

Criminal Code

Court of Appeal Criminal Rules, 2025

The Court of Appeal of Newfoundland and Labrador, pursuant to subsection 482 of the *Criminal Code*, hereby makes the annexed *Court of Appeal Criminal Rules, 2025*.

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Chief Justice of Newfoundland and Labrador

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These rules are made pursuant to section 482 of the Criminal Code of Canada.

PART 1 INTERPRETATION

- Citation 1. These rules may be cited as the *Court of Appeal Criminal Rules, 2025*.
- Definitions 2. (1) In these rules, unless the context otherwise requires:
- (a) “Attorney General” means the Attorney General as defined in the Code, and His Majesty the King represented by the Attorney General;
 - (b) “Chief Justice” means the Chief Justice of Newfoundland and Labrador;
 - (c) “Code” means the *Criminal Code*;
 - (d) “Court” means the Court of Appeal, a panel of judges or a judge of the Court;
 - (e) “designated official” means the person designated in a penal institution to perform duties under these rules;
 - (f) “electronic version” means an electronic version in a format acceptable to the Court;
 - (g) “judge” means a judge of the Court and includes a judge of the Supreme Court of Newfoundland and Labrador whenever such judge is sitting by virtue of that office as a judge of the Court;
 - (h) “judgment” means the formal disposition of a matter by the Court and includes an order for judgment;
 - (i) “prisoner appeal” means an appeal by a person who is in custody and not represented by counsel;

(j) “registrar” means the person appointed and designated as registrar in accordance with the *Court of Appeal Act*;

(k) “request” means a request in writing, in Form N, delivered to the Court;

(l) “review board” means a board established by the Province pursuant to the Code to make or review a disposition following a verdict of not criminally responsible by reason of mental disorder or unfit to stand trial;

(m) “transcription office” means the office in the Supreme Court of Newfoundland and Labrador and the Provincial Court of Newfoundland and Labrador responsible for providing transcription of proceedings in court; and

(n) “trial judge” means the judge who presided at trial.

(2) The interpretation sections of the Code apply to these rules.

Application 3. Subject to federal legislation and federal uniform rules authorized under the Code, these rules shall apply to an appeal or an application or proceeding regarding a criminal matter, including an appeal against a disposition made by a court or review board, or a placement decision made by a review board following a verdict of not criminally responsible by reason of mental disorder or unfit to stand trial.

Publication of rules and practice notes 4. (1) These rules shall be published once in the Newfoundland and Labrador Gazette but shall not constitute a regulation under the *Statutes and Subordinate Legislation Act*.

(2) The Court may issue practice notes on any matter respecting appeals, applications and proceedings to which these rules apply.

(3) A practice note shall be published once in the Newfoundland and Labrador Gazette but shall not constitute a regulation under the *Statutes and Subordinate Legislation Act*.

Gap in the rules 5. Subject to federal legislation and federal uniform rules authorized under the Code, where a procedural issue arises that is not covered by these rules

(a) the *Court of Appeal Civil Rules, 2025* relating to civil procedure shall apply, with the necessary changes; or, where necessary,

(b) the Court may adopt and give directions regarding an appropriate procedure.

Non-compliance with the rules 6. The Court may waive compliance or relieve against non-compliance with these rules and may direct the procedure to be followed.

Calculation of time 7. Unless otherwise provided, time under these rules shall be calculated on the basis that

(a) where the Court is closed on the day on which a thing is to be done, it may be done on the next day on which the Court is open;

(b) “within”, “not less than” or a reference to a number of days shall not include the day on which the thing is to be done; and

(c) where the time limit is less than 6 days, days on which the Court is closed shall not be counted.

PART 2 APPEALS

Commencing an appeal 8. (1) An appeal, which is authorized under the Code, shall be commenced by filing a notice of appeal

(a) in Form A where the appeal is brought

(i) by a person who is represented by counsel, or

(ii) by the Attorney General; or

(b) in Form B where the appeal is brought by a person who is not represented by counsel.

(2) Where the person is in custody, the designated official shall, on request, provide the imprisoned person with a copy of Form B.

Time within which to commence an appeal

9. (1) A notice of appeal from
- (a) conviction, conviction and sentence, or sentence only, shall be filed not later than 30 days after the date of sentence;
 - (b) acquittal shall be filed not later than 30 days after the date of acquittal; and
 - (c) any other decision from which an appeal lies to the Court, not later than 30 days after the date of the decision.
- (2) Where a person is acquitted of an offence but is convicted of an included offence, a notice of appeal from the acquittal shall be filed not later than 30 days after the date of sentence imposed for the included offence.
- (3) Subject to paragraph (1)(b), where an appeal is to be taken in respect of one or more counts in an indictment, a notice of appeal shall be filed not later than 30 days after all counts have been disposed of, including the imposition of sentence.

Notice of appeal - delivery

10. (1) Except in a prisoner appeal, the appellant shall file with the Court the original and 3 copies of a notice of appeal in Form A, or, where the appellant is not represented by counsel, in Form B.
- (2) In a prisoner appeal, the designated official shall, without delay,
- (a) accept an appellant's notice of appeal in Form B,
 - (b) initial and endorse on the notice of appeal the date on which it was received from the imprisoned person,

(c) return a copy so endorsed to the appellant, and

(d) forward the original to the Court without delay, and in any event, within 5 days of the date endorsed under paragraph (b).

(3) On receipt of a notice of appeal the Court shall, without delay, forward a copy to the court appealed from and, except where the appellant is the Attorney General, to the Attorney General.

Notice of cross-
appeal

11. (1) A respondent to an appeal may file a notice of cross-appeal in Form C.

(2) The notice of cross-appeal shall be filed within 30 days after the respondent receives a copy of the notice of appeal.

(3) Failure to file a notice of cross-appeal under subsection (2) shall not preclude a respondent from making submissions on the issues, but the omission may be grounds for an order that the Court considers appropriate.

(4) Where a respondent files a factum on a cross-appeal, an appellant may file a reply factum within 30 days after receipt of the respondent's factum.

(5) Where an appeal is discontinued, a respondent may

(a) file a notice of election to proceed with a cross-appeal in Form D; or

(b) apply to the Court for directions.

(6) Where the respondent does not file a notice of election to proceed with a cross-appeal within 30 days after receiving notice that the appeal has been discontinued, the issues on the cross-appeal shall be deemed to be abandoned.

- Leave to appeal 12. Where leave to appeal is required, submissions on leave shall be heard at the same time as the appeal unless, upon request or application, or of its own motion, the Court directs that leave to appeal should be heard or determined prior to hearing of the appeal.
- Consent judgment 13. Where the parties agree in writing that the judgment or order of the court appealed from should be reversed or varied and they agree on the order that should be made, the appellant may make a request or apply to have that order confirmed by the Court.
- Publication bans 14. (1) For each appeal, the Attorney General shall complete a Form H stating whether a publication ban has been imposed by the court appealed from by virtue of legislation or for some other reason.
- (2) Where a publication ban applies, information provided on Form H shall include particulars of the ban.
- (3) A completed copy of Form H shall be included in the Appeal Book.
- (4) The Attorney General shall provide a copy of a completed Form H to the party filing the Appeal Book.
- (5) Where, on appeal, the Attorney General intends to request that a publication ban be imposed by the Court, notice shall be given to the Court and other parties by means of a completed Form H.
- Prehearing conference 15. (1) Any time after the notice of appeal has been filed, the Court, of its own motion, or upon the request of a party, may direct a prehearing conference for the purpose of giving directions or making orders regarding the conduct of the hearing of the appeal and any matter that might expedite the appeal.
- (2) The judge conducting a prehearing conference shall not for that reason be disqualified from hearing the appeal.

Documents –
filing and
serving

16. (1) Unless otherwise prescribed in these rules or directed or ordered by the Court, a party shall file with the Court

(a) for purposes of the appeal, the original and 3 copies of every document, or

(b) for purposes of an application, the original and 1 copy of every document,

and, without delay, shall serve 1 copy of every document on each party.

(2) Where a document is to be filed by an imprisoned person, the designated official shall

(a) initial and endorse on the document the date when it was received from the imprisoned person, and

(b) without delay, and in any event, within 5 days of the date endorsed under paragraph (a), deliver the document to the Court to be filed.

(3) The Court shall, without delay, deliver to the Attorney General and any other party a copy of a document filed pursuant to subsection (2).

