

## Part 61

### RULES OF THE COURT OF APPEAL OF ALBERTA AS TO CRIMINAL APPEALS

**839** In these Rules, unless the context otherwise requires:-

(1) “Appellant” means any person entitled to appeal to the Court under Part XVIII of the Code, or Section 771 of the Code, or under The Summary Convictions Act of Alberta, and includes the Attorney-General.

(2) “Appellate judge” means a judge of the Court of Appeal of Alberta, and includes an *ex officio* judge thereof.

#### **Criminal Code Reference S.2 - S.605**

(3) “Attorney-General” means the Attorney-General as defined in s. 2 of the Code and includes counsel instructed by him for the purpose of an appeal.

(4) “Code” means the Criminal Code.

(5) “Court” means the Court of Appeal of Alberta.

(6) “Prisoner appeal” means an appeal by a person who at the time the notice of appeal is given, is in custody and not represented by counsel.

(7) “Prosecutor” means a prosecutor as defined in s. 2 of the Code.

(8) “Registrar” means a registrar of the Court, or if there is no registrar appointed, means the clerk of the Court of the Judicial District of Calgary in the case of trial dispositions made in the Southern Judicial Districts and the clerk of the Court of the Judicial District of Edmonton in the case trial dispositions made elsewhere in Alberta, and includes a deputy, assistant or acting registrar.

#### **Criminal Code Reference S.603(2)(a)(b)-S.605(3)**

(9) “Respondent” means the Attorney-General in the case of a person who appeals against a conviction or sentence, or against a finding or verdict that he is unfit to stand trial, or from a finding of “not guilty” by reason of insanity; and in the case of the Attorney-General who appeals against sentence or acquittal, or a finding of “not guilty” by reason of insanity, or a finding or verdict that the Accused is unfit to stand trial, means the person accused.

- (10) “Sentence appeal” means an appeal where only the question of sentence is involved.
- (11) “Southern Judicial Districts” means the Judicial Districts of Macleod, Lethbridge, Calgary, Medicine Hat, Hanna, Drumheller and Red Deer.
- (12) “Trial disposition” means a conviction, a sentence, an acquittal, or an order from which there is an appeal.
- (13) “Trial judge” means a judge who presided at the trial, and includes a judge of the Provincial Court of Alberta, a judge of the District Court of Alberta, and a judge of the Trial Division of the Supreme Court of Alberta.
- (14) “Warden” means the person in charge of any custodial institution, including a remand centre, a gaol, a penitentiary, or a mental hospital.

### GENERAL

**840(1)** These Rules shall apply to appeals to the Court under:

- (i) Part XVIII of the Code, or Sec. 771 of the Code, or
- (ii) The Summary Convictions Act of Alberta.

(2) Numbers preceded by the letter "s" are references to sections of the Code.

(3) In all matters not provided for by these Rules, the Rules of Court respecting civil appeals shall apply *mutatis mutandis* save that there shall be no crossappeal, and Rule 509 shall not apply.

(4) Non-compliance with the Rules shall not render any proceedings void, but the same may be amended, set aside, or otherwise dealt with as may be just by an Appellate judge or the Court.

#### **Criminal Code Reference S. 607(2)**

- (5)
  - (i) Anytime prescribed by these Rules within which an appeal is to be taken may be extended by an Appellate judge or the Court before or after the expiration thereof, and any other time may similarly be extended or shortened.
  - (ii) Two clear days' notice in writing of an application to extend or shorten time shall be given to the opposite party unless such

application is made on consent, or unless otherwise ordered by an Appellate judge.

- (iii) An appeal to the Court may be taken from the dismissal by an Appellate judge of an application to extend or shorten time by filing a notice in writing with the registrar within seven (7) days of such dismissal.

(6) An appeal may be dismissed if the appellant fails to appear when the case is called for hearing, but such order dismissing an appeal may for special reasons be vacated on application to the Court.

(6.1) Subject to subrule (6.2) and notwithstanding any other Rule to the contrary, all conviction appeals and appeals by the Attorney General pursuant to section 676 of the Code shall be deemed to have been abandoned where four calendar months have passed since the Appeal Books have been readied and the appellant has failed to file and serve the appellant's factum on the respondent.

