 - leave to appeal.

Defined Terms: *Criminal Code*: s. 2 & s. 673 - Court of Appeal. *Civil Appeal Rules*: rule 1 - appellant, appeal, decision, panel; *Criminal Appeal Rules*: rule 2(2) - Court, date of decision, permission to appeal.

Self-represented appellants

5(1) A self-represented appellant who is in custody may start an appeal by submitting to a senior officer of the institution in which the appellant is in custody, within the time specified in rule 6 [*How to start an appeal*], three copies of a Notice of Criminal Appeal in Form CRA-B.

(2) The senior officer who receives a Notice of Appeal under subrule (1) shall endorse on it the date it was received, return a copy to the appellant, retain a copy, and forward a copy to the Registrar without delay.

References: *Criminal Code*: s. 678 - notice of appeal. *Extradition Act* s. 50 - commencing an appeal.

Defined Terms: *Criminal Code*: s. 2 - senior officer; s. 673 - registrar. *Civil Appeal Rules*: rule 1 - appeal, appellant; *Criminal Appeal Rules*: rule 2(2) – file, registrar, self-represented appellant.

How to start an appeal

6(1) An appeal, other than an appeal by a self-represented appellant in custody referred to in rule 5, must be started by filing with the Registrar three copies of a Notice of Criminal Appeal

- (a) using Form CRA-B for an appeal by a self-represented appellant, or
- (b) using Form CRA-C for all other appeals.

(2) A Notice of Criminal Appeal must be filed and, subject to rule 7 [*Service of the notice of appeal*] an additional filed copy must be served on the respondent within

- (a) the time for starting an appeal stated in an enactment,

- (b) ten days after permission to appeal is granted, if the appellant is granted permission to appeal or
- (c) one month after the date of decision if paragraphs (a) and (b) do not apply,

Information note

The deadline for appealing a disposition under section 672.72 of the *Criminal Code* is 15 days after receipt of a copy of the placement or disposition decision. The deadline for appealing under section 50 of the *Extradition Act* is 30 days from the decision.

If convictions are entered, or sentences are imposed simultaneously by a trial judge in connection with both a summary conviction matter and an indictable matter, both matters may be appealed together to the Court of Appeal: *Criminal Code*, subsections 675(1.1) & 676(1.1).

References: *Criminal Code*: s. 672.72 - appeal of disposition; s. 678 - extending time to appeal. *Extradition Act* s. 50 - commencing an appeal; s. 50(2) - extending time to appeal.

Defined Terms: *Criminal Code*: s. 2 & s. 673 - Court of Appeal, sentence; s. 672.1 - dispositions; s. 673 - registrar; s. 673 & 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal, appellant, decision, party, rule; *Criminal Appeal Rules*: rule 2(2) – conviction appeal, date of decision, file, registrar, self-represented appellant, permission to appeal.

Service of the application for permission to appeal or notice of appeal

7(1) Where the appellant is not the Attorney General or prosecutor, the Registrar shall, without delay, forward a copy of the Application for Permission to Appeal or Notice of Criminal Appeal to the Attorney General or prosecutor.

(2) In all other cases the appellant must serve a filed copy of the Application for Permission to Appeal or Notice of Criminal Appeal on the respondent in accordance with rule 8 [*Method of service*], within the time specified in rule 6 [*How to start an appeal*].

References: *Criminal Code*: s. 4 - proof of service; s. 678 - notice of appeal; s. 678.1 - substitutional service

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel, prosecutor; s. 673 - registrar; s. 785 - prosecutor. *Civil Appeal Rules*: rule 1 - appeal, appellant, respondent; *Criminal Appeal Rules*: rule 2(2) - Attorney General, permission to appeal, registrar.

Method of service

8(1) Subject to any enactment or order, an Application for Permission to Appeal or a Notice of Criminal Appeal as of right filed by the Attorney General or prosecutor must be personally served on the respondent.

(2) Any documents other than an Application for Permission to Appeal or a Notice of Criminal Appeal as of right subsequently required to be served on a party to a criminal appeal may be served at the address for service provided by that party, or on the lawyer of record for that party.

References: *Criminal Code*: s. 678 - service; s. 678.1 - substitutional service. *Civil Appeal Rules*: rule 68 - lawyer of record; rule 67 - substitutional service.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel; s. 785 - trial. *Civil Appeal Rules*: rule 1 - appeal, respondent; *Criminal Appeal Rules*: rule 2(2) – address for service, file, permission to appeal, criminal appeal.

Variation of a sentence

9 If a convicted person appeals a sentence, and the Attorney General proposes to argue on appeal that the sentence should be varied, the Attorney General must file and serve on the convicted person a Notice of Variation of Sentence in Form CRA-D, on or before filing the Attorney General's factum.

References: *Criminal Code*: s. 676(1)(d) - Attorney General appeal against sentence; *Criminal Appeal Rules*: rule 3(2)(c) - no cross appeals.

Defined Terms: *Criminal Code*: s. 2 - Attorney General; s. 673 & 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal, respondent; *Criminal Appeal Rules*: rule 2(2) - Attorney General, file, sentence appeal.

Appeals of conviction and sentence

10 Unless otherwise ordered, where an appeal is started from both conviction and sentence the two components of the appeal are to proceed together.

References: *Criminal Code*: s. 482(3)(c) - power to regulate procedure in criminal matters.

Defined Terms: *Criminal Code*: s. 673 & 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal; *Criminal Appeal Rules*: rule 2(2) - conviction appeal, sentence appeal.

Division 3

Appeal Documents

Preparation of Appeal Record

11(1) Unless otherwise ordered, the appellant must,

- (a) within ten days after filing a Notice of Criminal Appeal
 - (i) order or commence preparation of the Appeal Record, and
 - (ii) order the transcripts required by paragraph 12(d) or 13(d), and

- (b) within five days after ordering the Appeal Record and transcripts, file a copy of the order and serve a filed copy on the respondent.

(2) Subject to rule 12 [*Contents of Appeal Record – appeals from convictions and conviction and sentence*], rule 13 [*Contents of Appeal Record – only sentence is appealed*] and rule 14 [*Format of Appeal Record*], the appellant shall

- (a) file five copies of the Appeal Record,
- (b) serve on the respondent an additional filed copy of the Appeal Record, and
- (c) serve on the respondent an electronic copy of the Transcripts if available.

(3) The Appeal Record and Transcripts must be prepared promptly and filed and served without delay after they are available, and

- (a) in an appeal from sentence only where the net sentence is six months or less, not later than two months after the date the Notice of Criminal Appeal was filed,
- (b) in an appeal from sentence only where the net sentence is greater than six months, not later than three months after the date the Notice of Criminal Appeal was filed, or
- (c) in all other appeals, not later than four months after the date the Notice of Criminal Appeal was filed.