(4) Service to an imprisoned person shall be effected by delivery to the designated official who shall, without delay,

(a) initial and endorse on the document the date of receipt;

(b) deliver the document to the imprisoned person; and

(c) file with the Court 1 copy of Form U, indicating receipt of the document and compliance with paragraphs (a) and (b).

(5) Service where the Attorney General is the appellant shall be effected by

(a) personal service on the respondent;

(b) service on the respondent's legal counsel, if counsel accepts service on behalf of the respondent or if counsel already appears as counsel of record for purposes of the appeal;

(c) service on the designated official if the respondent is in custody; or

(d) any other manner as directed by the Court.

(6) In all other appeals, where the Attorney General is not the appellant, or a party is not represented by counsel, or both, service of notices and documents, other than the notice of appeal,

(a) when directed to the Attorney General shall be effected by

(i) service on legal counsel instructed by the Attorney General,

(ii) prepaid registered mail to the Attorney General or counsel directed by the Attorney General, or

(iii) verified facsimile transmission, except in respect of transcripts, appeal books, factums and other documents exceeding 10 pages; and

(b) when directed to another party, shall be effected by

(i) personal service,

(ii) prepaid registered or certified mail to the address of the party set out in the notice of appeal or as filed with the Registrar,

(iii) verified facsimile transmission, except in respect of transcripts, appeal books, factums and other documents exceeding 10 pages, or

(iv) any other manner that may be directed by the Court.

- (7) A notice of appeal or notice of cross-appeal
 - (a) may be filed by electronic means in order to meet a limitation period, and
 - (b) the notice shall be treated as filed on the day it was received, but
 - (c) the party shall without delay file and serve printed copies of the notice.
- (8) A solicitor may accept service of a document on behalf of a client.

Documents –
proof of service

- 17. (1) Proof that a document has been served may be established by
 - (a) the signature of the recipient, with the date, acknowledging acceptance of service on the document or a copy;
 - (b) an affidavit in Form F by the person who delivered the document;
 - (c) an “Acknowledgment of Receipt” in Form E;
 - (d) a confirmation of delivery obtained from the carrier where the document was delivered by registered mail or by courier; or
 - (e) email from the party that was served, and the email shall
 - (i) identify the document that was served, and
 - (ii) indicate the date and approximate time of service.
- (2) Proof of service of a document is not required to be filed unless requested by the Court.

Challenge to a previous decision of the court

18. (1) Where a party intends to challenge a previous decision or legal principle stated by the Court, that party, when filing its factum, shall advise the Court and other parties in writing of that intention, and the Court may, of its own motion or upon application, give directions.

(2) Where an issue is raised under subsection (1), the Chief Justice may direct that the appeal be heard by a panel of 5 judges, and in that case, each party to the appeal shall file with the Court the original and 5 copies of every document.

More than one notice of appeal in a proceeding

19. Where more than one party in a proceeding in the court appealed from files a notice of appeal, the Court may direct that the appeals be consolidated or heard together or that one appeal shall be treated as a cross-appeal.

PART 3 PROCEDURE

Extension or abridgement of time

20. (1) The Court may extend or abridge any time prescribed by these rules before or after the expiration of that time.

(2) Factors the Court may consider under subsection (1) include:

(a) an explanation for why it is necessary to seek an extension or abridgement of the prescribed time;

(b) in the case of a failure to file a notice of appeal, the potential merits of the appeal and whether the applicant demonstrated an intention to appeal within the prescribed time;

(c) any prejudice to another party if the extension or abridgement were granted or refused;

(d) any special circumstances that might cause an injustice if the extension or abridgement were granted or refused; and

(e) any other relevant information or factors.

Appearing by video-conference or teleconference

21. (1) A party wishing to be heard by videoconference or teleconference may notify the registrar of that intention, and the Court may give directions as required.
- (2) A prehearing conference shall be held by teleconference unless a videoconference is directed by the Court.
- (3) A party being heard by videoconference or teleconference shall ensure that the place where the videoconferencing or teleconferencing is held is free from distractions and noise.
- (4) Except as otherwise provided by law or in a practice note, a person shall not record proceedings during a videoconference or teleconference by any visual or audio recording device, without leave of the Court.

Presentation of appeal – party not represented by counsel

22. A party who is not represented by counsel may make both written and oral submissions or may advise the Court and the Attorney General that he or she
- (a) does not intend to file a factum, but instead, intends to present their argument orally at the hearing of the appeal; or
- (b) intends to file a factum, but does not intend to present argument orally at the hearing of the appeal.

Intervention at the Court of Appeal

23. (1) A person who did not participate in the court appealed from may apply to be added as an intervenor for purposes of the appeal.
- (2) The application shall
- (a) state the intervenor’s interest in the appeal;
- (b) explain the failure to apply to intervene in the court appealed from; and

(c) indicate the position the intervenor intends to take on the appeal.

(3) In addition to the items set out in subsection (2), the Court may consider any relevant factors, including whether intervention would delay or prejudice adjudication of the rights of a party and whether the record of the court appealed from is sufficient for purposes of the intervention.

(4) The Court may define or limit the scope of participation by an intervenor in an appeal.

(5) An intervenor shall be a party for purposes of the appeal.

Failure to
Proceed with an
appeal

24. (1) An appellant shall diligently carry the appeal forward.

(2) Where an appellant fails to carry the appeal forward diligently or otherwise fails to comply with these rules, a respondent may apply to the Court for directions and the Court may give such directions or make such orders as may be appropriate.

(3) Of its own motion, at any time, or where a respondent does not make an application under subsection (2) within 6 months after the transcript was filed or where no transcript was filed within 12 months after the notice of appeal was filed, the Court may set the matter for a status hearing for the purpose of giving directions or making orders, and may give directions regarding notice to the parties.

(4) At a status hearing, the Court may

(a) order the appeal to be perfected by a specified date;

(b) adjourn the status hearing to a fixed date;

(c) fix a date for hearing of the appeal or an application to strike the notice of appeal; or

(d) make such other order as may be just.

Discontinuing
an appeal

25. (1) An appellant may discontinue an appeal by filing a notice in Form G stating that the appellant has discontinued the appeal, whereupon the appeal shall be at an end.

(2) The registrar shall forward a copy of the notice discontinuing the appeal to the respondent and any other party, and to the transcription office.

Assistance of
non-solicitor

26. (1) Upon application of a party, for the purpose of facilitating access to justice, the Court may, in exceptional circumstances and subject to such conditions as may be appropriate, permit a person who is not a solicitor

(a) to make submissions on behalf of a party who does not feel able to make submissions on their own behalf;

(b) to sit with a party in the Court for the purpose of providing assistance, advice and support during the proceeding.

(2) A person granted permission under subsection (1) shall deliver to the Court a completed Form T undertaking in writing

(a) not to receive directly or indirectly any compensation for the assistance provided, except reimbursement for expenses actually incurred, unless the Court otherwise permits;

(b) that their interests are not in conflict with the interests of the applicant; and

(c) to observe and be bound by the obligations that apply to an officer of the Court particularly as set out in Form T.

Withdrawal or
change of
solicitor

27. (1) A party may change their solicitor in proceedings in the Court by filing a notice of change of solicitor in Form R.

(2) A solicitor who has taken any step on behalf of a party in proceedings in the Court shall be and remain the solicitor of

record unless a notice of change of solicitor has been filed under subsection (1) or, upon application, the Court grants the solicitor leave to cease acting for the party in the proceedings.

(3) Where leave to cease acting for a party is granted under subsection (2), the party shall without delay notify the Court and the other parties, in writing,

(a) of a new address for service; and

(b) whether the party has or intends to engage a new solicitor or intends to act on their own behalf.

(4) At any time during the proceedings, if a self-represented party engages a solicitor, that solicitor shall without delay notify the Court and the other parties, in writing, of the address for service.

Limited
purpose retainer
of solicitor

28. A party may retain a solicitor for a limited purpose and the solicitor shall file a notice in Form S identifying the nature and scope of the retainer.

Appointment as
a friend of the
court

29. (1) Upon application or of its own motion, the Court may appoint a solicitor to make submissions on an appeal as a friend of the court where the Court considers that such an appointment is necessary or appropriate in the circumstances.

(2) Notice in Form P regarding an appointment of a friend of the court under subsection (1) shall be given to the Attorney General not less than 15 days before the proceeding is set to be heard, and the Attorney General shall have the right to be heard and to participate in that proceeding.

