

Court of Appeal

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Court of Appeal

- The Court of Appeal hears appeals from the Court of King's Bench.
- It also hears appeals from the Provincial Court on matters that proceeded by way of indictment (or a mixture of indictable and summary proceedings that are being appealed together)
- Matters that proceeded summarily in Provincial Court are appealed to the Court of King's Bench

Appeal Period

- Where an accused or young person is the appellant or intended appellant
 - The appeal period is 30 days from the date of sentencing (that still applies even when only appealing the conviction)
 - If the 30th day falls on a weekend or statutory holiday it is automatically extended to the next business day
 - It is highly recommended that you file the appeal before the last day in case there are any issues with your submission
 - It is important to note that if an appeal period is missed, it will require a motion to a judge in chambers to extend it

Notice of Appeal

- The notice of appeal is a prescribed form under the Manitoba Criminal Appeal Rules
- A link to a user-friendly Word version is available on the Court's Website
 - www.manitobacourts.mb.ca
- It is recommended that you use the Word version on the website and not the other one you will find there, or the one you will find on the Justice Laws website and I will explain this in more detail later

MANITOBA COURTS

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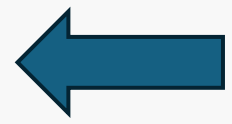
Information on this page last updated on March 9, 2021



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Forms

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Court of Appeal Forms (civil cases)

These forms are prescribed as part of the *Court of Appeal Rules*, M.R. 555/88 R, a regulation made under The Court of Appeal Act.

- The title is a link to the prescribed form in PDF format.
- The **MS Word** button is a link to a user-friendly version in Microsoft Word format. See the Court's guidelines for the use of these forms.

Form	Title		Legislative history
A1	Notice of Appeal	MS Word	M.R. 177/93; 94/2003 ; 80/2018
A2	Certificate of Decision	MS Word	M.R. 177/93; 200/2009
C1	Notice of Intent to Exercise Language Right	MS Word	M.R. 94/2003
C2	Appointment for Order of Language Directions		

Guidelines for use of forms

The following guidelines apply to the use of these forms, whether you are using the user-friendly **MS Word** version or creating your own form based on the prescribed form.

When printing the form:

use good quality printer paper 216 mm x 279 mm (8.5" x 11")



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Court of Appeal Forms (criminal cases)

These forms are prescribed as part of the *Manitoba Criminal Appeal Rules*, [SI/92-106](#), a federal regulation.

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Form	Title	
1	Notice of Appeal / Notice of Application for Leave to Appeal by Accused	MS Word
2	Notice of Appeal/Notice of Application for Leave to Appeal from Acquittal by Crown	
3	Notice of Appeal/Notice of Application for Leave to Appeal from Sentence by Crown	
4	Judicial Interim Release Order in the Court of Appeal	
5	Recognizance	
6	Recognizance of Surety	
7	Direction for Release	

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IN THE COURT OF APPEAL

BETWEEN:

His Majesty the King

Respondent

-and-

(Accused) Appellant
(or Young Person)

**NOTICE OF APPEAL/
NOTICE OF APPLICATION FOR LEAVE TO APPEAL BY ACCUSED
(OR YOUNG PERSON)**

**NOTICE OF APPEAL/
NOTICE OF APPLICATION FOR LEAVE TO APPEAL BY ACCUSED
(OR YOUNG PERSON)**

IN THE MATTER OF _____,
(Name of accused or young person in full) D.O.B. (D/M/Y)

convicted (or pleaded guilty) on the ____ day of _____, 20 ____ of

(State the charge(s) in full)

before _____, at the _____
(Name of judge) (Name of court)

in _____, and was sentenced on the ____ day of
(Court Centre)

_____, 20____, before _____ at
(Name of judge)

the _____ in _____, to
(Name of Court) (Court Centre)

(Sentence imposed)

and now in custody at _____
(Name of institution or penitentiary)

or whose last known address is: _____.

The accused intends to _____
(Appeal or apply for leave to appeal)

to The Court of Appeal against the _____
(Conviction and/or sentence)

on the following grounds:

and such further grounds as counsel may advise and This Honourable Court may permit.