(4) If the Appeal Record is not filed and served within the applicable deadline and an extension is not obtained, the Registrar shall place the appeal on the List to be spoken to under rule 20.

Defined Terms: *Criminal Code*: s. 673 - registrar; s. 673 & 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal, judge; *Criminal Appeal Rules*: rule 2(2) - conviction appeal, criminal appeal, file, registrar, self-represented appellant, sentence appeal.

Contents of Appeal Record – appeals from conviction and conviction and sentence.

12 An Appeal Record for appeals from conviction, and from conviction and sentence, must include:

- (a) A Table of Contents at the beginning of each volume
 - (i) listing separately each document in every volume and showing the page number where each document can be found,
 - (ii) including a copy of the Table of Contents for the Transcripts required by subparagraph (d)(i), and
 - (iii) containing a list and description of all the exhibits entered in the trial court, and the page in the Transcripts where the entry of the exhibit is shown.

- (b) Part 1 - Pleadings, consisting of
 - (i) the Information, Indictment or other originating document, and endorsements, and
 - (ii) for a further appeal in a summary conviction matter,
 - (A) the written or transcribed reasons of the Nunavut Court of Justice, and
 - (B) the notice of appeal to the judge of the Nunavut Court of Appeal under section 829(2) of the *Criminal Code*.
- (c) Part 2 - Final Documents, which must include
 - (i) the written or transcribed reasons
 - (A) that led to the decision being appealed, and
 - (B) for any decision rendered during the trial that is relevant to the disposition of the appeal,
 - (ii) the charge to the jury, and the verdict of the jury,
 - (iii) any formal record of the decision, including any certificate of conviction, order of acquittal, report of criminal trial, or report of criminal appeal,
 - (iv) any Notice of Variation of Sentence in Form CRA-D,
 - (v) any restricted court access order,
 - (vi) the order and reasons granting permission to appeal for appeals referred to in subrule 4(1),
 - (vii) the Notice of Criminal Appeal,
 - (viii) proof of service where an enactment requires service on the Attorney General of Nunavut or the Attorney General for Canada, and
 - (ix) if there is no oral record that can be transcribed for Part 3, a notation to that effect in the Table of Contents.
- (d) Part 3 - Transcripts, which must include
 - (i) a Table of Contents at the beginning of every volume, listing separately each part of the transcript, the name of each witness and questioner and showing the page number where the part or the testimony of the witness or questioner begins,
 - (ii) all oral evidence including, where the sentence is being appealed, any oral evidence given at the sentencing,

- (iii) only such part of the argument that is necessary to determine the appeal,
- (iv) where the sentence is being appealed, the speaking to sentence,
 - (A) in the case of a guilty plea, from the time of the plea, and
 - (B) in other cases, from the time of conviction.
- (v) in the case of an appeal from a judgment in a jury trial, the address to the jury of each party, the judge's charge to the jury and the answers given to any questions from the jury.

References: *Civil Appeal Rules*: rule 69 - restricted court access order.

Defined Terms: *Civil Appeal Rules*: rule 1 - restricted court access order.

Contents of Appeal Record – only sentence is appealed

13 An Appeal Record for an appeal as to sentence only must include:

- (a) a Table of Contents as required by paragraph 12(a),
- (b) Part 1 - Pleadings, consisting of the Information, Indictment or other originating document, and endorsements,
- (c) Part 2 - Final Documents, which must include
 - (i) any written or transcribed reasons for conviction, and the reasons for the sentence,
 - (ii) any formal record of the decision, including the certificate of conviction, report of criminal trial, or report of criminal appeal, and any resulting orders, prohibitions, authorizations or warrants arising from the sentencing,
 - (iii) the Notice of Criminal Appeal,
 - (iv) any Notice of Variation of Sentence in Form CRA-D, and
 - (v) any restricted court access order.
- (d) Part 3 - Transcripts, which must include:
 - (i) a Table of Contents as required by subparagraph 12(d)(i),
 - (ii) the plea and particulars, and any oral evidence given at the sentencing, and
 - (iii) speaking to sentence,

- (A) in the case of a guilty plea, from the time of the plea, and
- (B) in other cases, from the time of conviction.

References: *Civil Appeal Rules*: rule 69 - restricted court access order. *Criminal Appeal Rules*: rule 9 – variation of sentence.

Defined Terms: *Criminal Code*: s. 673 - indictment, sentence; s. 785 - information, sentence, trial. *Civil Appeal Rules*: rule 1 – appeal, restricted court access order; *Criminal Appeal Rules*: rule 2(2) - sentence appeal.

Format of Appeal Record

14(1) An Appeal Record must comply with rule 36 (*Requirements for all documents*) and

- (a) be printed single-sided and bound together along the right edge of the page so that the printed text is to the left of the binding,
- (b) number the Pleadings starting with page P1, and the Final Documents with page F1,
- (c) have red cardstock covers, front and back, and
- (d) be divided into numbered volumes of approximately 200 pages each.

(2) The Transcripts must

- (a) be prepared by a court reporter or transcriptionist recognized by the Registrar,
- (b) be paginated and printed double-sided,
- (c) have grey cardstock covers, front and back, and
- (d) be divided into numbered volumes of approximately 200 pages each.

(3) Subject to any Practice Direction for electronic filing, an Appeal Record may be completed in electronic format with the consent of all parties, or by order of a single appeal judge.

(4) A single judge of the Court may set or vary the contents or format of the Appeal Record as the nature of the appeal requires, including giving direction respecting transcripts.

Information note

If any document required to be included in the Appeal Record is not available at the time of preparation, it can be appended to the factum, or the Extracts of Key Evidence: subrule 18(6).

References: *Criminal Code*: s. 678 - notice of appeal.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel; s. 673 - indictment; s. 785 - information, trial. *Civil Appeal Rules*: rule 1 - appeal, decision, restricted court access order; *Criminal Appeal Rules*: rule 2(2) - Attorney General, conviction appeal, criminal appeal, permission to appeal.

Factums in criminal appeals

15(1) The appellant must file five copies of an appellant's factum that meets the requirements of rule 16 [*Contents of factums*], rule 17 [*Format of factums*] and rule 36 [*Requirements for all documents*].

(2) An appellant's factum must be filed and served as follows:

- (a) for a conviction appeal, and a conviction and sentence appeal, before the earlier of
 - (i) two months after the filing of the Appeal Record, and
 - (ii) six months after the filing of the Notice of Criminal Appeal;
- (b) for an appeal of sentence only, before the earlier of
 - (i) two months after the filing of the Appeal Record, and
 - (ii) four months after the filing of the Notice of Criminal Appeal;

(3) If an appellant's factum is not filed and served by the applicable deadline and an extension is not obtained, the Registrar shall place the appeal on the List to be spoken to under rule 20.