(3) The Court may make an order under subsection (1) on terms it considers appropriate.

Recording court
proceedings

30. Except as otherwise provided by law or in a practice note, a person shall not record proceedings in the Court by any visual or audio recording device, without leave of the Court.

**PART 4
DOCUMENTS**

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| Forms and materials | 31. (1) Where applicable, the forms attached to and forming part of these rules shall be used with such changes as the circumstances require.

(2) All written material relied on in a proceeding shall be legible and printed on 8½ x 11 inch good quality paper.

(3) The registrar may refuse to receive for filing any material that does not substantially comply with these rules and the practice notes.

(4) Where a party files material that fails to comply substantially with these rules, the Court may make an order that it considers appropriate. |
| Documents provided by the Court | 32. Documents provided by the Court may be provided by electronic means. |
| Electronic copies – factum and appeal book | 33. (1) A party filing with the Court or delivering to another party an appeal book or factum shall include with the required written copies a searchable electronic copy of each document.

(2) The searchable electronic copy may be provided by CD or flash drive or in an alternate format as specified in a Practice Note issued by the Court.

(3) The electronic version may be provided in Word DOC or DOCX format, or in searchable PDF, with PDF least preferred, or as specified in a Practice Note issued by the Court. |
| Transcript | 34. (1) “Transcript” means a printed transcript of the audio recording of the proceedings in the court appealed from but does not include

(a) a party’s submissions to the court appealed from unless those submissions are necessary to enable an issue raised on appeal or cross-appeal to be determined; and |

(b) a decision of the court appealed from where a printed copy of that decision has been issued.

(2) Except

(a) in a prisoner appeal, or

(b) where a judge otherwise orders,

the appellant shall

(c) file with the notice of appeal a copy of a request for transcript in Form J; and

(d) deliver a copy of that Form to the transcription office and to the other parties to the appeal.

(3) In a prisoner appeal, after receiving a notice of appeal, the Attorney General shall

(a) file a copy of a request for transcript in Form J; and

(b) deliver a copy to the transcription office and to the other parties to the appeal.

(4) Where another party is satisfied that an additional portion of the transcript is necessary to enable the issues on appeal or cross-appeal to be determined, that party may submit a request in Form K.

(5) In addition to the transcript, where the transcript is voluminous, a party may provide, or the Court may require, a book of excerpts where that would be convenient for presentation of submissions.

(6) Where a party is represented by counsel, when the transcript is completed, the transcription office shall, as soon as possible, provide an electronic version of the transcript to each counsel.

(7) When a printed copy of the transcript is available, the transcription office shall provide 1 copy to each party unless a party requests on Form J or K only an electronic version.

(8) The transcription office shall provide to the Court 1 original and 3 printed copies of the transcript together with the electronic version and 1 audio recording of the proceedings in the court appealed from.

Agreed
statement of
facts

35. An agreed statement of facts may be substituted for all or a portion of the transcript.

Appeal book

36. (1) The appellant, or the Attorney General where subsection (3) applies, shall file an appeal book which shall be bound and shall consist of a copy of the following, in this order:

(a) a detailed index,

(b) the information or indictment, with endorsements, and reduced in size to fit the appeal book,

(c) the notice of appeal,

(d) the notice of cross-appeal, if any,

(e) the written decision appealed from or, in the absence of a written decision, the transcript of the oral decision,

(f) if the decision on an application in the court appealed from is necessary to enable the issues on appeal to be determined, the written decision or, in the absence of a written decision, the transcript of the oral decision, and, where there is more than one, each decision shall be separately tabbed and placed in order by date,

(g) any order relating to the appeal, and, where there is more than one, each order shall be separately tabbed and placed in order by date,

(h) a copy of Form H completed by the Attorney General regarding a publication ban;

(i) any agreed statement of facts entered at the trial or submitted for purposes of the appeal,

(j) any other item that was before the court appealed from which the appellant considers to be necessary to enable the issues on appeal to be determined.

(2) Where the sentence is appealed, the appeal book shall also include a copy of the following, in this order, placed after the documents listed in subsection (1):

(a) the “Questionnaire Concerning Sentence” in Form L,

(b) any pre-sentence report,

(c) any report of a probation officer,

(d) any post-sentence report,

(e) any compensation, probation, or conditional sentence order, or any other order not included under paragraph (1)(g) that is relevant to determining the issues on appeal,

(f) any medical or psychiatric reports filed at the time of sentence,

(g) any victim or community impact statement,

(h) the criminal record of the offender if one was entered at trial, and

(i) parole status of the offender, if any, at the time of sentencing.

(3) Unless the Court orders otherwise, where the appellant is not represented by counsel, the Attorney General shall prepare and file the appeal book and serve a copy on the appellant.

(4) The respondent, or another party, may file a supplementary appeal book if additional documents are considered necessary to enable determination of the issues on appeal.

(5) The items contained in the appeal book shall be separated by tabs to permit convenient reference to each document or portion thereof.

(6) The pages of the appeal book shall be numbered consecutively in the upper right corner of each page.

(7) The appeal book may be printed on one side or on both sides of the page and if printed on one side, the printed pages shall be to the right.

(8) The cover of the appeal book shall be grey, and shall state the names of the parties, the number of the appeal, and the volume number of the appeal book if there is more than one volume.

(9) Where there is more than one volume, each volume shall

(a) repeat the index and, in addition to the information specified in subsection (8),

(b) show on its cover the page numbers contained in it, and

(c) have a label on the spine of each volume indicating “Appeal Book, Volume ..., Tabs ... to ...”.

(10) In addition to the appeal book, where the appeal book is voluminous, a party may provide, or the Court may require, a book of excerpts where that would be convenient for presentation of submissions.

Factum –
contents

37. (1) A factum shall be bound and shall consist of the following, in this order:

(a) Index, including the page number on which the submissions on each issue begin;

(b) Part I – Overview

A brief summary of the appeal and the positions being taken in the factum;

(c) Part II - Concise Statement of Facts not to exceed 15 pages unless otherwise authorized by the Chief Justice and consisting of:

(i) A concise summary of the facts with any references to the evidence or the decision of the trial judge identified by paragraph in the decision or page and line in the transcript;

(ii) In the case of a respondent, a statement of its position regarding the appellant's statement of facts and including any additional facts considered to be relevant;

(d) Part III - List of the Issues;

(e) Part IV - Argument

A statement of the argument, not to exceed 40 pages unless otherwise authorized by the Chief Justice, setting out the points to be argued and the basis on which the arguments are made, with specific references to the appeal book, transcript, and the authorities relied upon in support of each point, and, in particular

(i) the authority for a principle or proposition shall be placed immediately after the paragraph or series of paragraphs to which it applies;

(ii) the citation of the authority shall include the tab reference together with the relevant paragraphs, pages or provisions each time the authority is cited; and

(iii) footnotes may be used for purposes of elaboration or explanation which would not conveniently be included in the body of the Argument, but “infra”, “below”, “supra”, “above”, “ibid” and “id” shall not be used.

(f) Part V - Order or Relief Sought;

(g) Index of Appendix A (case authorities listed in alphabetical order) and Appendix B (statutory or regulatory authorities listed in alphabetical order) including citations;

(h) Appendix A – Copies of cases, with appropriate tabbing; and

(i) Appendix B – Copies of relevant portions of statutes, regulations and rules, with appropriate tabbing.

(2) In the case of a cross-appeal, submissions on the cross-appeal shall be included under the title “Cross-Appeal” in the respondent’s factum, placed after the submissions in response to the appeal or, if necessary, in a separate volume.

(3) Paragraphs and pages shall be numbered consecutively.

(4) Except where the rule regarding cross-appeals applies, an appellant shall not file a reply factum without the prior approval of the Chief Justice, which may be granted pursuant to a written request or, if convenient, at a prehearing conference, status hearing, or at the hearing of an application.

Factum – legal
and case
authorities

38. (1) The Index of Appendix A shall include the neutral citation of each case.

(2) Copies of authorities in Appendices A or B from electronic sources may be filed provided that

(a) the copy is downloaded in a minimum font size comparable to Times New Roman 14, and

(b) the citation in the Index of Appendix A complies with subsection (1).

