



The Court of Appeal of Alberta

Notice to the Profession

March 14, 2003

The Consolidated Practice Directions of the Court of Appeal of Alberta are amended as follows:

Part A. “General”, add Section 7 “Speaking to the Civil and Maintenance Appeal Lists”, as follows:

7. The Maintenance Appeals List and the Civil Appeals List will be called by a Judge in Chambers, the Registrar, or the Deputy Registrar at a date to be specified by the Chief Justice. The calling of the Maintenance Appeals List will commence at 9:30 a.m. and the calling of the Civil Appeals List will commence at 1:30 p.m. in both cities. **This change is effective May 1, 2003.**

[March 2003]

Part E. “Criminal Cases”, Section 9 “Speaking to the Criminal Appeal Lists”, delete Section 9 and replace with the following:

9. (a) The Criminal Speak to List will be called by a Judge in Chambers, the Registrar, or the Deputy Registrar at 10:00 a.m. on a date to be specified by the Chief Justice.
 - (b) If the notice of appeal is filed 11 business days or more before the speak to date, the appeal will be placed on the current Criminal Speak to List. If the notice of appeal is filed 10 business days or less before the speak to date, the appeal will go over to the next Criminal Speak to List.

- (c) The party, or counsel for the party appearing on their behalf, shall appear at the time and place specified and are expected to be fully instructed in the progress of the appeal they are speaking to.
- (d) The Registrar is permitted to assign advance hearing dates for appeals to be heard. Where a fixed hearing date has been assigned, counsel are excused from attending the calling of the Criminal Speak to List. Counsel are advised, however, that exceptional circumstances will have to be demonstrated before the Court will entertain applications for any adjournment of these cases.
- (e) If counsel do not appear when a case is called on the Criminal Speak to List, the case shall be struck and may not be restored except by the order of the court or a judge.
- (f) At any time, before or after 6 months from the date when a notice of appeal was filed, the court may on the application of any party or on its own motion, dismiss an appeal for want of prosecution.

[March 2003]

Part E - Criminal Cases, amend Section 8 - Delayed Prosecution of Criminal Appeals, by adding subsection (c) as follows:

- (c) There has been an unsettling increase in the practice of filing a provisional appellant's factum apparently to comply with Rule 840(6.1) before the expiration of the four-month limitation. This is followed by the filing of the appellant's real factum at the appellant's leisure. This practice, if permitted, simply repeals the integrity of Rule 840(6.1) and the rationale accompanying it. That is the expedition of criminal appeals. As well, it disrupts the scheduling of the Criminal Appeal List. The Court of Appeal is adamant that this be avoided.

The office of the Registrar has hence been advised that second, supplementary factums in criminal appeals are not to be accepted for filing without leave of either the Motions Court or the Criminal List Manager. It follows that the appellant who seeks such leave must file and serve a Notice of Motion claiming such relief returnable at least 60 days before the opening of the sittings at which the appeal is to be heard. An affidavit

setting forth the reasons for the application, which exhibits the proposed supplementary factum, will be considered essential.

[March 2003]

Part I - Sentence Appeals, amend Section 4 - Contents of the Sentence Appeal Book, as follows:

Amend subsection (h)(ii) by adding new paragraphs (2), (5) and (7) and renumbering the existing paragraphs as follows:

h (ii) the final documents which must include:

(1) the formal certificate of conviction, certificate of acquittal, order of disposition, report of criminal trial, formal judgment or order appealed from;

(2) if by way of:

a) guilty plea - reasons for judgment on sentence;

b) finding of guilt - reasons for judgment on conviction and sentence; or

c) jury trial - reasons for judgment on sentence;

(3) the notice of appeal;

(4) all final documents, such as pre-sentence or post-sentence reports including probation orders, weapons' prohibition, order granting leave, undertakings/recognizance and other like material;

(5) the "Court Ordered Restrictions on Publication" form, or any other similar document if one exists;

(6) Form K; and

(7) if the appeal books have been prepared by anyone other than Transcript Management Services of Alberta Justice, Form M (Lawyer's

Certificate), if the appellant is represented by counsel.

and if the hard copy is longer than 200 pages, be split into separate volumes of approximately equal length.