The accused wishes to present his/her case and argument

_____.

(In writing or by oral argument)

The accused _____ to be present in person at the
(desires/ does not desire)
hearing of the appeal.

WAS ORAL EVIDENCE TENDERED AT TRIAL? ☐ YES ☐ NO

HAS A TRANSCRIPT OF THE EVIDENCE WITH RESPECT TO
CONVICTION AND/OR SENTENCE BEEN ORDERED FROM
TRANSCRIPTION SERVICES? ☐ YES ☐ NO

HAS A COURT ORDER OR LEGISLATION IMPOSED A PUBLICATION BAN IN RELATION TO THE TRIAL OR OTHER PROCEEDING THAT IS THE SUBJECT OF THE APPEAL? ☐ YES ☐ NO

IF YES, ATTACH A COPY OF THE ORDER IF AVAILABLE OR PROVIDE DETAILS ON THE PUBLICATION BAN:

HAS ACCESS TO THE COURT FILE BEEN RESTRICTED BY COURT ORDER OR LEGISLATION? ☐ YES ☐ NO

IF YES, ATTACH A COPY OF THE ORDER IF AVAILABLE OR PROVIDE DETAILS ON THE RESTRICTION TO THE COURT FILE:

Address for service for the accused is:

Dated this ____ day of _____, 20 .

Signature of accused (or young person)

TO: The Registrar of the Court of Appeal
Law Courts Building
100E - 408 York Avenue
Winnipeg, Manitoba

AND TO:
Manitoba Justice
Criminal Prosecutions
5th Floor - 405 Broadway Avenue
Winnipeg, MB R3C 3L6

Or Department of Justice Canada
Criminal Prosecutions
301 - 310 Broadway Avenue
Winnipeg, MB R3C 0S6

Notice of Appeal

- It is advisable to obtain a copy of the information or indictment as well as the disposition sheet in order to obtain the information you will need to complete the notice of appeal properly
- To recap some common issues to avoid rejection:
 - Ensure that the name of the appellant is set out in full and matches the Information or Indictment exactly
 - Ensure the date of birth of the appellant is accurate
 - Be sure to indicate whether the appellant was convicted or plead guilty, as that will affect the type of transcripts that will be required
 - The date of conviction (or guilty plea) needs to be accurate as well as the court location and judge's name.
 - The date of sentence needs to be accurate as well as the court location and sentencing judge name
 - The sentence imposed must be indicated. The prescribed form of the notice of appeal does not have a spot for it, but it is required by the Rules.

Notice of Appeal

- It is important to set the charges out in full and not in an abbreviate form, even when assisting with a prisoner's own appeal.
- Please use the exact wording from the Information or Indictment:
 - That John Doe, on or between 4th day of October 2018 and the 29th day of July 2019 at the City of Winnipeg, in the Province of Manitoba, did commit an aggravated assault against Bill Smith contrary to section 268 of the *Criminal Code*
 - rather than Agg Asslt x 1, for example.

Notice of Appeal

- The Manitoba Criminal Appeal Rules and the prescribed form of a notice of appeal were amended to include information regarding whether a ban on publication is in place and whether there are any restrictions on access to the court file.
- This information **must** be provided by the appellant with the details either described in detail or by having a copy of any order or ban attached.

Notice of Appeal

- Under the Criminal Appeal Rule 2, an initiating document shall be signed by the appellant, his, her or their counsel or AGENT.
- This might come in handy if you are having difficulty getting a notice of appeal signed by the appellant prior to the appeal period expiring.

Notice of Appeal

- If your firm is appointed to represent a person who filed a prisoner's own appeal, which may not have the most viable or clearly described grounds, it is recommended that you seek to amend the notice of appeal to include all grounds that will be pursued.
- Leave to amend grounds of appeal requires permission of a judge.
- Permission of a judge is sought by way of notice of motion seeking leave to amend.
- The motion should specify what the amended grounds are or alternatively, a draft of the proposed amended notice of appeal can be attached to the notice of motion and/or resulting order, i.e. in the form attached hereto
- You are still required to file the amended notice of appeal once the order has been granted, and it must be filed within the time given by the Court, or another motion will be necessary.