(3) When a copy of an authority is contained in documents already filed by another party, an additional copy shall not be filed, but the citation of the authority shall be included in the Index of Appendices A and B with reference to where the copy of the authority is to be found.

(4) A copy of the whole of a lengthy case need not be included in Appendix A if providing a portion would be sufficient for purposes of the appeal.

(5) Copies of authorities should be highlighted or otherwise conveniently marked to identify the portion to which the Court's attention is to be drawn.

(6) The Index of Appendices A and B shall be included after Part V in the factum and, if the copies of authorities are bound in a separate volume, the Index shall be included at the front of each volume of authorities.

(7) Where there is more than one volume of authorities, there shall be a label on the spine of each volume indicating "Authorities, Volume ..., Tabs ... to ...".

Factum – form 39.

(1) The Index, Parts I to V and the Index of Appendices A and B of a factum

(a) shall be bound;

(b) shall be legible and printed in Times New Roman font size 14, with line spacing of one and one-half;

(c) shall be printed on one side of the paper only, with the printed pages to the right;

(d) paragraphs shall be numbered consecutively; and

(e) pages shall be numbered consecutively.

- (2) Copies of authorities in Appendices A and B
 - (a) shall be legible and printed in a minimum font size comparable to Times New Roman 14;
 - (b) may be printed on both sides of a page and if printed on one side, the printed pages shall be to the right; and
 - (c) shall be bound with the factum or in separate volumes where necessary.
- (3) The colours of the covers of a factum and authorities shall be
 - (a) buff or yellow for an appellant, including an appellant's reply where a reply is permitted;
 - (b) blue for a respondent's factum, including a factum as a cross-appellant; and
 - (c) green for an intervenor's factum,

but where there are multiple parties, a party may choose to use a different colour where that would assist in identifying that party's materials.

- (4) Where there is more than one volume of authorities, there shall be a label on the spine of each volume indicating "Authorities, Volume..., Tabs ... to ...".

Filing appeal
book and
factum

- 40. (1) The appellant shall file its factum together with the appeal book
 - (a) within 60 days after the date of completion marked on the transcript or agreed statement of facts, or
 - (b) within 60 days after the notice of appeal has been filed if the appeal is proceeding without a request for or preparation of a transcript or an agreed statement of facts.
- (2) A respondent shall file its factum within 30 days after receipt of the appellant's factum.

(3) Unless otherwise ordered by the Court, subsection (1) shall apply to an intervenor that supports the position of the appellant, and subsection (2) shall apply to an intervenor that supports the position of the respondent.

Post-sentence
report

41. (1) A party may make a request or an application for the preparation of a post-sentence report.

(2) Not less than 15 days before the hearing of an application or an appeal, a party may file a copy of a report for the purpose of providing the Court and the other party with post-sentence information.

Exhibits

42. (1) Unless otherwise provided by the Code, the trial court and any party having custody or control of any document, exhibit or other thing received in connection with the trial or proceeding shall retain that custody or control

(a) where no appeal is taken, until 90 days after the expiry of the time for giving a notice of appeal or any extension thereof, or

(b) where an appeal is taken, until

(i) the appeal is abandoned,

(ii) 30 days after the time limited for taking an appeal to the Supreme Court of Canada, or any extension thereof, or

(iii) final disposition of the appeal to the Supreme Court of Canada.

(2) Where a notice of appeal has been filed, the Court shall, without delay, give notice to the trial court, and

(a) upon receiving notice, the trial court shall, without delay, advise any other person who has custody of a document, exhibit or other thing that an appeal has been filed; and

(b) the trial court or the person having custody or control shall retain the document, exhibit or other thing in accordance with paragraph (1)(b).

(3) Unless a judge orders otherwise and subject to the provisions of the Code, the *Controlled Drugs and Substances Act* and any other federal or provincial enactment regarding seizure and forfeiture, at the expiration of the time set out in subsection (1), a document, exhibit or other thing shall be returned to the party who produced or who had custody or control of it at the trial or proceeding.

(4) At any time prior to the final disposition of the appeal, at the request of the Court, the custodian shall, without delay, forward a document, exhibit or other thing to the Court.

(5) Compliance with subsection (1) shall determine when the appeal is finally disposed of for the purpose of disposition of exhibits.

PART 5 APPLICATIONS

Applications
procedure

43. (1) An application shall be commenced by Form N request, unless the issues on which the direction or an order of the Court is sought are such that a hearing is required.
- (2) Where the issues on which the direction or an order of the Court is sought cannot appropriately be decided by means of a written request, an application may be made for a hearing.
- (3) A Form N request may be filed by electronic means by sending an email to COAregistry@appeal.court.nl.ca and may be delivered to other parties by means of email. Form N requests will be disposed of in writing by the Court.
- (4) Where an application is made for a hearing, the Chief Justice may decide that the matter is properly determined by means of Form N request instead. Alternatively, where a Form N request is filed, the Chief Justice may decide that an application should be filed instead.

Application for
a hearing

44. (1) An application for a hearing shall include
- (a) a concise statement of the relevant facts and the issues to be determined in the application;
 - (b) the directions or order the applicant is requesting from the Court;
 - (c) any affidavit necessary to support or provide the foundation for the application;
 - (d) any document relevant to hearing of the application; and
 - (e) written submissions and authorities where the nature of the application warrants.
- (2) Where warranted, the materials under subsection (1) shall be indexed, tabbed and bound.
- (3) Preparation and binding of an application shall be governed by the provisions applicable to a factum, with any necessary changes.
- (4) Subject to direction of the Court,
- (a) an application shall be filed and served not less than 4 days prior to the time set for hearing the application; and
 - (b) a party responding to an application shall file and serve any affidavit, document or written submissions and authorities on which that party relies not less than 2 days prior to the time set for hearing the application.
- (5) A party filing materials referred to in subsections (1) or (4)(b) with the Court shall also file with the required written copies a searchable electronic copy of each document which may be provided by CD or flash drive or in an alternate format as specified in a practice note issued by the Court. The electronic version may be provided in Word DOC or DOCX format, or in searchable PDF, with PDF least preferred, or as specified in a Practice Note issued by the Court.

(6) Where authorized by an order or direction of the Court, a statute, or a rule, an application may be made without notice to other parties.

(7) Where an application is made without notice to other parties, the Court may vary or set aside an order or directions made on that application on such terms as may be appropriate.

(8) A party, in writing, may waive notice of the application or may give consent to the order sought by the applicant.

(9) The Court shall set dates for the hearing of applications in each month, but an application may be set to be heard at another time where necessary or appropriate.

(10) Upon the request of a party, the Court may decide an application, without an oral hearing, on the basis of the documents that have been filed and the written submissions, provided that the other parties indicate in writing that they agree to the request.

Application for
appointment of
counsel

45. (1) An application for the appointment of counsel pursuant to the Code shall be made in Form Q.

(2) Factors the Court may consider in determining an application under subsection (1) include

(a) the complexity of the legal issues in the appeal;

(b) the potential effect of the appeal on the development of the law;

(c) the ability of the applicant to provide written and oral submissions;

(d) the availability of legal aid under a provincial plan providing legal aid or similar services; and

(e) whether the applicant has sufficient financial means to obtain the assistance of counsel.

(3) The Court shall deliver a copy of an application under subsection (1) to the Attorney General, and may deliver a copy of the application to the Newfoundland and Labrador Legal Aid Commission, not less than 15 days before the application is set to be heard, and the Attorney General and the Legal Aid Commission shall have the right to be heard.

Setting a hearing date

46. (1) The registrar may, upon the request of a party in Form N, and in consultation with the parties and the Chief Justice, set a time for the hearing of an appeal or an application.

(2) Where a party fails to file a factum within the time prescribed by these rules, another party may make a request or an application to set a time for filing the factum and for hearing of the appeal.

(3) Where notice of hearing of an appeal or an application or other proceeding was delivered to a party and that party fails to appear at the hearing, the Court may adjourn the hearing or hear the appeal, application or other proceeding in that party's absence.

Additional evidence on appeal

47. (1) Subject to subsection (6), upon application, the panel hearing the appeal may receive additional evidence for purposes of the appeal.

(2) The application shall be accompanied by an affidavit setting out

(a) the general nature of the evidence sought to be introduced;

(b) how the evidence satisfies the criteria set out in subsection (3); and

(c) why the evidence was not introduced in the court appealed from.