(6.2) The Court or a Judge thereof may, on motion by the appellant or, in the case of a prisoner appeal, on the motion of the Court or a Judge thereof, and on proper grounds being shown, continue any appeal referred to in subrule (6.2) by order before or after the expiration of the time fixed by that subrule and on such terms as may be just.

(7) If the appellant or respondent obtains leave of the Court to call further evidence upon the hearing of the appeal, the attendance of any witness or the production of any document may be obtained in the same way as that provided for by the Rules of the Supreme Court in civil matters, and all the provisions of such Rules so far as they are applicable, shall apply to the production of evidence upon an appeal.

- (8)
  - (i) The registrar shall, following the pronouncement of judgment by the Court in every criminal appeal, promptly enter a formal judgment.
  - (ii) Any clerical errors or omissions may be corrected by a single member of the Court pronouncing the judgment.

## METHOD OF APPEALING

### Criminal Code Reference S.607(1)

**841** An appeal or an application for leave to appeal under the Code shall be made by filing and serving a notice of appeal in the manner and within the

time as hereinafter directed.

**842(1)** An appeal under The Summary Convictions Act of Alberta shall be made by filing a certificate granted under the Act and by filing and serving a notice of appeal in the manner and within such time as is hereafter directed.

**(2)** Rule 850 shall apply, mutatis mutandis, to an application for leave under The Summary Convictions Act of Alberta.

### **TIME FOR APPEAL AND SERVICE**

#### **Criminal Code Reference S.607(1)**

**843(1)** A notice of appeal from conviction, or conviction and sentence, or sentence only, shall be filed and served within thirty (30) days from the date of sentence.

**(2)** A notice of appeal from acquittal shall be filed and served within thirty (30) days from the date of acquittal.

#### **Criminal Code Reference S.603(2)(b)**

**(3)** A notice of appeal from a finding of "not guilty" by reason of insanity by an accused person pursuant to s. 603 (2)(b) shall be filed and served within thirty (30) days from the date of such finding.

#### **Criminal Code Reference S.603(2)(a)-S.605(3)**

**(4)** A notice of appeal from a finding or verdict that an accused person is unfit to stand trial by reason of insanity by either such accused person or the Attorney-General, pursuant to s. 603 (2) (a) or s. 605 (3) shall be filed and served within thirty (30) days from such finding or verdict.

### **FILING AND SERVING NOTICE OF APPEAL**

#### **Criminal Code Reference S.607(1)**

**844(1)** The filing and serving of a notice of appeal shall be effected:

- (i) in a prisoner appeal, by serving three (3) copies of the notice of appeal on the warden or the designate of the warden of the institution in which the appellant is in custody. Such officer shall endorse on the copies the date he received them, and shall forthwith return one (1) copy to the appellant, and forthwith forward one (1) copy to the

registrar, and shall retain one (1) copy;

- (ii) in any other appeal by a convicted person, by filing in the office of the registrar or by mailing to him by registered mail three (3) copies of a notice of appeal;
- (iii) in an appeal by the Attorney-General, by filing two (2) copies of the notice of appeal with the registrar and by personal service on the person in respect of whose trial disposition the appeal is brought, unless otherwise ordered by an Appellate judge; provided that where substitutional service is ordered, no appeal shall be argued without leave of the Court, and on such application for leave, the Court may give further directions as to service.

(2) Upon receipt of a notice of appeal other than an appeal by the Attorney-General or prosecutor, the registrar shall forthwith forward a copy to the Attorney-General or his counsel at trial, or the prosecutor or his counsel at trial.

(3) In cases tried before a Provincial judge, the registrar shall immediately forward copy of the notice of appeal to the judge.

(4) In all cases, the registrar shall immediately forward a copy to the clerk of the Court in which the trial took place.

### CONTENT OF NOTICE OF APPEAL

#### Criminal Code Reference S.607(1)

**845(1)** In appeals where the appellant is not represented by counsel, a notice of appeal and application for leave to appeal shall be in Form "A" or to like effect.