Notice of Appeal

- There is no fee for filing a criminal appeal in the Court of Appeal

Transcripts

- Transcripts are generally required on all appeals and initiating notices of motion, but the type of transcripts required by the Court will vary depending on the type of appeal it is.
- The Court of Appeal always requires one paper copy and one PDF copy of all transcripts.
- REMINDER: transcript order requests are now to be submitted to the Court Registry at the time the notice of appeal or initiating notice of motion is filed, and we will forward the request on to Royal Reporting.
- If you are appointed as counsel on what initiated as a prisoner's own appeal without transcripts having been ordered, please file a notification of appointment of counsel along with the transcript order request.

IN THE COURT OF APPEAL

Between:

HIS MAJESTY THE KING

Respondent

-and-

(Accused or Young Person) Appellant

NOTIFICATION OF APPOINTMENT OF COUNSEL

The (accused) appellant, formerly acting in person, has appointed
_____ as lawyer of record.

Date

*(name, address, and telephone
number of lawyer of record)*

To: Registrar – Court of Appeal
To: Public Prosecution Service of Canada or Manitoba Prosecution Service

Transcripts

- The type of transcript required by the Court will depend of the type of appeal it is.
- TIP: information regarding transcript requirements can be found on the Court's website (www.manitobacourts.mb.ca) under the Transcripts tab.
- There is a hyperlink called “Transcript Information”



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MANITOBA COURTS

Transcripts

Court transcripts in Manitoba are produced by a contract transcription company, **Royal Reporting, A Veritext Company**. Royal Reporting can be reached at:

Phone: (204) 306-9149 Email: transcription-mb@veritext.com

Transcript fees are set under the *Court Services Fees Regulation*. For transcript fees, [click here](#).

Payment for a transcript must be made directly to Royal Reporting by money order, certified cheque, bank draft, or major credit card. When attending the Royal Reporting Office in person, payment can be made by debit. They no longer accept cash. Royal Reporting will provide payment information on your transcript request.

To request a paper or electronic transcript or to obtain a cost estimate for a transcript, you must complete a transcript request form and submit it to Royal Reporting by email. You may also make a request in person. A transcript request form can be obtained from your nearest court office or the Royal Reporting website.

For further information please visit Royal Reporting's website at: <http://royalreporting.com>

[Transcript Request Form for Criminal proceedings](#)

[Transcript Request Form for Non Criminal proceedings](#)

[Transcript Information](#)

[Transcript Fees](#)



COURT OF APPEAL - TRANSCRIPT REQUIREMENTS

(Please note this does not include the requester's copy.)

There are different transcript requirements based on the type of matter being filed before the Court of Appeal. If you require further information, prior to ordering a transcript please contact the Court of Appeal at: 204-945-2647, extension 7.

Transcript requirements for appeals are as follows:

Conviction Appeal

Transcript of evidence and proceedings, including reasons for judgment.

- One (1) certified transcript and one (1) PDF copy

Sentence Appeal

Following a guilty plea, submissions by counsel and reasons for sentence are required.

Following a trial, reasons for conviction, submissions and reasons for sentence are required.

- One (1) certified transcript and one (1) PDF copy

Conviction and Sentence Appeal

Complete transcript is required.

One (1) certified transcript and one (1) PDF copy

Judgment/Order/Decision

Where oral evidence has been heard (i.e. witnesses have testified), you require:

- One (1) certified transcript and one (1) PDF copy

Where no evidence was heard (i.e. no witnesses were called), you require a transcript of the Reasons for Decision/Judgment/Order:

- One (1) certified transcript of the Reasons for Decision/Judgment/Order and one (1) PDF copy

Transcripts

- Occasionally additional transcripts, although not required, may be helpful to the court and counsel are encouraged to order them.
- For example, for a sentence appeal following a guilty plea, the Court requires a transcript of the submissions on sentencing and the judge's reasons, however, it may be that a transcript of the guilty plea and plea inquiry would be helpful.
- Another example might be where only the conviction is being appealed in which case you are not required to order the reasons for sentence, but the judge might make comments during the sentencing that may be important of the court of appeal.