(3) In determining the application, the Court shall consider

(a) whether, by due diligence, the evidence could have been brought in the court appealed from;

(b) the relevance of the evidence in the sense that it bears upon a decisive or potentially decisive issue in the appeal;

(c) the credibility of the evidence;

(d) whether the evidence, if believed, could reasonably have affected the result; and

(e) any other relevant factor.

(4) Unless the Court otherwise orders or directs, additional evidence shall be submitted by affidavit, subject to cross-examination.

(5) Unless the Court otherwise orders or directs, an application for additional evidence shall be decided by the panel hearing the appeal, and shall be argued at the same time as the appeal.

(6) Where the purpose of the evidence is to support a ground of appeal in which the competence of counsel at trial is challenged,

(a) the applicant

(i) shall, when the application is filed, serve notice of the application on counsel whose competence is challenged,

(ii) shall file an affidavit setting out the facts in support of the challenge,

(iii) may be cross-examined on the affidavit, and

(iv) must waive solicitor-client privilege for purposes of the appeal; and

(b) counsel at trial

(i) shall, upon request, be permitted to join the action as an intervenor for purposes of responding to the challenge,

(ii) may file an affidavit setting out the facts that address the challenge, and

(iii) may be cross-examined on the affidavit.

(7) The Court may, in the presence of the parties or their solicitors, inspect or view any place, property or thing where the inspection or view may facilitate determination of the appeal.

Challenging an appeal in an uncompleted matter

48. (1) Where an appeal is commenced in an uncompleted matter, a party may apply to have the notice of appeal struck on the basis that the appeal should not proceed until the matter has been completed because

(a) the law precludes the appeal of the uncompleted matter;

(b) prejudice to a party may result if the appeal is heard before the matter is completed in the court appealed from;

(c) hearing the appeal before the matter is completed in the court appealed from would result in delay, inconvenience or an inefficient use of judicial resources; or

(d) there is good reason for delaying an appeal until the matter has been completed.

(2) Striking a notice of appeal under this rule does not prejudice the right of the appellant to include the same issues in an appeal when the matter has been completed in the court appealed from.

Striking out a notice of appeal or dismissing an appeal

49. (1) A party to an appeal may apply at any time before or at the hearing of the appeal for an order

(a) striking out the notice of appeal; or

(b) dismissing the appeal

on the grounds that

(i) no appeal lies to the Court;

(ii) the appeal is frivolous, vexatious or without merit;

(iii) the appellant has unduly delayed the preparation and perfection of the appeal; or

(iv) the appellant has failed to apply to have the appeal set down for hearing.

(2) An application to dismiss an appeal shall be heard and determined by a panel of not fewer than 3 judges.

(3) A notice of appeal may be struck out by a single judge, and where a notice of appeal has been struck out, the appellant may apply within 6 months to have the notice reinstated on terms the Court considers just.

Notice to the Attorney General

50. (1) Upon an application or of its own motion, the Court may direct a party to give notice of an appeal or an application to the Attorney General in Form P, and the Attorney General shall have the right to be heard and to participate in that appeal or application.

(2) The notice to the Attorney General shall include an appropriate notice period.

Release from
custody

51. (1) An application for judicial interim release shall be accompanied by an affidavit setting out
- (a) the facts on which the applicant relies to satisfy the requirements stipulated by the law for release, and
 - (b) the proposed conditions to be included in an order should judicial interim release be granted.
- (2) Where the application is opposed, the Attorney General may file an affidavit in response setting out the facts relied upon.
- (3) The affidavits shall be subject to cross-examination.
- (4) Instead of the affidavits referenced in subsections (1) and (2), the parties may file an agreed statement of facts for purposes of the application.
- (5) When granting or dismissing an application for judicial interim release, the judge may make an order or give directions regarding the filing of factums and setting of a date for hearing of the appeal.
- (6) Where the application is granted,
- (a) the applicant shall be released from custody after Form M has been completed and accepted by the Court, and
 - (b) the applicant, or counsel for the Attorney General where the applicant is not represented by counsel, shall file the order for judicial interim release, and the order shall include any conditions imposed by the Court.

PART 6
JUDGMENT

- | | |
|------------------------|--|
| Delivery of judgment | 52. (1) Where separate reasons for judgment are filed by more than 1 judge, the judgment of the Court shall be the decision of the majority of the panel hearing an appeal.

(2) The registrar shall deliver a copy of the written reasons for judgment to the parties or their counsel, to the court appealed from, and to any other persons the Chief Justice authorizes in the particular case or generally. |
| Formal order | 53. (1) A formal order of the Court shall be in Form O and shall state the judgment of the Court.

(2) Where a judge files dissenting reasons, the formal order shall indicate the nature of the dissent.

(3) After the Court's judgment is filed, regardless of the outcome of the appeal, the Attorney General shall, without delay,

(a) deliver to the Court a draft formal order, and

(b) where the appellant is represented by counsel, provide a copy of the draft formal order to that counsel, and that counsel shall, within 3 days, by email or otherwise in writing, indicate consent to the draft or provide comments to the drafter of the order, with a copy to the Court.

(4) The Court shall determine and approve the final formal order, which shall be filed, with a copy provided to each party.

(5) Where the nature of an application is such as to warrant or require a formal order, the Attorney General shall be responsible for providing the draft order. |
| Correction of mistakes | 54. At any time the Court may correct an error in a judgment or order that arose from a clerical mistake or from an accidental slip or omission. |

PART 7
TRANSITIONAL

- Transitional
55. (1) Proceedings commenced, but not completed, prior to the coming into force of these rules shall be governed by these rules without prejudice to anything lawfully done under the former rules.
- (2) A party may make a Form N request for directions or an order if there is doubt about the application or operation of these rules to a proceeding under subsection (1) or if any difficulty, injustice or impossibility arises as a result.
- (3) For the purpose of calculating time limitations, including requiring a thing to be done without delay,
- (a) where no time limit was provided under the former rules, the time limit under these rules applies, calculated from the date on which these rules come into force;
- (b) where a time limit under these rules is shorter than the time limit under the former rules, the time limit under these rules applies, calculated from the date on which these rules come into force; and
- (c) where a time limit under these rules is longer than the time limit under the former rules, the time limit under these rules applies, calculated from the time when the thing was to be done under the former rules.
- Commence-
ment
56. (1) These rules come into force 90 days after they are published in the Newfoundland and Labrador Gazette.
- (2) The *Supreme Court of Newfoundland and Labrador – Court of Appeal Criminal Appeal Rules (2002)*, SI/2002-96, Canada Gazette Part II, Vol. 136, No. 13, are repealed immediately upon the coming into force of these rules.

COURT OF APPEAL CRIMINAL RULES, 2025

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FORM A
(Rule 8)

(To be used (1) where Notice is filed by counsel on behalf of the appellant;
(2) with the necessary changes, when the Attorney General is the appellant).

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

[Insert notice of publication ban or access restriction if applicable.]

BETWEEN:

APPELLANT

AND:

HIS MAJESTY THE KING as represented
by the Attorney General

RESPONDENT

NOTICE OF APPEAL

1. Section of the *Criminal Code* under which the appeal is brought

2. Place of trial or proceeding

3. Name of judge

4. Name of court

Supreme Court of Newfoundland and Labrador, General Division

Provincial Court

or Youth Court

5. Name of crown prosecutor

6. Name of defence counsel

7. Offence(s) (example: theft, assault) of which appellant was charged, convicted or acquitted

8. Sections of the *Criminal Code* or other statutes under which appellant was charged, convicted or acquitted

9. Plea at trial guilty not guilty other

10. Length of trial

11. Date of conviction or acquittal, or other order to be appealed

12. Sentence imposed

13. Date sentence was imposed

14. If the appellant is in custody, place of incarceration

15. Appellant's date of birth

16. Appellant's last known address

17. Court case number from trial or other proceeding

18. Take notice that the appellant

- appeals against conviction only;
- appeals against conviction and sentence;
- applies for leave to appeal against sentence only, and if leave is granted, appeals against sentence only;
- appeals against acquittal;
- other.

19. Leave to appeal is required because:

- a. appeal is against sentence only _____
- b. appeal comes from the summary conviction appeal court _____
- c. *Criminal Code* provision _____
- d. other _____

The grounds of appeal are annexed hereto as "Appendix A".

The appellant requests: (set out what order the appellant is seeking)

The appellant's address for service (include postal address, telephone, email) is

Dated at _____, Newfoundland and Labrador, this ___ day of _____, 20 ____.