(2) In all other appeals and applications for leave to appeal, the notice of appeal shall be in Form "B" or to like effect.

(3) Where an appeal or an application for leave to appeal is commenced by an appellant not represented by counsel, and the appellant subsequently retains counsel, the latter shall immediately notify the registrar and the respondent. Thereafter, all relevant Rules relating to appeals which are not appeals by persons not represented by counsel shall apply.

**846** Every notice of appeal and every application for leave to appeal, shall set out the grounds for appeal or application, and shall be signed by the

appellant or counsel.

**847(1)** No time or place for the hearing shall be stated in the notice of appeal. The registrar shall forthwith after receipt of the notice, other than a notice of an application to an Appellate judge for leave to appeal, enter the case on the lists of appeal for the next ensuing sittings of the Court, and all necessary directions as to the hearing of the appeal or application may be given by the Court or any judge thereof.

**(2)** In appeals by the Attorney-General, the Attorney-General shall take all reasonable steps to notify a respondent of the time and place for the hearing of the appeal.

**848** Unless otherwise ordered by the Court or a judge thereof, all appeals and applications to the Court or a judge thereof for leave to appeal from any trial disposition made in the Southern Judicial Districts shall be heard at Calgary, and all other appeals and applications shall be heard at Edmonton.

#### **APPEALS WHERE LEAVE REQUIRED**

**849(1)** Applications for leave to appeal may be made to the Court or to an Appellate judge.

**(2)** An application for leave to appeal to the Court shall be made by the filing of a notice of appeal, pursuant to these Rules, and no further notice is required.

**(3)** Where the Court grants leave to appeal, it may at once determine the appeal on its merits or it may direct that the appeal be heard at a later time.

**(4)** An application for leave to appeal to an Appellate judge shall be made by filing a notice of appeal pursuant to these Rules, and by filing with the registrar contemporaneously, or thereafter, a notice of motion. Such notice of motion shall be served on the respondent not less than two (2) clear days before the return of the motion, unless otherwise ordered.

#### **Criminal Code Reference S.603(1)(a)(ii)**

**(5)** If an Appellate judge refuses leave to appeal against a conviction in respect of an application brought pursuant to s. 603 (1) (a) (ii), the applicant may, by filing a notice in writing with the registrar within seven (7) days of such refusal, have the application for leave to appeal determined by the Court.

#### **Criminal Code Reference S.603(1)(b)-S.603(3)**

(6) If an Appellate judge refuses leave to appeal from sentence in respect of an application brought pursuant to s. 603 (1) (b), such determination is final, and no appeal from such order lies.

**Criminal Code Reference S.603(1)(a)(ii)**

**850(1)** An application to a trial judge for a certificate under s. 603 (1) (a) (ii) shall be made within thirty (30) days from the date of sentence, and may be made *ex parte*, or if the trial judge requires, on at least two (2) clear days' notice to the Attorney-General.

(2) Where a trial judge requires notice of the application:

- (i) the notice may be returnable before or after the expiration of the thirty (30) days mentioned above;
- (ii) a copy of the notice shall be mailed to or filed with the registrar;
- (iii) if the certificate is granted, the notice of appeal shall be mailed or filed as provided in S. 844 (1) within thirty (30) days from the date of sentence, or within two (2) clear days after the certificate is granted, whichever is the later.

**SENTENCE APPEALS WITH COUNSEL**

**851(1)** In an appeal against sentence, where the appellant is represented by counsel, unless otherwise ordered by the Court or a judge thereof, there shall be filed by the appellant with the registrar six (6) copies of a group of documents entitled "Sentence Material", and a further copy shall forthwith be served upon the respondent.

(2) The Sentence Material shall be filed with the registrar at least five (5) days before the opening of the Court.

(3) The Sentence Material shall include the following:

- (i) the Information or Indictment and sentence;
- (ii) a Statement of Facts as related to the trial judge;
- (iii) any pre-sentence or post-sentence reports;

- (iv) a transcript of the Reasons for Judgment and for sentence given by the trial judge; the criminal record, if any, of the convicted person, as disclosed to the trial judge.
- (4) Where an appeal book has been filed, the Sentence Material need not include any material already contained in the Appeal Book.
- (5) Six (6) copies of written material to be used in support of a respondent's argument shall be filed with the registrar three (3) days before the opening of the Court, unless the Court otherwise orders, and a further copy shall be forthwith served upon the appellant.