(4) The respondent shall file and serve five copies of a respondent's factum that meets the requirements of rule 16 [*Contents of factums*], rule 17 [*Format of factums*] and rule 36 [*Requirements for all documents*], or a letter of intention not to file a factum

- (a) for a conviction appeal, and a conviction and sentence appeal, not later than two months after service of the appellant's factum.
- (b) for an appeal from sentence only, before the earlier of
 - (i) one month after service of the appellant's factum, and
 - (ii) ten days before the opening day of the sitting at which the appeal is to be heard.

(5) A respondent who does not file a factum is not permitted to present oral argument unless the panel of the Court hearing the appeal orders otherwise.

Defined Terms: *Criminal Code*: s. 673 - registrar, sentence; s. 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal, appellant, judge, respondent; *Criminal Appeal Rules*: rule 2(2) - conviction appeal, criminal appeal, file, registrar, self-represented appellant, sentence appeal

Contents of factums

16(1) A factum must include the following:

- (a) a Table of Contents, including page numbers;
- (b) Part 1 – Facts:
 - (i) in the appellant’s factum, a statement of facts (including, if desired, a concise introductory statement of the legal issues raised), and
 - (ii) in the respondent’s factum, its position on the facts as stated by the appellant, and any other facts considered relevant;
- (c) Part 2 – Grounds of Appeal:
 - (i) in the appellant’s factum, a concise statement of the grounds for appeal, and
 - (ii) in the respondent’s factum, its position in regards to the stated grounds, and any other points that may properly be put in issue;
- (d) Part 3 – Standard of Review: a statement on the relevant standard of review;
- (e) Part 4 – Argument: a discussion addressing the questions of law or fact raised by the appeal;
- (f) Part 5 – Relief Sought: a statement of the relief sought;
- (g) the estimated time required for the oral argument, not exceeding 45 minutes for each separately represented party in the appeal;
- (h) Table of Authorities: a list of the legal authorities referred to in the factum,
 - (i) listing separately each authority, and
 - (ii) providing any neutral citation assigned to the authority by the court that decided it, and at least one print citation where available;
- (i) an Appendix containing extracts from any enactment or rule necessary for the disposition of the appeal, unless they are reproduced elsewhere in the materials to be filed.

(2) A factum in a sentence appeal, and an appeal from conviction and sentence, must include a Sentence Appeal Questionnaire in Form CRA-E immediately following the table of contents either

- (a) in the appellant's factum, or
 - (b) where the appellant is a self-represented appellant and that party's factum does not include the Sentence Appeal Questionnaire, in the respondent's factum.
- (3) A single appeal judge may vary the format requirements of or dispense with the preparation of a factum.

Information note

Rule 36 [*Requirements for all documents*] contains format requirements for all documents. Paragraph 36(1)(f) permits attaching Extracts of Key Evidence to the factum if they are not bulky.

References: *Criminal Appeal Rules*: rule 18(6) - documents missing from Appeal Record; rule 36 - requirements for all documents.

Defined Terms: Criminal Code: s. 673 - registrar; *Criminal Appeal Rules*: rule 2(2) - registrar.

Format of factums

17(1) Factums must be

- (a) formatted using at least 12 point font, one-inch margins and at least 1.5 line spacing, except for quotations, and
 - (b) be printed single-sided and bound together along the right hand edge of the page so that the printed text is to the left of the binding.
- (2) Parts 1 to 5 of a factum must not exceed 30 pages in length for each separately represented party or intervenor.
- (3) Factums must contain precise references to the location, page numbers and paragraph numbers or lines of the Appeal Record, Extracts of Key Evidence and authorities cited.
- (4) Each factum must have cardstock covers, front and back, prepared as required by rule 36 [*Requirements for all documents*], in the following colours:
- (a) appellants – beige or ivory;
 - (b) respondents – green;
 - (c) intervenors – blue.

Other appeal documents

18(1) Where needed to resolve the issues in an appeal, each party shall file Extracts of Key Evidence

- (a) containing extracts of the transcripts, exhibits and other material on the record needed to resolve the issues in the appeal,
- (b) excluding any evidence, exhibits and other materials unlikely to be needed, and
- (c) not containing any comment, argument, trial briefs, legal authorities or new evidence.

(2) Extracts of Key Evidence must be prepared as required by rule 36 [*Requirements for all documents*] and

- (a) have a table of contents at the beginning of every volume, listing separately each document, including each exhibit to any affidavit, and showing the page number where the document can be found;
- (b) be numbered sequentially throughout, commencing with
 - (i) page A1 for the appellant's Extracts of Key Evidence,
 - (ii) page R1 for the respondent's Extracts of Key Evidence, and
 - (iii) page I1 for the intervenor's Extracts of Key Evidence; and
- (c) have cardstock covers, front and back, in the following colours:
 - (i) appellants – yellow;
 - (ii) respondents – pink;
 - (iii) intervenors – blue.

(3) A party preparing Extracts of Key Evidence shall file five copies with the Registrar, when or before filing that party's factum, and must file and serve one additional copy on every other party to the appeal.

(4) Books of authorities must not be filed.

(5) If a party proposes to refer to specific passages in authorities during the oral argument, the party shall bring sufficient copies of the specific passages to the hearing for the use of the Court and the parties.

(6) If any document required by rule 12 [*Contents of Appeal Record – appeals from conviction and conviction and sentence*] or 13 [*Contents of Appeal Record – only sentence is appealed*] is not available at the time of preparation of the Appeal Record, a copy must be included in the Extracts of Key Evidence or appended to the factum.

(7) The clerk of a trial court shall, on request of the Attorney General or counsel for the Attorney General, supply certified copies of any exhibits or records in the clerk's possession that are required for an appeal.

(8) On request of the Court, the trial judge must provide a report on any matter related to the case.

References: *Criminal Code*: s. 482(3)(d)(v) - providing Attorney General with copies of exhibits; s. 682(1) - report of trial judge.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, clerk of the court, counsel; s. 673 - trial court. *Civil Appeal Rules*: rule 1 - appeal, party; *Criminal Appeal Rules*: rule 2(2) - Attorney General, criminal appeal, file, registrar.

Division 4

Scheduling Oral Argument

Scheduling oral argument

- 19(1) Unless otherwise directed, an appeal must be set down for an oral hearing.
- (2) On agreement of all parties, but subject to any contrary direction, the Court may hear and decide an appeal without oral argument.
- (3) The Court may proceed with the hearing of an appeal when scheduled, even if
- (a) a party does not appear at the scheduled time; or
 - (b) any party has failed to file its factum.
- (4) Unless the panel of the Court otherwise permits, oral argument must not exceed 45 minutes for each separately represented party in the appeal, with any consolidated appeals to be treated as one appeal.