(Counsel on behalf of Appellant)

To: (name of Respondent or lawyer)
The address for service is:
(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM B
(Rule 8)

(To be used where the appellant is not represented by counsel).

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

HIS MAJESTY THE KING as represented
by the Attorney General

RESPONDENT

NOTICE OF APPEAL

1. Place of trial or proceeding

2. Name of judge

3. Name of court

Supreme Court of Newfoundland and Labrador, General Division Provincial Court

or Youth Court

4. Name of your defence counsel (if any)

5. Offence(s) of which you were convicted (example: theft, forgery, sexual assault)

6. Plea at trial guilty not guilty other

7. Date of conviction or other order to be appealed

8. Sentence imposed

9. Date sentence was imposed

10. Were you convicted or sentenced under the *Youth Criminal Justice Act*?

Yes No

11. If you are a young person as defined in the *Youth Criminal Justice Act* have you applied for legal aid?

Yes No If yes, where is the legal aid office located?

Have you been refused a legal aid certificate? Yes No

If your application for legal aid was refused did you apply to the Legal Aid Commission to have that decision reconsidered? Yes No

12. Are you in prison? Yes No If yes, where? _____

Your address when you are not in prison: _____

13. If you are not in prison, what is your address?

Note: The Rules of Court provide for delivery of certain materials to you at the address stated in the notice of appeal. If you change your address, notify the Registrar. If you do not notify the Registrar, delivery of documents at your old address will be considered to be proper delivery to you and the appeal may proceed in your absence (even if you have not received the documents).

14. Your date of birth _____

15. Court case number from trial or other proceeding _____

16. Take notice that I want to

- appeal against conviction only;
- appeal against conviction and sentence;
- apply for leave to appeal against sentence only, and if leave is granted, I appeal against sentence only;
- other.

17. Leave to appeal is required because:

- a. appeal is against sentence only _____
- b. appeal comes from the summary conviction appeal court _____
- c. *Criminal Code* provision _____
- d. other _____

18. If you were convicted of more than one offence, which convictions are you appealing?

19. If you are appealing your sentence and you were sentenced for more than one offence which sentences are you appealing?

20. Reasons for my appeal. I want to appeal for the following reasons:

21. I want to make my submissions (arguments) to the Court

- (a) in writing and in person
- (b) in writing only
- (c) in person only

You must file your notice of appeal within 30 days after you have been sentenced by

- (1) Delivering your notice of appeal to the Court registry; or
- (2) If you are in prison, by giving your notice of appeal to the prison official designated to send documents to the Court on your behalf.

If you have not filed your notice of appeal within 30 days after you were sentenced, you may apply for an extension of time by filling out the following:

Application for Extension of Time

I hereby apply for an extension of time, within which I may launch the within appeal, on the following grounds:

(State reasons for delay below.)

My address to receive documents is: _____

Dated at _____, Newfoundland and Labrador, this __ day of _____, 20 ____.

(signature of Appellant)
(telephone number, email)

To: *(name of Respondent or lawyer)*
The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)
Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM C
(Rule 11)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT/
RESPONDENT BY CROSS-APPEAL

AND:

RESPONDENT/
APPELLANT BY CROSS-APPEAL

NOTICE OF CROSS-APPEAL

This is notice that the Respondent cross-appeals against the order under appeal.

1. Date notice of appeal was filed

2. Notice of appeal file number

3. Date respondent received notice of appeal

4. This is notice of the intention to make submissions by cross-appeal

- to appeal or vary a portion of the order appealed from that is not appealed by the appellant, or
- to contend that the order appealed from should be varied or affirmed on grounds other than those given by the court appealed from.

The grounds of the cross-appeal are annexed hereto as “Appendix A”.

The Respondent requests: *(set out what order the Respondent is seeking)* _____.

Dated at _____, Newfoundland and Labrador, this ___ day of _____, 20 ____.

(signature)
(name of Appellant by cross-appeal or lawyer)

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)

Counsel for

To: *(name of Respondent by cross-appeal or lawyer)*

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for ...

To: The Registrar

Court of Appeal

P.O. Box 937

287 Duckworth Street

St. John's, NL A1C 5M3

FORM D
(Rule 11)

File No. 20 01H
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

_____ APPELLANT/
RESPONDENT BY CROSS-APPEAL

AND:

_____ RESPONDENT/
APPELLANT BY CROSS-APPEAL

ELECTION TO PROCEED WITH CROSS-APPEAL

The appeal having been discontinued or deemed abandoned , the Appellant by cross-appeal elects to proceed with the cross-appeal.

Dated at _____, Newfoundland and Labrador, this ___ day of _____, 20____.

_____ (signature)
(name of Appellant by cross-appeal or lawyer)

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)

Counsel for

To: (name of Respondent by cross-appeal or lawyer)
The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)

Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM E
(Rule 17)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT

I, *(name and position)*, acknowledge that, on the __ day of _____, 20 ____, I received from *(name)* the *(specify document)*, which is attached.

(signature)
(name of Appellant/Respondent or lawyer)

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)

Counsel for

To: *(name of Appellant/Respondent or lawyer)*
The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)
Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM F
(Rule 17)

File No. 20 01H
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

AFFIDAVIT OF SERVICE OF DOCUMENT

I, (*name, occupation optional*), of (*city or town, and province*), swear (affirm) that the following facts are true:

On the ___ day of _____, 20___, I delivered the (*specify document*), which is dated _____, 20___ to (*name*) by (*specify the method of delivery*).

Where the document was not delivered to a solicitor's office,

I identified the person I delivered the document to (*specify the basis on which you identified the named person*)

Sworn (*or affirmed*) before me at (*city or town*) in the
Province of Newfoundland and Labrador

this ___ day of _____, 20___

(signature of deponent)

(signature of witness)

FORM G
(Rule 25)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE AN APPEAL IS BEING DISCONTINUED

This is notice that the Appellant discontinues this appeal and that the appeal is at an end.

Dated at _____, Newfoundland and Labrador, this __ day of _____, 20 ____.

_____ (signature)

(name of Appellant or lawyer)

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for

To: *(name of Respondent or lawyer)*
The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)
Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM H
(Rules 14 and 36(l)(h))

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE OF PUBLICATION BAN

1. Publication ban required No Yes

If yes,

2. A publication ban was issued at trial pursuant to section ____ of the *Criminal Code* or _____.

Reason for the publication ban: protection of the complainant , protection of a witness , matter not completed , other _____.

Wording for the publication ban:

_____.

3. On appeal, the Attorney General intends to request a publication ban pursuant to section ____ of the *Criminal Code* or _____.

Reason for the publication ban: protection of the complainant , protection of a witness , matter not completed , other _____.

Wording for the publication ban:

_____ (signature)
Counsel for the Attorney General

To: *(name of Respondent or lawyer)*
The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)
Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM J
(Rule 34)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

REQUEST FOR TRANSCRIPT AND CERTIFICATE

TO: Transcription Office of the Supreme Court of Newfoundland and Labrador, General Division ; or the Provincial Court of Newfoundland and Labrador
located at _____ (town/city) in the Province of Newfoundland and Labrador.

REQUEST FOR TRANSCRIPT

“Transcript” means a printed transcript of the audio recording of the proceedings in the court appealed from but does not include

- (a) a party’s submissions to the court appealed from unless those submissions are necessary to enable an issue raised on appeal or cross-appeal to be determined; and
- (b) a decision of the court appealed from where a printed copy of that decision has been issued.

Pursuant to Rule 34 of the *Court of Appeal Criminal Rules*, you are requested to prepare a transcript of the record in _____ v. _____ file no. _____, as follows.

Note: Check applicable items.

A. Judge alone trial

- All* the evidence taken at trial together with objections to and rulings on admissibility of that evidence;
- Only the evidence of the following witnesses together with objections to and rulings on admissibility of that evidence:

- Audio of the following exhibits: _____
- The parties' final submissions in the court appealed from;
- The parties' submissions in the court appealed from on the following issues: _____.