### SENTENCE APPEALS WITHOUT COUNSEL

**852(1)** In an appeal against sentence, where the appellant is not represented by counsel, he may present his argument orally or in writing, but in order to do so orally, he must signify in his notice of appeal his desire to be present, if he is in custody.

(2) Any argument in writing shall be filed with the registrar prior to the day fixed for the hearing.

### SENTENCE APPEALS GENERALLY

#### Criminal Code Reference S.614

**853(1)** In an appeal against sentence by a convicted person, the Attorney-General, if he intends upon the hearing of the appeal to contend that the sentence should be increased or varied, shall, not less than three (3) days before the commencement of the sittings of the Court at which the appeal comes to be heard, give notice of such intention in writing to the appellant or his counsel.

(2) In any appeal against sentence by either a convicted person or the Attorney General, the Court of its own motion may treat the whole matter of sentence as open, and on an appeal by a convicted person, may increase or vary the sentence, and on an appeal by the Attorney General, decrease or vary the sentence, provided that notice that such increase or variation is to be considered, is given by the Court so that the convicted person or the Attorney General may be heard on such disposition.

### APPEALS OTHER THAN SENTENCE APPEALS

**854(1)** Except in sentence appeals, or unless otherwise ordered, the appellant shall:



- (i) file six (6) copies of an appeal book with the registrar;
  - (ii) deliver one (1) copy of the appeal book to the respondent.
- (2) The appeal book shall be furnished to the appellant upon payment of the fees from time to time authorized by the tariff of fees payable to the office of the court reporters.
- (3) Unless otherwise ordered by the Court or a judge thereof, the Appeal Book shall contain:
- (i) the Information or Indictment;
  - (ii) the transcript of the evidence, including exhibits;
  - (iii) Counsels' addresses;
  - (iv) charge to the jury;
  - (v) Reasons for Judgment;
  - (vi) formal certificate of conviction (or acquittal);
  - (vii) Notice of appeal (or notice of application for leave to appeal).

**855** Except in sentence appeals, or unless otherwise ordered,

- (1) When an appellant is represented by counsel, the appellant shall:
- (i) file six (6) copies of a factum with the registrar;
  - (ii) deliver one (1) copy of a factum to the respondent twenty-eight (28) days before the date of commencement of the sittings at which the appeal is to be heard.
- (2) when a respondent is represented by counsel, the respondent shall:
- (i) file six (6) copies of a factum with the registrar;
  - (ii) deliver one (1) copy of a factum to the appellant fourteen (14) days before the date of commencement of the sittings at which the appeal is to be heard.

#### **FURNISHING CERTIFIED COPIES**

**Criminal Code Reference S.438(2)(d)(v)**

**856** The Provincial judge before whom a trial took place, or the clerk of the Court shall, upon request, forward to the Attorney General and to counsel who acted for the Attorney General at the trial, certified copies of the documents, exhibits and things connected with the proceedings which are in his custody and control, and which are required for the purposes of an appeal.

**REPORT OF A TRIAL JUDGE****Criminal Code Reference S.609(1)**

**857(1)** where an appeal is taken or an application for leave to appeal is made, the trial judge shall, at the request of the Court or a judge thereof, furnish to the registrar a report on the case or on any matter relating to the case which is specified in the request.

**(2)** Forthwith after the registrar receives the report, he shall mail a copy of it to the appellant and to the respondent, or to their counsel.

**DISPOSITION OF DOCUMENTS AND EXHIBITS**

**858(1)** Subject to the other subsections of this Rule, all documents, exhibits and things connected with a trial shall be retained by the Provincial judge or by the clerk of the Court for forty (40) days after sentence or acquittal, as the case may be.

**(2)** At any time after a trial, the trial judge or an Appellate judge may make such order as to the custody or conditional release of any document, exhibit or thing as the special circumstances of the case may require.