Information Note

Section 672.72(3) of the *Criminal Code* provides that appeals from dispositions (after findings of not criminally responsible by reason of mental disorder) are to be expedited. Sections 51(1) and 57(5) of the *Extradition Act* require that appeals be heard at an early date.

References: *Criminal Code*: s. 672.72(3) - appeal from disposition made by court or Review Board should be made expeditiously.

Defined Terms: *Criminal Code*: s. 672.1 – disposition, s. 673 - registrar. *Civil Appeal Rules*: rule 1 - appeal, party; *Criminal Appeal Rules*: rule 2(2) - conviction appeal, criminal appeal, file, registrar.

Speaking to the List

- 20(1) The List of appeals will be called by a single judge at times scheduled for the Speaking to the List.
- (2) The parties to an appeal shall appear at the Speaking to the List and provide an update as to the progress of the appeal.
- (3) If the Appeal Record and factums have been filed at the time the List is spoken to, the appeal must be scheduled for hearing at the next or a subsequent sitting of the Court.

(4) An appeal that has not been perfected at the time of the Speaking to the List may be scheduled for hearing on any terms specified by the judge.

(5) If an appeal is not spoken to or not scheduled for hearing at the Speaking to the List, the judge may

- (a) order that the appeal remain on the List;
- (b) strike the appeal for delay or want of prosecution; or
- (c) make a procedural order to advance the appeal.

Defined Terms: Criminal Code: s. 2 - counsel; s. 673 - registrar. *Civil Appeal Rules*: rule 1 - appeal, appellant; *Criminal Appeal Rules*: rule 2(2) - conviction appeal, file, registrar, self-represented appellant.

Adjournments

21(1) The parties to an appeal may adjourn or reschedule an oral hearing only if

- (a) the appeal has been discontinued or abandoned; or
- (b) a single appeal judge permits adjournment or rescheduling.

(2) A single appeal judge may at any time set down or reschedule an appeal, or place any appeal on or remove any appeal from the hearing list.

Defined Terms: *Criminal Code*: s. 2 - counsel; s. 673 – sentence, registrar; s. 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal, appellant, decision, judge, party; *Criminal Appeal Rules*: rule 2(2) - conviction appeal, file, registrar, self-represented appellant, sentence appeal.

Division 5
Applications

Bringing applications

22(1) Subject to subrule 4(4), an applicant shall

- (a) for an application to a single appeal judge, at least ten days before the application is scheduled to be heard file three copies of an application and the other material required by subrule (2),
- (b) for an application to a panel of the Court, at least 20 days before the application is scheduled to be heard file five copies of an application and the other material required by subrule (2), and
- (c) within those same times, file and serve one additional copy of the application and other materials on every other party to the appeal.

(2) Subject to rule 23 [*Application for permission to appeal*], an applicant must file and serve

- (a) an Application in Form CRA-F that must
 - (i) state briefly the grounds for the application,
 - (ii) identify the material or evidence intended to be relied on,
 - (iii) refer precisely to any applicable provision of an enactment or rule, and
 - (iv) state the remedy sought,
- (b) any accompanying affidavit, if required,
- (c) other material to be relied on, even if previously filed, and
- (d) a memorandum of argument prepared in compliance with subrule 22(4).

(3) A respondent to an application

- (a) to a single appeal judge must, at least five days before the application is scheduled to be heard, file
 - (i) three copies of a reply memorandum of argument and any accompanying affidavit (if required) and any other materials to be relied on, or
 - (ii) three copies of a letter indicating that no additional materials will be filed by the respondent.
- (b) to a panel of the Court must, at least ten days before the application is scheduled to be heard, file

- (i) five copies of a reply memorandum of argument and any accompanying affidavit (if required) and any other materials to be relied on, or
- (ii) five copies of a letter indicating that no additional materials will be filed by the respondent,

and

- (c) must within those same times, file and serve one additional copy of those materials on every other party to the appeal.

(4) A memorandum filed on an application must be formatted as required by paragraph 17(1)(a) and

- (a) must not be longer than ten pages for an Application for Permission to Appeal and five pages for any other application, and
- (b) may in addition attach a chronology, where that is relevant to the application.

(5) A respondent who fails to respond to an application or who elects not to file a memorandum in response to an application may not present oral argument at the hearing of the application unless the single appeal judge or the panel of the Court otherwise permits.

(6) Unless otherwise permitted,

- (a) subject to paragraph (b), oral argument on an application, including a reply, before a single appeal judge or a panel of the Court may not exceed 15 minutes for each party to the application,
- (b) oral argument on an Application for Permission to Appeal, including a reply, may not exceed 30 minutes for each party to the application, and
- (c) consolidated applications will be treated as one application for the purpose of this rule.

Information Note

All of the materials should be filed at the same time, unless the application must be filed first to preserve a time limit. If in urgent matters the applicant wishes to abridge the time limits, the Registrar should be consulted for directions.

Defined Terms: *Civil Appeal Rules*: rule 1 - appeal, judge; *Criminal Appeal Rules*: rule 2(2) - criminal appeal.

Application for permission to appeal

23(1) An Application for Permission to Appeal must

- (a) be in Form CRA-C and comply with rule 22 [*Bringing applications*],
- (b) state the exact questions of law on which permission to appeal is requested, and
- (c) include the written or transcribed reasons of the Nunavut Court of Justice and the judge of the Nunavut Court of Appeal under section 829(2) of the *Criminal Code*.

(2) Subject to any enactment, no appeal lies from an order of a single appeal judge granting or denying permission to appeal.

(3) An Application for Permission to Appeal that has not been heard within six months from the date of the filing of the application is deemed to have been abandoned unless a single judge of the Court otherwise directs.

References: *Criminal Code*: s. 675(1)(a)(ii and iii) - leave to appeal other than on question of law; s. 675(1)(a)(ii) - certificate of trial judge allowing appeal; s. 675(1)(b) & 676(1)(d) - leave to appeal against sentence; s. 675(1.1) & 676(1.1) - combined indictable and summary conviction appeal; s. 675(4) - review of denial of leave to appeal; s. 676.1 - appeal re costs; s. 839 - summary conviction appeals.

Defined Terms: *Civil Appeal Rules*: rule 1 - appeal, judge; *Criminal Appeal Rules*: rule 2(2) - permission to appeal.

Application for judicial interim release

24(1) An application for judicial interim release must not be brought until

- (a) a Notice of Criminal Appeal or an Application for Permission to Appeal has been filed, and
- (b) the Appeal Record has been ordered, or the appellant's lawyer undertakes to order the Appeal Record within ten days of the hearing of the application.

(2) An application for judicial interim release in an appeal against sentence only is deemed to include an Application for Permission to Appeal sentence.

(3) Unless otherwise ordered, an application for judicial interim release pending appeal must be based on an affidavit of the applicant deposing to any facts relevant and material to the application, which affidavit must include:

- (a) particulars of the applicant's criminal record and any pending criminal charges, including any pending criminal charges outside Canada, and
- (b) an undertaking to surrender into custody in accordance with the terms of any order granted.