Transcripts

- If you are ordering transcripts for the purpose of assessing the merit of a potential appeal or to provide an opinion to Legal Aid, order a copy directly from Royal Reporting but **do not** indicate “To Be Heard in the Court of Appeal”.
- If you subsequently file an appeal, the court’s copies will have to be ordered at that time. If the transcripts are ordered on a regular 21 business day, the request will be processed as such, even if it will just be a reprint.
- The respondent is required to order their own set of transcripts whether it be an appeal by the accused /young person or an appeal by the Crown.

Transcripts

- Transcripts are generally required for a judge to consider a motion for Judicial Interim Release pending appeal.
- TIP: if you bring a motion for Judicial Interim Release, you should update your transcript order request to expedited or priority service, at least on the transcripts that are necessary for the JIR motion, in order for the judge to get them in time.
- This becomes an issue when the motion for JIR is made on one clear day's notice to the Crown.

Transcripts

- In co-appellant situations, it is not necessary to duplicate the transcript order if transcripts have already been ordered by one appellant.
- TIP: depending on the type of appeal you have, you may still need to order some transcript, the sentencing transcripts for your client, for example.
- The use of transcripts across more than one appeal should be worked out between counsel and communicated to the registry by way of letter indicating the consent of the parties.
- TIP: be mindful that if you are relying on transcripts that were filed by a co-appellant, it may affect the filing timeline for your factum (45 days from the date the Registry receives the transcripts). You may want to consider seeking an consent extension from the Crown to ensure you have sufficient time to prepare your factum.

Material

- TIP: there is valuable information regarding the preparation and filing of material for the Court, on the Court's website under the Notice and Practice Directions section. www.manitobacourts.mb.ca
- A consolidated Practice Direction was issued on February 5, 2024 and is continually being updated.
- REMINDER: as of September 2024 the Court has issued a blanket request for electronic copies of all documents file with the Court of Appeal.

Factums

- Factums must be prepared in 14 point font, double-spaced with a maximum of 26 lines per page and 1 inch margins.
- Using Times New Roman gives you more words per page than Arial or Calibri
- Footnotes can be in 10 point font
- Quotations from authorities can be indented and single-spaced (still 14 point font though)
- The estimated time for argument is the time that your lawyer will require for their argument and not a global estimate.
- All factums must indicate what the Court's **jurisdiction** to determine the appeal, as well as the **standard of review** to be applied to each issue on appeal.

Factums

- The appellant's factum is due 45 days after the transcripts are received by the registrar.
- Subsequently ordering transcripts that were missed in your original request, does not automatically extend the due date for your factum.
- The registrar can grant an extension of time to file your factum if a written request is received before the due date and the Crown is **consenting**. Otherwise, a motion to a judge in chambers is required.

Factums

- In the event of a further evidence motion, each party must set out their arguments on the motion in their factum.
- Rule 21 of the Court of Appeal Rules (Civil Rules) govern the process for further evidence motions and should be reviewed in detail if applicable to your case.
- www.manitobacourts.mb.ca

Appeal Book

- The Crown is responsible for preparing and filing the appeal book on all criminal appeals, however, there is provision in the Rules which allows a party to file a supplementary appeal book containing materials relevant to the appeal but were omitted from the appeal book filed by the Crown.

Book of Authorities

- If only relying on a few authorities, they can be included in your factum.
- If you are relying on more than a few authorities, it is preferred that you file a separate Book of Authorities.
- Specific passages of cases that are being relied on should be highlighted or demarcated along the margin of the text.

Scheduling a Hearing

- Once the respondent's material is filed, the registrar will contact counsel to offer a range of available dates.
- Dates go quickly so a timely response is appreciated.
- It is helpful to indicate all dates in range offered on which the lawyer is available.
- Matters proceeding in the Court of Appeal should take precedence over matters in the lower court and therefore should proceed over other matters.

Hearing

- Arriving at least 10 minutes before the appeal hearing is scheduled to start is appreciated, so if you control your lawyer's calendar, remind them.
- The Court of Appeal does its best to ensure that all reserved judgments are released within the 6 month national guideline suggested the Canadian Judicial Council.
- The parties will be aware of the outcome of the appeal before the Registry staff is. It distributed to the parties before I receive a copy.
- There is no point in asking when a decision will be released, as we simply do not know and will not ask the judiciary. The assumption is that it will be within 6 months.

Miscellaneous

Questions?

www.manitobacourts.mb.ca