**(3)** Upon the filing of written consents by the accused or his counsel, and by the Attorney General or his counsel, the Provincial judge or the clerk of the court Shall deliver any document, exhibit or thing in accordance with such consents.

**(4)** Upon receipt of a copy of a notice of appeal, the Provincial judge or the clerk of the Court shall forward to the registrar all documents, exhibits and things connected with the proceedings at the trial, other than such as may already have been released pursuant to sub-sections (2) and (3) hereof.

**VERIFICATION OF TRANSCRIPTS  
AND DEPOSITIONS AT TRIAL**

**Criminal Code Reference S.468-S.487-S.575**

**859(1)** A transcript of the evidence of proceedings taken in shorthand at a trial and certified by the official court reporter who made or extended the transcript shall be *prima facie* proof of such evidence and proceedings.

(2) Where the evidence and proceedings are not taken by a court reporter, but by a sound-recording apparatus, as authorized under Provincial legislation, a transcript of such recording, certified by a court recorder, shall be *prima facie* proof of such evidence and proceedings.

(3) Where the evidence and proceedings are not taken by a court reporter, and are not taken by a sound-recording apparatus, as authorized under Provincial legislation, then depositions taken in accordance with s. 468 shall be *prima facie* proof of such evidence and proceedings.

(4) In this Rule, “official court reporter” means

- (i) a person appointed as an official court reporter by order of the Attorney General, or
- (ii) a certified shorthand reporter under the *Alberta Shorthand Reporters Regulation* (A.R. 197/96).

**COMPENSATION OR RESTITUTION OF PROPERTY****Criminal Code Reference S.653-S.654-S.655-S.616**

**860** An order for the restitution of property under ss. 653, 654 or 655 shall provide for securing the safe custody of the property referred to in the order, for the period during which its operation is suspended by virtue of s. 616.

**RELEASE FROM CUSTODY PENDING APPEAL****Criminal Code Reference S.608(1)(a)**

**860A (1)** All applications for release from custody pending the determination of an appeal to the Court shall be made to an Appellate judge. No application for release from custody pending the determination of an appeal shall be entertained unless the applicant has filed with the registrar a notice of appeal or an application for leave to appeal.

**Criminal Code Reference S.608(1)(b)**

(2) No application for release from custody pending the determination of an appeal from sentence only shall be granted unless the appellant has been granted leave to appeal.

(3) An application for leave to appeal may be combined and heard with an application for release from custody pending appeal.

**Criminal Code Reference S.608(1)(c)**

(4) No application for release pending the determination of an appeal or motion for leave to appeal to the Supreme Court of Canada shall be entertained unless the applicant has filed and served his notice of appeal, or, where leave is required, his application for leave to appeal.

**Criminal Code Reference S.608(2)**

**860B (1)** Where an applicant applies for release from custody pending determination of appeal, he shall give written notice of such application to the prosecutor. Such notice shall be two (2) clear days' notice, unless both parties attend upon an Appellate judge or the judge otherwise orders.

(2) The application shall be supported:

A. by an affidavit stating:

- (i) his places of abode in the three years preceding his conviction, and where he proposes to reside if released;
- (ii) his employment, if any, prior to conviction, and whether he expects to be employed if released;
- (iii) his criminal record, if any, including convictions outside Canada;
- (iv) whether criminal charges are, at the time of the application, pending against him, either in Canada or elsewhere.

B. by his undertaking to surrender himself into custody in accordance with the terms of any order granted.

(3) An Appellate Court judge may dispense with the filing of the affidavit referred to above, and may act upon a statement of facts conveyed to him by counsel for the applicant and for the Attorney-General, which statements of fact the judge may require each counsel to put in writing and file with the registrar.

(4) A judge of the Court which orders a new trial may forthwith entertain an application for interim release pending the new trial.

**ABANDONMENT OF APPEALS**

**860C (1)** An appellant who desires to abandon an appeal may do so at any time before the hearing of the appeal commences by completing a Notice of Abandonment in Form "C", or to like effect, and by filing or sending the same to the registrar. Form "C" shall be signed by the appellant, or by his solicitor

of record in the appeal. In the former case, the signature of the appellant shall be verified by affidavit or witnessed by a solicitor or by an officer of the institution in which the appellant is confined.