(4) Unless otherwise ordered, an Order Granting Judicial Interim Release must be in form CRA-G.

(5) An appellant who is granted judicial interim release must diligently prosecute the appeal, comply strictly with all appeal deadlines, and keep the Registrar informed of any changes of address or contact information.

(6) If an appellant is granted judicial interim release and the appeal is struck or abandoned the Court may issue a warrant for arrest without further order.

Information Note

The affidavit in support of judicial interim release should generally disclose the prior and proposed place of residence and employment of the applicant, and any other information likely to be pertinent to the application.

References: *Criminal Code*, s. 675(1)(b) & 676(1)(d) - appeal against sentence; 679 - release pending appeal; Form 12 - Undertaking; Form 32 - Recognizance.

Defined Terms: *Criminal Code*: s. 2 - counsel; s. 673 & s. 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal, appellant; *Criminal Appeal Rules*: rule 2(2) – file, permission to appeal, sentence appeal.

Application to admit new evidence

25(1) An application to admit new evidence must be filed and served prior to the filing of, and prior to the deadline for filing, the applicant’s factum.

(2) In addition to the documents required by subrule 22(2), the applicant shall file

- (a) five copies of the proposed new evidence, and
- (b) five envelopes large enough to contain a copy of the new evidence, marked “New Evidence” with the appeal number and style of cause.

Application to reconsider a previous decision

26 An application to reconsider a previous decision of the Court must be filed and served and must be returnable prior to the filing of, and prior to the deadline for filing, the applicant’s factum.

Application to restore an appeal

27 An application to restore an appeal that has been struck or an Application for Permission to Appeal that has been deemed abandoned must be filed, served and granted within six months after having been struck or deemed abandoned.

References: *Criminal Appeal Rules*: rule 32 - restoring criminal appeals.

Summary determination of appeals

28(1) The Registrar may refer to the Court for summary determination any appeal that

- (a) does not show a substantial ground of appeal,

- (b) appears to be frivolous or vexatious, or
- (c) can be determined without a full hearing.

(2) The Registrar may refer to a single appeal judge for summary determination any appeal that does not show a substantial ground of appeal, or that should have been filed with another court.

References: *Criminal Code*, s. 685 - referrals by Registrar.

Defined Terms: *Criminal Code*: s. 673 - registrar; *Civil Appeal Rules*: rule 1 - appeal, judge; *Criminal Appeal Rules*: rule 2(2) – Court, file, registrar.

Division 6

General Rules

Presence at appeals

29(1) Subject to subrule (2), an appellant or respondent in custody is entitled to be present in person at the hearing of the appeal.

(2) An appellant who is in custody and who is represented by counsel is not entitled to be present in person on the hearing of any appeal on a question of law alone, or any application unless the right to be present in person is granted by an enactment, or a single appeal judge orders the appellant to be present in person.

(3) Unless otherwise ordered by a single appeal judge, an appellant or respondent in custody who is not entitled to be present in person at an application or appeal is entitled to be present by means of a telecommunication device, closed-circuit television, or other suitable method of communication.

Information Note

Subject to the direction of a single appeal judge, the entitlement of an appellant who is in custody to be present at the hearing of the appeal is specified in section 688 of the *Criminal Code*.

References: *Criminal Code*, s. 688 - right of appellant to attend the appeal; s. 774.1 - *habeas corpus*; s. 848 - remote appearance; s. 852 - sentence.

Defined Terms: *Civil Appeal Rules*: rule 1 - appeal, appellant, judge.

Duties of lawyers

30(1) Lawyers who are retained to represent a party in a criminal appeal shall without delay advise the Registrar in writing of

- (a) the lawyer's retainer or its termination,
- (b) any intention to abandon the appeal, and

- (c) any change in whether a party in custody is or is not to be present in court for any application or appeal.

(2) A lawyer of record in a criminal appeal shall apply to a single appeal judge, on notice to the client and the Attorney General, for permission to withdraw from the record unless a Notice of Change of Representation in Form CRA-H is filed by another lawyer.

(3) A lawyer of record in a criminal appeal who is given permission to withdraw from the record shall within ten days after permission was granted file with the Registrar and serve on the Attorney General a statement setting out an address for service or the last known address and contact information of the client.

References: *Criminal Appeal Rules*: rule 2(2) - criminal appeal.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel; s. 673 - registrar. *Civil Appeal Rules*: rule 1 - appeal, party; *Criminal Appeal Rules*: rule 2(2) - Attorney General, file, registrar

Abandonment of appeals

31 An appellant may abandon the appeal by filing and serving a Notice of Abandonment in Form CRA-I.

Defined Terms: *Civil Appeal Rules*: rule 1 - appeal, appellant; *Criminal Appeal Rules*: rule 2(2) - file.

Restoring criminal appeals

32(1) An appeal that has been struck or an Application for Permission to Appeal that has been deemed to have been abandoned may be restored

(a) by filing a written consent of the parties, or

(b) by order of a single appeal judge granted under rule 27 [*Application to restore*].

(2) An order or written consent restoring an appeal must set deadlines and directions for the filing of any outstanding materials, and if the appellant fails to comply with any of those deadlines or directions, the appeal is deemed to have been struck again.

References: *Criminal Appeal Rules*: rule 27 - restoring appeals.

Defined Terms: *Civil Appeal Rules*: rule 1 - appeal; *Criminal Appeal Rules*: rule 2(2) - criminal appeal.

New trials

33 Unless otherwise ordered, where the Court orders a new trial

- (a) the presiding judge is deemed to have directed that the person charged is remanded to appear at the next sitting of the court appealed from that has jurisdiction in the case, and

- (b) if the person charged was on judicial interim release at the time of the judgment of the Court, the order for judicial interim release is deemed to be continued until the person charged reappears in the trial court.

References: *Criminal Code*: s. 679(7.1) - interim release pending new trial; s. 686(2)(b) - order of new trial. *Civil Appeal Rules*: rule 23(6) - presiding judge.

Defined Terms: *Criminal Code*: s. 673 - trial court; s. 785 - trial. *Civil Appeal Rules*: rule 1 - appeal, court appealed from, judge; *Criminal Appeal Rules*: rule 2(2) – Court, criminal appeal.

Scope of sentence appeals

34 In any sentence appeal the Court on its own motion may treat the whole matter of sentence as open to variation, but if the Court intends to vary a sentence under this rule, notice and an opportunity to be heard must be provided to the parties.

Defined Terms: *Criminal Code*: s. 673 & s. 785 - sentence. *Civil Appeal Rules*: rule 1 - appeal, party; *Criminal Appeal Rules*: rule 2(2) - Court, sentence appeal.