B. Jury trial

- All* the evidence taken at trial (whether taken in the presence or in the absence of the jury) together with objections to and rulings on admissibility of that evidence;
- Only the evidence of the following witnesses together with objections to and rulings on admissibility of that evidence: _____
- Evidence taken on a *voir dire* in relation to _____, and submissions made and rulings given in respect of same;
- Audio of the following exhibits: _____
- Proceedings in respect of the selection of the jury;
- The opening address of the trial judge;
- Submissions as to the proposed content of the judge's charge to the jury and the judge's rulings thereon and reasons;
- The closing addresses to the jury;
- The judge's charge to the jury;
- Any objections to the judge's charge to the jury and the judge's rulings thereon and reasons;
- Submissions respecting questions from the jury and the judge's rulings thereon and reasons;
- The recording of the verdict of the jury.

C. Sentence appeal

In addition to the transcript of the trial (Parts A and B, above),

- The evidence taken on the issue of sentence;
- Submissions made on the issue of sentence.

D. Reasons for judgment

- The reasons for judgment, if no printed copy has been issued;
- The reasons for sentence, if no printed copy has been issued.

E. Other

- _____,
- _____,
- _____.

F. Electronic and printed copies of the transcript

When the transcript is completed, an electronic version shall, as soon as possible, be sent to counsel for each party in a format approved by the Transcription Office.

Note: If one of these boxes is not checked, it will be assumed that the party wishes to receive a printed copy of the transcript. A party not filing this form may advise the Transcription Office, in writing, that a printed copy is not requested by that party.

- The appellant requests only an electronic version (not a printed copy) of the transcript.
- The respondent requests only an electronic version (not a printed copy) of the transcript.

When a printed copy of the transcript is available,

- (a) The original and 3 copies, together with the electronic version and a copy of the audio recording of the proceedings, shall be delivered to
 The Registrar, Court of Appeal
 P.O. Box 937
 287 Duckworth Street
 St. John's, NL
 A1C 5M3,

And

- (b) If a party requests a printed copy as well as an electronic version of the transcript, either

- (i) the party shall be notified that the printed copy of the transcript is available to be collected from the Transcription Office, or
- (ii) a printed copy of the transcript shall be forwarded by ordinary mail to the party at the following address:

CERTIFICATE

I delivered a copy of Form J to the Transcription Office by mail at _____ (address), or by email at _____ (email address) requesting the transcript as specified in the Form.

I delivered a copy of Form J to the other parties to the appeal by mail at _____ (address), or by email at _____ (email address) requesting the transcript as specified in the Form.

_____ (Date)

_____ (Signature of requestor)

FORM K
(Rule 34)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

REQUEST FOR FURTHER PORTIONS OF TRANSCRIPT AND CERTIFICATE

TO: Transcription Office of the Supreme Court of Newfoundland and Labrador, General Division ; or the Provincial Court of Newfoundland and Labrador located at _____ (town/city), Newfoundland and Labrador.

Pursuant to Rule 33(4) of the *Court of Appeal Criminal Rules*, you are requested to prepare a transcript of the following additional portions of the record in

_____ v. _____
file no. _____ :

Note: On completion of preparation of these additional portions of the transcript, you are requested to deliver the original and copies to the Court and the parties in the same manner as the other portions of the transcript already requested.

CERTIFICATE

I delivered a copy of Form K to the Transcription Office by mail at _____ (*address*), or by email at _____ (email address) requesting further portions of the transcript as specified in the Form.

I delivered a copy of Form K to the other parties to the appeal by mail at _____ (*address*), or by email at _____ (email address) requesting further portions of the transcript as specified in the Form.

_____ (Date)

(Signature of requestor)

FORM L
(Rule 36(2))

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

QUESTIONNAIRE CONCERNING SENTENCE

1. Length of trial

2. Present place of imprisonment (if applicable)

3. If appellant was released on bail pending appeal, date of release _____

4. Period spent in custody pre-trial _____ or pre-sentence _____

5. Parole eligibility date

6. Date of mandatory release

7. Names of co-accused (if any) and sentences imposed for offences of which they were convicted

8. Prior criminal record (if any, if such was introduced at trial)

9. Present employment

10. Present marital status

11. Appellant's present age _____ and age at time of offence _____

12. Was a pre-sentence report prepared? Yes No

13. Was there a victim impact statement? Yes No

14. Were there any medical or psychiatric reports? Yes No

15. Parole status of the offender, if any, at the time of sentencing _____

FORM M
(Rule 51)

File No. 20__ 01H__
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPLICANT/
APPELLANT

AND:

RESPONDENT

RELEASE ORDER

1. Identification

Surname: _____ Given name(s): _____

Date of Birth: _____

2. Contact Information

Address: _____ Telephone: _____ Email: _____

3. Before: (name of Justice who granted the order) _____

Whereas:

On _____ (*date*), the Court heard submissions from _____,
counsel for the applicant, and _____ counsel for the
respondent;

The applicant has filed a notice of appeal, and, if necessary, an application for leave to appeal, in respect to the following convictions:

(Set out each conviction being appealed and the sentence imposed)

Accordingly, it is ordered that, upon the Court accepting the following Appendix A completed by the applicant, the person having custody of the applicant shall immediately release the applicant if the applicant is not detained for another reason.

Appendix A

1. **Financial Obligations**

You do not have any financial obligations under this release order.

Or

In order for you to be released, the obligations that are indicated below by a check mark must be complied with.

You promised to pay the amount of _____ if you fail to comply with a condition of this release order.

You must deposit money in the amount of _____ or other valuable security whose value does not exceed _____ with the clerk of the court.

The surety (*name*), born on (*date of birth*), promises to pay or deposits to the court the amount of _____

The surety (*name*), born on (*date of birth*), promises to pay or deposits to the court the amount of _____

The surety (*name*), born on (*date of birth*), promises to pay or deposits to the court the amount of _____

2. **Conditions**

You must immediately surrender yourself into police custody (and within 24 hours that judgment is filed) if your appeal is dismissed, unless otherwise specified in the filed judgment or by court order.

You must also comply with the conditions that are indicated below by a check mark.

You must report to (*name or title*) at (*place*) on (*date or dates*).

You must remain within the territorial jurisdiction of (*province or territory*).

You must notify (*name, title and phone number*) of any change of your (*address, employment or occupation*).

You must not communicate, directly or indirectly, with (*victims, witnesses or other persons*), except in accordance with the following conditions: _____

You must not go to (*place*) or enter (*geographic area*), except in accordance with the following conditions:

You must deposit all your passports with (*name or title*) at (*place*) before (*date*).

You must not possess a firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance and you must surrender any of them in your possession and any authorization, licence or registration certificate or other document enabling the acquisition or possession of a firearm to (*name or title*) at (*place*).

You must comply with the following conditions (*conditions for ensuring the safety and security of any victim of or witness to the alleged offence*):

You must comply with the following conditions:

3. Variation

The conditions of this release order may be varied with the written consent of the prosecutor, yourself and your sureties, if any. In addition, you or the prosecutor may apply to a judge to have any condition in this release order cancelled or changed.

4. Conditions in effect

The conditions indicated by a check mark on this release order (including any obligations imposed on your sureties) remain in effect until they are cancelled or changed or until your appeal is decided.

5. Consequences for non-compliance

You are warned that, unless you have a lawful excuse, you will commit an offence under section 145 of the *Criminal Code* if you fail to follow any of the conditions set out in this release order, including if you fail to attend court as required.

If you commit an offence under section 145 of the *Criminal Code*, a warrant for your arrest may be issued (sections 512 and 512.3 of the *Criminal Code*) and you may be liable to a fine or to imprisonment, or to both.

If you do not comply with this release order or are charged with committing an indictable offence after you have been released, this release order may be cancelled and, as a result, you may be detained in custody (section 524(4) of the *Criminal Code*).

If you do not comply with this release order, the money or other valuable security promised or deposited by you or your surety could be forfeited (subsection 771(2) of the *Criminal Code*).

6. Signatures

SURETY: *(if applicable)*

I understand my role and my responsibilities under this release order and I agree to act as a surety.

I agree to *(promise or deposit)* to the court the amount of money described in section 1 of Appendix A of this release order.

- Surety Declaration is attached (section 515.1 of the *Criminal Code*).
- Surety is exempted from providing a Surety Declaration (subsection 515.1(2) of the *Criminal Code*).

Signed on *(date)*, at *(place)*.

(signature of the surety)

SURETY: *(if applicable)*

I understand my role and my responsibilities under this release order and I agree to act as a surety.

I agree to *(promise or deposit)* to the court the amount of money described in section 1 of Appendix A of this release order.