(2) Notwithstanding subsection (1) of this Rule, the appellant may be given leave by the Court to abandon an appeal after the commencement of argument.

(3) An appeal which is abandoned shall be as if no appeal had been taken.

### DISSEMINATION OF RULES

**860D** A sufficient number of copies of these Rules shall be prepared by the registrar at Calgary (Edmonton) and sent to every keeper of a Provincial Gaol in Alberta, and to the wardens of the Penitentiary at Prince Albert, and the Penitentiary at Drumheller, and such other penal institutions in Alberta as may be operated by the Government of Canada, and the registrar shall also send to the said keepers and wardens a copy of Sections 603, 607, 610 and 612 of the *Criminal Code* for any convicted person in his custody who requests the same.

**860E** These Rules shall come into force on the 1st day of January, A.D. 1978, on which date the Rules respecting criminal appeals to the Appellate Division of the Supreme Court of Alberta heretofore in force cease to be in force, without prejudice to any proceedings under the said Rules which may have been taken prior to the 1st day of January, A.D. 1978.

**FORM "A" - TO BE USED WHEN APPELLANT IS NOT REPRESENTED BY COUNSEL - RULE 845 (1)**

\_\_\_\_\_  
Her Majesty the Queen APPELLANT  
RESPONDENT

To: The Registrar, Appellate Division,  
Supreme Court of Alberta,  
The Court House,  
\_\_\_\_\_, Alberta.

**NOTICE OF APPEAL**

On the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_  
Alberta, I was convicted on charges of

in the Provincial Court  District Court  Supreme Court  and was  
sentenced to

At trial I pleaded GUILTY  NOT GUILTY

My address is:

\_\_\_\_\_  
I, the above appellant, hereby give notice that I desire to appeal, and if necessary  
for me to do so, to apply for leave to appeal against:  
CONVICTION ONLY  SENTENCE ONLY   
or both CONVICTION and SENTENCE  for the following reasons:

(SET OUT REASONS). (If the space is insufficient, put additional grounds on  
the reverse side of this form).

I wish  Do not wish  to be present at the hearing of the appeal. (S.615)  
If a new trial is ordered and I have a right to trial by judge and jury, I wish   
do not wish  trial by judge and jury. [S.613(5)]

DATED this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
(SIGNED) \_\_\_\_\_

APPELLANT.

(IF APPELLANT IS IN CUSTODY - 3 copies of this Notice of Appeal are to be  
served upon the Warden or designate of the Warden of the institution in which  
the Appellant is imprisoned within thirty (30) days of the sentence being imposed  
on him.)

(IF APPELLANT NOT IN CUSTODY - 3 copies of this Notice of Appeal are

to be filed in the office of the Registrar or mailed to him by registered mail within thirty (30) days from the date of the sentence imposed on him.)

to appeal against:

*NOTICES TO THE APPELLANT: (1) TAKE NOTICE THAT ON AN APPEAL FROM SENTENCE, THE APPELLATE DIVISION HAS THE POWER NOT ONLY TO DECREASE SENTENCE, BUT TO INCREASE IT, IF THE COURT CONSIDERS THE SENTENCE INADEQUATE.*

*(2) TAKE NOTICE THAT ON AN APPEAL FROM CONVICTION, APPEAL BOOKS ARE ESSENTIAL. SUCH BOOKS ARE TO BE ORDERED BY THE APPELLANT FROM THE OFFICE OF THE COURT REPORTERS AND WILL BE FURNISHED BY THE COURT REPORTERS AT THE EXPENSE OF THE APPELLANT. ON THE FILING OF THIS NOTICE OF APPEAL, THE REGISTRAR WILL ADVISE THE APPELLANT OF THE COST OF SUCH APPEAL BOOKS, AND WILL ADVISE AS TO THE OBTAINING OF ADVICE AS TO LEGAL AID PROCEDURES AVAILABLE IF THE APPELLANT HAS NOT THE FUNDS TO PAY FOR THE APPEAL BOOKS.*

**FORM "B" -TO BE USED WHERE NOTICE IS FILED BY  
COUNSEL FOR AN APPELLANT OR ON BEHALF OF THE  
ATTORNEY-GENERAL -- RULE 845 (2)**

IN THE SUPREME COURT OF ALBERTA  
APPELLATE DIVISION

\_\_\_\_\_ APPELLANT

\_\_\_\_\_ RESPONDENT

TO: The Registrar,  
Appellate Division,  
Supreme Court of Alberta,  
\_\_\_\_\_, Alberta.