Judgment in appeals

35(1) Unless otherwise directed, a formal judgment is not required in a criminal appeal unless an appeal to the Supreme Court of Canada is filed, applied for or contemplated.

(2) Where a judge of the Court dissents from the decision of the Court on a point of law, any judgment of the Court that is prepared must specify the grounds on which the dissent is based.

(3) Unless otherwise directed, where the Attorney General prepares a formal order or judgment resulting from an application or appeal, and the other party is self-represented, the approval of the other party is not required.

References: *Criminal Code*: s. 677 - specifying basis of dissent. *Civil Appeal Rules*: rule 63 - approval of judgments.

Defined Terms: *Criminal Code*: s. 2 - Attorney General. *Civil Appeal Rules*: rule 1 - appeal, decision, judge, party; *Criminal Appeal Rules*: rule 2(2) - Attorney General, Court, criminal appeal, file.

Requirements for all documents

36(1) All materials prepared for an appeal must

- (a) be succinct, legible and divided into a single series of consecutively numbered paragraphs,
- (b) include the names of the parties in a style of cause in Form CRA-J,
 - (i) as set out in the notice of appeal, unless amended,

- (ii) listed in the same order in which they were listed in the style of cause in the court appealed from, and
 - (iii) showing the status of the party in the appeal and in the court appealed from,
- (c) identify the nature of the material, the name of the party filing it, and that party's status on the appeal,
 - (d) provide an address for service,
 - (e) provide the name, address and contact information of the person who prepared the material,
 - (f) be divided into volumes of approximately 200 pages each, provided that if the Extracts of Key Evidence do not exceed 30 pages, the Extracts may be included as an appendix to the factum, and
 - (g) be 8.5" x 11" in size.

(2) The Appeal Record, factums, and Extracts of Key Evidence must have a cover page in Form CRA-K that includes the name of the Court, and the appeal number assigned by the Registrar.

(3) A single judge of the Court may vary time limits and direct that appeal materials be dispensed with, varied as to form, or amended.

References: *Criminal Code*: s. 849 - forms. *Civil Appeal Rules*: rule 79 - forms.

Defined Terms: *Civil Appeal Rules*: rule 1 - appeal; *Criminal Appeal Rules*: rule 2(2) - criminal appeal, registrar.

Forms

37 The forms set out in the Schedule may be used with any appropriate modifications.

Coming into force

38 These Rules come into force and the *Rules of the Court of Appeal for the Northwest Territories as to (A) Criminal Appeals, (B) Bail on Appeals, SOR/78-68 (1978) C Gaz II 435* are repealed on August 1, 2020.

Schedule of Criminal Appeal Forms

CRA-A - Application for Permission to Appeal

CRA-B - Notice of Criminal Appeal - Self-Represented Appellant

CRA-C - Notice of Criminal Appeal

CRA-D - Notice of Variation of Sentence

CRA-E - Sentence Appeal Questionnaire

CRA-F - Application

CRA-G - Order for Judicial Interim Release Pending Appeal

CRA-H - Notice of Change of Representation

CRA-I – Notice of Abandonment of Criminal Appeal

CRA-J - Criminal Appeal Style of Cause

CRA-K - Cover Page

NUNAVUT COURT OF APPEAL

Form CRA-A

[Rules 4, 23]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

APPELLANT/RESPONDENT: Her Majesty the Queen

RESPONDENT/APPELLANT:

DOCUMENT: **Application for Permission to Appeal**

Registrar's Stamp

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:

AND CONTACT INFORMATION OF ALL OTHER PARTIES:

NOTICE TO RESPONDENT

You have the right to state your side of this matter before the Court. To do so, you must be in court when the application is heard as shown below.

Date _____
Time _____
Where _____

WARNING

If you do not come to Court on the date and time shown above either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (Rule 22(3))

1. The proposed appeal is a further appeal in respect of a summary conviction offence from a judge of the Nunavut Court of Appeal under s. 829(2) of the *Criminal Code*.
2. Place of Nunavut Court of Justice Trial _____
3. Name of Nunavut Court of Justice Judge _____
4. Nunavut Court of Justice Court File Number _____
5. Name of Court of Appeal Judge (s. 829(2)) _____

6. Date of decision of Court of Appeal Judge _____

7. Offences of which Appellant convicted or acquitted
(Summarize each charge the appellant is appealing as it appears in the information or indictment, the plea, and the sentences imposed.)

Offence Name	Section	Plea	Sentence

8. (a) Reasons of Nunavut Court of Justice unreported reported at _____
(b) Reasons of judge of Court of Appeal unreported reported at _____
(include a copy of the reasons in the filed materials)

TAKE NOTICE that the Appellant applies for permission to appeal against conviction (or acquittal), on grounds involving a question of law alone.

9. The questions of law on which permission to appeal is requested are:
(set out the exact questions of law, or attach as schedule)

Dated on _____

at _____, Nunavut

Applicant, or Counsel for the Applicant

NUNAVUT COURT OF APPEAL

Form CRA-B
[Rule 5]

To be used when Appellant is not represented by counsel

Registrar's Stamp

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

RESPONDENT: Her Majesty the Queen

APPELLANT: _____

DOCUMENT: **Notice of Criminal Appeal – Self Represented Appellant**

1. On _____ at _____, I was convicted on charges of:
(date) (place)
(Set out details of charges)

2. The proceedings took place in the Nunavut Court of Justice

3. The name of the Judge was: _____

4. I pleaded (*check one*): Guilty Not Guilty

5. On _____ I was sentenced to: _____
(date)
(Set out details of sentence)

6. My address or institution is: _____ (*Note: This address will be used to serve appeal documents on you. It is your responsibility to notify the Registrar of the Court of Appeal of any change to this address.*)

7. I give notice that I desire to appeal, and if necessary for me to do so, to apply for permission to appeal against (*check one*):

- Conviction only Sentence only Both conviction and sentence

8. My reasons for appealing are:
(*Set out details for appealing*)

9. I intend to:

- represent myself on the appeal apply to Legal Aid for a Lawyer hire my own lawyer.

10. At the hearing of the appeal (*check one*):

- I wish to be present I do not wish to be present

11. If a new trial is ordered and I have the right to trial by judge and jury (*check one*):

- I wish trial by judge and jury I do not wish trial by judge and jury

12. My date of birth is: _____

Dated on: _____

Appellant's Signature: _____

1. Service of this document if the appellant is in custody:

3 copies of this Notice of Appeal must be served on a senior officer of the institution in which the appellant is in custody within one month of the date of sentencing.

2. Service of this document if the appellant is not in custody:

3 copies of this Notice of Appeal must be filed in the office of the Registrar within one month from the date of sentencing.