Add the attached Form M, "Lawyer's Certificate" after Form L of the Consolidated Practice Directions.

Add subsection (k) as follows:

(k) Appeal books must

- (i) be prepared promptly and filed and served forthwith after they are prepared,
- (ii) be ordered, or their preparation begun by the appellant, before the expiration of three clear days from the filing of the notice of appeal,
- (iii) in any event, on sentence appeals of six months or less, unless otherwise ordered by a judge, be filed no later than six weeks from the date the notice of appeal was filed.

Part I - Sentence Appeals, amend Section 16 (Restoring a Sentence Appeal) by adding subsection (c) as follows:

16(c) Where the appellant's sentence appeal has been restored, unless otherwise ordered by a judge, the sentence appeal book and the appellant's sentence factum must be filed within 21 days from the date the appeal was restored or it will be struck.

[March 2003]

Part B - Appeal Books, amend subsection 3(c) as follows:

- (c) Exhibits are to be reproduced in date order. If there are many exhibits of the same sort (such as conveyances) they are to be grouped, organized in ascending chronological date order, and inserted at the end of the exhibit volume with each item properly indexed on the Table of Contents under a corresponding group header.

[March 2003]

Replace Forms I and L with the attached Forms I and L.

Replace Forms C to G with the attached Forms C to G.

[March 2003]

This amendment is effective forthwith.

//original signed by//

Fraser, C.J.A.

***NOTE:** A copy of the Consolidated Practice Directions and Practice Notes can be found on the Alberta Courts' website at www.albertacourts.ab.ca/ca/practicenotes

Form I

Appeal #

IN THE COURT OF APPEAL OF ALBERTA

Between:

Her Majesty the Queen

Respondent

and

A.B.

Appellant (Accused)

**Appeal from the Sentence of
The Honourable Mr./Madam Justice _____
Dated the ___ day of _____, 20__
Filed the ___ day of _____, 20__
The Accused having pled guilty (if applicable)**

**Title of Book, volume number, brief description of contents and
page numbers included in volume**

For the Appellant (Accused)

Counsel's name

Address, Telephone and Fax Number

For the Respondent

Counsel's name

Address, Telephone and Fax Number

**Name and Address of Individual or Organization
that prepared the Appeal Books**

The Appeal Books have been prepared in

electronic format

document format

Form L

Appeal #

IN THE COURT OF APPEAL OF ALBERTA

Between:

Her Majesty the Queen

Respondent

and

A.B.

Appellant (Accused)

**Appeal from the Sentence of
The Honourable Mr./Madam Justice _____
Dated the ___ day of _____, 20__
Filed the ___ day of _____, 20__
The Accused having pled guilty (if applicable)**

Title of Book

For the Appellant (Accused)

Counsel's name

Address, Telephone and Fax Number

For the Respondent

Counsel's name

Address, Telephone and Fax Number

**Name and Address of Individual or Organization
that is filing the book**

BAN ON PUBLICATION STATUS (include applicable rule number):

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Judgment of <u>Lastname, J., C.Q.B.A.</u> - dated 8 Jun 88/filed 30 Jun 88	F5
Notice of Appeal to C.A.A. - dated/filed 4 Jul 88	F9
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PART IV - Exhibits

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PART IV - Exhibits

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LAWYER'S CERTIFICATE

I certify to the Court that:

1. I am a Barrister and Solicitor on the active roll of The Law Society of Alberta;
2. I have personally checked the contents of this appeal book and found them to be correct;
3. There are no recorded reasons for the decision appealed from, except for those stated in this appeal book.

Name of Lawyer:

Address:

Dated _____, 20 ____.

Lawyer's Signature