**NOTICE OF APPEAL  
PARTICULARS**

1. The Appeal is in respect of indictable offence, or by way of further Appeal from the District Court in respect of a summary conviction offence.

[INDICTABLE OFFICE   
SUMMARY CONVICTION

2. Place of Trial (or District Court Appeal) \_\_\_\_\_

3. Name of Judge \_\_\_\_\_

4. Name of Court \_\_\_\_\_

5. Name of Crown Prosecutor at Trial \_\_\_\_\_

6. Name of Defence Counsel at Trial \_\_\_\_\_

7. Offences of which Appellant convicted or acquitted \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Sections of the *Criminal Code* or other Statutes under which Appellant convicted \_\_\_\_\_



- 9. Plea at Trial \_\_\_\_\_
- 10. Sentence imposed \_\_\_\_\_
- 11. Date of Sentence or Acquittal \_\_\_\_\_
- 12. If Appellant in custody, place of incarceration \_\_\_\_\_

TAKE NOTICE that the Appellant: (mark with an "x" which of the following are applicable:

- (1) appeals against conviction (or acquittal) on grounds involving a question of law alone
- (2) applies for Leave to Appeal his conviction on grounds involving a question of fact alone or a question of mixed law and fact, and if Leave be granted, hereby appeals against the said conviction
- (3) applies for Leave to Appeal against sentence, and if leave be granted, hereby appeals against the sentence

The grounds of Appeal are annexed hereto.

The relief sought is \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(The Appellant wishes  does not wish  to be present at the hearing of the Appeal.)

If a new Trial is ordered and the Appellant has a right to a Trial by Judge and Jury, the Appellant wishes  does not wish  the new Trial to be by Judge and Jury.

The Appellant's address of service is \_\_\_\_\_  
\_\_\_\_\_

DATED at \_\_\_\_\_, Alberta, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
[COUNSEL FOR] THE APPELLANT

**FORM "C"**

**[RULE 860 C.]**

**IN THE SUPREME COURT OF ALBERTA  
APPELLATE DIVISION**

\_\_\_\_\_  
APPELLANT

\_\_\_\_\_  
RESPONDENT

The Registrar, Appellate Division,  
The Supreme Court of Alberta,  
The Court House,  
\_\_\_\_\_, Alberta.

I, \_\_\_\_\_  
hereby give notice that I abandon my Appeal

DATED at \_\_\_\_\_

Alberta, the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

THIS NOTICE WAS SIGNED  
IN THE PRESENCE OF:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
APPELLANT (OR HIS SOLICITOR,  
AS THE CASE MAY BE).

NOTE: If this notice of abandonment of Appeal is signed by the appellant personally, Rule 860 C. (1) requires that his signature must be verified by Affidavit or witnessed by a solicitor, or by an officer of the institution in which he may be confined).

The Rules relating to Criminal Appeals above set out and attested by the members of the Appellate Division of the Supreme Court of Alberta have been made by the Appellate Division of the Supreme Court of Alberta with the concurrence of all judges thereof present at a meeting called for the purpose held at Edmonton, Alberta, on the 8th day of September, A.D. 1977, pursuant to section 438 of the *Criminal Code*.

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McGILLIVRAY, C.J.A.

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CAIRNS, J.A.

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McDERMID, J.A.

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SINCLAIR, J.A.

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CLEMENT, J.A.

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LIEBERMAN, J.A.

---

PROWSE, J.A.

---

MOIR, J.A.

---

HADDAD, J.A.

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MORROW, J.A.

*Can. Gaz. 28th September, 1977*