3. Responsibility for Appeal Record

An Appeal Record is required for every appeal. It is the appellant's responsibility to arrange for the Appeal Record to be prepared, and to file and serve it as required by the Rules. The appellant is responsible for any costs of the preparation, filing and service of the Appeal Record. Where an appellant believes he or she is unable to pay for the Appeal Record, he or she should consult with the Legal Aid Commission for further information.

NUNAVUT COURT OF APPEAL

Form CRA-C

[Rule 6]

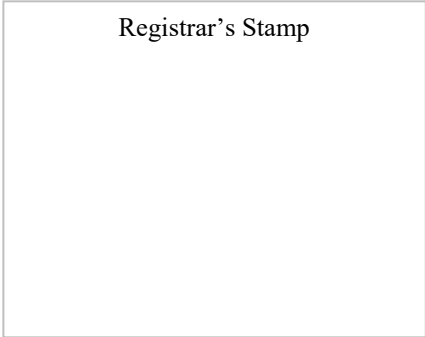
COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

APPELLANT/RESPONDENT: Her Majesty The Queen

RESPONDENT/APPELLANT:

DOCUMENT: Notice of Criminal Appeal



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:

AND CONTACT INFORMATION OF ALL OTHER PARTIES:

- 1. The Appeal is in respect of: [] an indictable offence, or [] in respect of a summary conviction offence by way of further appeal from a judge of the Nunavut Court of Appeal under s. 829(2) of the Criminal Code.
2. Place of Trial
3. Name of Trial Judge
4. Name of Crown Prosecutor at Trial
5. Name of Defence Counsel at Trial
6. Offences of which Appellant convicted or acquitted (Summarize each charge the appellant is appealing as it appears in the information or indictment, the plea, and the sentences imposed.)

Table with 4 columns: Offence Name, Section, Plea, Sentence. Multiple empty rows for data entry.

7. Date of Sentence or Acquittal

8. If the Appellant is in custody, place of incarceration

TAKE NOTICE that the Appellant: (check all of the following that are applicable)

- appeals against conviction (or acquittal) on grounds involving a question of law alone
- applies for permission to appeal the conviction on grounds involving a question of fact alone, or a question of mixed law and fact, and if permission is granted, hereby appeals against conviction
- applies for permission to appeal against sentence, and if permission is granted, appeals against the sentence.

9. The grounds of Appeal are attached.

10. The relief sought is:

If the Appellant is entitled to be present, the Appellant

- wishes* *does not wish* to be present at the hearing of the Appeal (*Criminal Code* s. 688).

If a new Trial is ordered and the Appellant has a right to trial by judge and jury, the Appellant

- wishes* *does not wish* the new trial to be by judge and jury (*Criminal Code* s. 686(5)).

Dated on _____

at _____, Nunavut.

_____ Counsel for the Appellant

Attach: Grounds of Appeal

NUNAVUT COURT OF APPEAL

Form CRA-D

[Rule 9]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

RESPONDENT: Her Majesty the Queen

APPELLANT:

DOCUMENT: **Notice of Variation of Sentence**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT:

Registrar's Stamp

AND THE APPELLANT:

Take notice that on the hearing of the appeal of the sentence imposed, Her Majesty the Queen intends to argue that the sentence should be increased or otherwise varied.

NUNAVUT COURT OF APPEAL
Form CRA-E
[R. 16(2)]

Sentence Appeal Questionnaire

This questionnaire should be placed as the first page of the appeal factum, immediately after the table of contents. (R. 16(2))

1 Offences of which convicted and sentenced.

Offence Name	Section	Offence Date	Sentence

2 Amount of time in custody before sentence: _____,
and credit given: _____.

3 Total sentence then imposed: _____.

4 Any probation conditions? If so, found on p.____ of the _____.

5 Guilty plea or trial?

6 Date released on bail pending appeal: _____.

7 Serving time for other offences also? No Yes

8 Does appellant have previous criminal record? No Yes
If so, found on p.____ of the _____.

9 Was the appellant on any form of release or supervision at the time of the offences? No Yes

10 Age at time of offence _____. Age now _____.

11 Employment history, including current job: found on p.____ of the _____.

12 Any pre-sentence, psychological or other report? If so, found on p.____
of the _____.

13 Any evidence of, or statement of effects of the offence on the victim? If so, found
on p.____ of the _____.

NUNAVUT COURT OF APPEAL

CRA-F

[Rule 22]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

APPELLANT/RESPONDENT: Her Majesty the Queen

STATUS ON APPLICATION:

APPELLANT/RESPONDENT:

STATUS ON APPLICATION:

DOCUMENT: **Application of**
(name of party and status on appeal)

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

AND CONTACT INFORMATION OF
ALL OTHER PARTIES:

NOTICE TO RESPONDENT (Indicate name of respondent to this application, and their status on appeal.)

WARNING

If you do not come to Court on the date and time shown below either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (Rule 22)

NOTICE TO RESPONDENT:

You have the right to state your side of this matter before the Court.

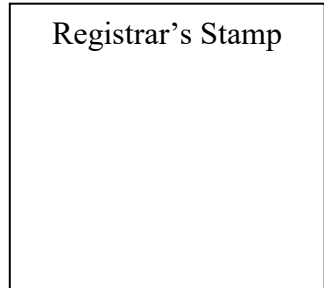
To do so, you must be in Court when the application is heard as shown below:

Date:

Time:

Where:

Before: single judge of the court panel of the court



Nature of Application and Relief Sought:

1.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable Acts, regulations and rules:

4.

NUNAVUT COURT OF APPEAL
Form CRA-G
[Rule 24(4)]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

RESPONDENT:

Her Majesty The Queen

APPLICANT/APPELLANT:

Registrar's Stamp

(appellant's name in full as it appears on information or indictment)

DOCUMENT:

Order For Judicial Interim Release Pending Appeal

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

DATE ORDER PRONOUNCED:

LOCATION OF HEARING:

_____, **Nunavut**

NAME OF JUDGE WHO GRANTED
THIS ORDER:

(Mr./Madam Justice First Initial(s), Surname)

UPON THE APPLICATION of the Appellant; AND UPON HAVING READ the Affidavit and Undertaking of the Appellant; AND UPON HEARING Counsel for the Appellant and Counsel for the Respondent;

AND IT APPEARING THAT the Appellant has filed a Notice of Appeal or Application for permission to appeal the applicant's conviction or sentence by (*name of Judge*), in the Nunavut Court of Justice, at (*location*), on (*date*), on the following charges, NAMELY:

(Summarize each charge the appellant is appealing as it appears in the information or indictment, and the exact sentences imposed.)

Offence Name	Section	Sentence

1. IT IS ORDERED THAT the Application be allowed and the Appellant be released upon:

Use the most appropriate one of the following two paragraphs

(a) Entering into an Undertaking, with the following conditions, namely:

- (i) keep the peace and be of good behavior;
- (ii) report to Court in person as and when required by the Court;
- (iii) remain within _____;
- (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made respecting the appeal;
- (v) _____

(include any other conditions that the Court orders. Refer to the Schedule to this Form and Forms 11, 11.1, 12 & 32 of the Criminal Code.)

Select either "with" or "without" as appropriate

(b) Entering into a Recognizance in the amount of \$ _____ with/without deposit of cash or other valuable security, and with/without sureties as deemed acceptable to the Court, with the following conditions, namely:

- (i) keep the peace and be of good behavior;
- (ii) report to Court in person as and when required by the Court;
- (iii) remain within _____;
- (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made

respecting the appeal;

(v) _____

(include any other conditions that the Court orders. Refer to the Schedule to this Form and Forms 11, 11.1, 12 & 32 of the Criminal Code)

2. Such Undertaking or Recognizance may be entered into by the Appellant before any Judge of the Nunavut Court of Justice or any Justice of the Peace.
3. Any Judge of the Nunavut Court of Justice or any Justice of the Peace may order that the Appellant be brought in for the purpose of entering into such Undertaking or Recognizance, and this Order shall be sufficient authority to any person having the custody of the Appellant in Nunavut to have the Appellant brought before a Judge or Justice of the Peace.
4. If the Appellant is brought before a Judge or Justice of the Peace and enters into the Undertaking or Recognizance, the person having custody of the Appellant shall release the Appellant forthwith.
5. The Appellant is to attend personally and provide satisfactory identification, at the opening of the next sittings of the Court of Appeal on *(day of week)* day, the *(date)*, between the hours of 9:30 a.m. and 10:00 a.m., at the Court of Appeal Registry Counter, Building #510, in Iqaluit, Nunavut, and at the opening of every sitting thereafter until such time as the appeal can be heard, subject to such further Order as a Judge of the Court may make.
6. On the hearing date, the Appellant shall attend the courtroom assigned for hearing of the appeal between the hours of 9:45 a.m. and 10:00 a.m., or any other such time as directed, and shall then and there surrender into the custody of any peace officer, pending the hearing of the appeal.
7. The appeal shall proceed in strict compliance with the Rules of Court, and the *(name of document)* must be filed by *(date of deadline)*, failing which the Crown may apply to revoke this order.
8. The Appellant shall surrender himself into custody if the appeal is dismissed, struck or abandoned, or otherwise when directed to do so by the Court.

*If appropriate,
insert any other
deadlines imposed
by the Court*

9. Additionally, the following deadlines are hereby imposed:

(a) _____

(b) _____

(c) _____

Registrar, Court of Appeal

*[Or if the judge has indicated that he or she will be
signing the order (and not the Registrar), label this line
as "Justice of Appeal" as follows:*

Justice of Appeal]

**Approved As Being The Order Granted:
(Or Consented To By:)**

Schedule

All the conditions in the Order must be carried forward into the Undertaking or Recognizance. Refer to sections 515(4), (4.1), and (4.2) of the *Criminal Code*, and Forms 11 (recognizance before peace officer), 11.1 (undertaking to peace officer), 12 (undertaking to justice or judge) and 32 (recognizance). Where the Court imposes further conditions on release, the following wording may be used:

1. Reporting requirement, s. 515(4)(a):

Report in person commencing (*state time and date of first report*) to (*name of appropriate police service or police officer*) or designate, at (*address of police station*); and thereafter report as and when directed.

2. Territorial limitations, s. 515(4)(b):

Remain within (*describe territorial jurisdiction, e.g. City, Town, Territory*).

3. Change of residence or employment, s. 515(4)(c):

Notify (*name of peace officer or other person designated*) of any change in address or employment or occupation.

4. Restrictions on communication, s. 515(4)(d):

Abstain from communicating, directly or indirectly, with (*name of witness, complainant or other person*), except in accordance with the following conditions:

5. Surrender passport, s. 515(4)(e):

Deposit his or her passport (*as the Judge or Justice of the Peace directs*).

NUNAVUT COURT OF APPEAL
Form CRA-H
[Rule 30(2)]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

APPELLANT/RESPONDENT: Her Majesty The Queen

APPELLANT/RESPONDENT:

DOCUMENT:

Notice of Change of Representation of (*name and status on appeal*)

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

[*Name and Status*] has changed the lawyer of record from [*Legal Counsel, Law Firm Name*] to [*Legal Counsel, Law Firm Name*].

OR

[*Name and Status*], formerly a self-represented litigant, has retained as lawyer of record [*Legal Counsel, Law firm Name*].

Legal Counsel for [*Name and Status*]:

Law firm name:

Per: _____

(*print name of lawyer signing*)

Registrar's Stamp

WARNING

This change of representation takes effect after the affidavit of service of this document on each of the other parties is filed. After that date, no delivery of a pleading or other document relating to the action is effective service on the former lawyer of record or at any address for service previously provided by the former lawyer of record, or on the self-represented litigant.

NUNAVUT COURT OF APPEAL

Form CRA-I

[Rule 31]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

APPELLANT/RESPONDENT: Her Majesty the Queen

APPELLANT/RESPONDENT:

DOCUMENT: **Abandonment of Criminal Appeal**

Address for Service and Contact Information
of Party Filing this Document:

Registrar's Stamp

The Appellant abandons the:

- conviction and sentence appeal.
- conviction appeal only.
- sentence appeal only.

The Appellant acknowledges that this abandonment ends the appeal that is being abandoned.

(signature of appellant or counsel)

(witness, unless signed by counsel)

(print name)

(print name)

Dated this _____ day of _____, 20 _____.

NUNAVUT COURT OF APPEAL

Form CRA-J

[Rule 36(1)(b)]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

APPELLANT/RESPONDENT:

Her Majesty The Queen

APPELLANT/RESPONDENT:

DOCUMENT:

Type of Document

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

and

CONTACT INFORMATION OF ALL
OTHER PARTIES:

Registrar's Stamp

**NUNAVUT COURT OF APPEAL
Form CRA-K
[Rule 36(2)]**

COURT OF APPEAL FILE NUMBER:

Registrar's Stamp

TRIAL COURT FILE NUMBER:

APPELLANT/RESPONDENT: Her Majesty the Queen

APPELLANT/RESPONDENT:

DOCUMENT: **Title of Document**

Appeal from the Decision of
The Honourable Mr./Madam Justice/Judge First initial(s), Surname
Dated the day of , 20

Title of Book (including name and status on appeal of filing party), volume number and page numbers and/or tabs included in volume

Party's name, counsel's name, address,
telephone and fax number of party filing this
document

Contact information of all other parties to the appeal

Name, address and telephone and fax numbers of the individual or organization
that prepared this document

(Delete the following if the cover page is being used for a document other than an appeal record)

The appeal record has been prepared in electronic format
 document format