- Surety Declaration is attached (section 515.1 of the *Criminal Code*).
- Surety is exempted from providing a Surety Declaration (subsection 515.1(2) of the *Criminal Code*).

Signed on *(date)*, at *(place)*.

(signature of the surety)

SURETY: *(if applicable)*

I understand my role and my responsibilities under this release order and I agree to act as a surety.

I agree to *(promise or deposit)* to the court the amount of money described in section 1 of Appendix A of this release order.

- Surety Declaration is attached (section 515.1 of the *Criminal Code*).
- Surety is exempted from providing a Surety Declaration (subsection 515.1(2) of the *Criminal Code*).

Signed on *(date)*, at *(place)*.

(signature of the surety)

APPLICANT/APPELLANT:

I understand the contents of this form and agree to comply with the conditions that are indicated by a check mark.

I understand that I do not have to accept the conditions and that, if I do not accept the conditions, I will be detained.

Signed on *(date)*, at *(place)*.

(signature of the applicant/appellant)

JUSTICE OR CLERK OF THE COURT:

Signed on *(date)*, at *(place)*.

(signature of Justice or clerk of the court)

(name of Justice who has issued this order)

FOR COURT USE ONLY

Request No: _____

Disposition

- [] request granted _____
- [] adjourned to _____
- [] request refused _____
- [] order as follows: _____
- [] other directions: _____

Date: _____



REQUEST FOR A HEARING

- The request is to set a date for a hearing:
 - The Appellant confirms that:
 - (a) all factums, the appeal book and transcript are filed;
 - (b) the direction of the Court is not required on any matter before a date is set; and
 - (c) there is no circumstance requiring a court appearance.
 - The Appellant has consulted with the other parties to the appeal, or their counsel, and the following dates in the next 2 months are mutually acceptable for the hearing of the appeal: (*insert dates*) _____.

Or

- The Appellant's factum, the appeal book and transcript were filed on (*date*) _____.
- The Respondent's factum was filed on (*date*) _____, but a mutually acceptable date for the hearing could not be reached.

Or

The Appellant's factum, the appeal book and transcript were filed on (date) _____

The Appellant applies to set a date for hearing of the appeal and a date for the Respondent to file a factum because the Respondent has not done so within the time prescribed by the Rules.

Name of requestor _____

Counsel for _____

=====

FOR COURT USE ONLY

Request No: _____

Disposition

[] request granted _____

[] adjourned to _____

[] request refused _____

[] order as follows: _____

[] other directions: _____

Date: _____

FORM O
(Rule 53)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

ORDER

Before: *(name Justices on the panel in order of seniority)*.

Whereas:
(Set out concise basis of the appeal).

The appeal was heard on *(date)*.

The Court heard submissions from *(name)*, counsel for the Appellant, and *(name)*, counsel for the Respondent.

The judgment of the Court was given with written reasons on *(date and neutral citation)*.

Or:

The judgment of the Court was given orally on *(date)*, with written reasons on *(date and neutral citation)*.

Accordingly, it is ordered that: (*Using the written decision, give details of what was ordered*).

In dissenting reasons, Justice (*name*) would have (*give nature of the dissent*)

Dated at _____, Newfoundland and Labrador, this __ day of _____, 20 ____.

REGISTRAR

FORM P
(Rule 29(2), 50)

File No. 20 01H
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE TO THE ATTORNEY GENERAL

This is notice that this proceeding concerns a matter which may be of interest to the Attorney General of Newfoundland and Labrador , or the Attorney General of Canada .

Subject matter of the appeal: *(give a brief summary of what the appeal is about and what the issues are)* _____

This notice

- (a) is required by statute *(identify the provision)* or
- (b) was ordered or directed by the Court or
- (c) other reason for giving notice _____.

The issues that may be of interest to the Attorney General are: *(state the issues briefly giving sufficient information to assist the Attorney General in assessing the notice)*

Dated at _____, Newfoundland and Labrador, this ___ day of _____, 20____.

(signature)
(name of Appellant/Respondent or lawyer)

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)

Counsel for

To: (name of Appellant/Respondent or lawyer)
The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)
Counsel for ...

To: The Attorney General of Newfoundland and Labrador
The address for service is:
The Department of Justice and Public Safety
Counsel for the Attorney General of Newfoundland and Labrador
4th Floor, East Block, Confederation Building
P.O. Box 8700
St. John's, NL A1B 4J6
Telephone: 709-729-2869
Fax: 709-729-0469

To: Atlantic Regional Office
Department of Justice Canada
Suite 1400, Duke Tower
5251 Duke Street
Halifax, Nova Scotia B3J 1P3
Telephone: 902-426-3260
Fax: 902-426-2329
Email: AGC_PGC_ARO-BRA@JUSTICE.GC.CA

And To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

This appeal (application) is set to be heard on the ___ day of _____, 20____. at 10:00 a.m.

(Court Officer)

FORM Q
(Rule 45)

File No. 20___ 01H _____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

APPLICATION FOR APPOINTMENT OF COUNSEL

_____ (*name*) applies for the appointment of counsel pursuant to section 684 of the *Criminal Code*.

A notice of appeal has already been filed with the Court: Yes No

The appeal is about my: Conviction Sentence Conviction and Sentence

Other _____

I have applied for legal aid: Yes No

I have been denied legal aid: Yes No

I have appealed my denial of legal aid to the NL Legal Aid Appeal Board: Yes No

I do not have financial means to pay for a lawyer (*set out your financial circumstances*):

At the appeal, I would argue the following points:

I do not have the necessary skills to organize the facts, research the law and present the case myself because:

Other facts relevant to my application are (*state anything you want the Court to consider*):

Dated at _____ (city/town, Newfoundland and Labrador, this __ day of _____, 20____.

signature

FORM R
(Rule 27)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE OF CHANGE OF SOLICITOR

This is notice that I, (*name*), have been retained to act as solicitor for _____ in place of (*name*).

Dated at _____, Newfoundland and Labrador, this __ day of _____, 20 ____.

_____ (signature)

The address for service is:

(*postal address, telephone, email*)

(*name of solicitor handling the file*)

Counsel for ...

To: (*name of Appellant/Respondent or solicitor*)

The address for service is:

(*postal address, telephone, email*)

(*name of solicitor handling the file*)

Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM S
(Rule 28)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

LIMITED PURPOSE RETAINER OF SOLICITOR

I, (*name*), have been retained to act as the solicitor for _____ for a limited purpose, the nature and scope of which is (*Briefly set out the parameters of the retainer, such as, to prepare the factum, provide research information, etc.*).

Dated at _____, Newfoundland and Labrador, this __ day of _____, 20 ____.

_____ (signature)

The address for service is:
(*postal address, telephone, email*)
(*name of solicitor handling the file*)

Counsel for

To: (*name of Appellant/Respondent or solicitor*)

The address for service is:

(*postal address, telephone, email*)
(*name of solicitor handling the file*)

Counsel for ...

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

FORM T
(Rule 26)

File No. 20 ____ 01H ____
IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

ASSISTANCE OF NON-SOLICITOR - UNDERTAKING

I, (*name*), undertake that:

1. I will not receive directly or indirectly any compensation for the assistance, related to this appeal, that I am providing to (*name*), except for reimbursement for expenses actually incurred, unless the Court otherwise permits;
2. My interests are not in conflict with the interests of (*name*);
3. I will observe and be bound by the obligations of an officer of the court, the chief of which are:
 - (a) To treat discussions with (*name*) as confidential;
 - (b) To behave in a manner that will not disrupt the court process;
 - (c) To be honest and forthright in all representations I make and information I provide to the Court;
 - (d) To abide strictly by and perform all undertakings I give to the Court and other parties, including their lawyers;
 - (e) To show respect for the process and officers of the Court and for other parties and their lawyers at all times; and
 - (f) To comply with the directives and customs of the court process.

Dated at _____, Newfoundland and Labrador, this __ day of _____, 20____.

(signature of person making the undertaking)
(*postal address, telephone, email*)

FORM U
(Rule 16(4))

To be used by the designated official when receiving documents on behalf of an imprisoned person

File No. 20 ___ 01H _____

IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR

BETWEEN:

APPELLANT

AND:

RESPONDENT

**ACKNOWLEDGEMENT OF RECEIPT OF DOCUMENT FOR AN IMPRISONED
PERSON**

I, (*name*) _____, a designated official under the *Court of Appeal Criminal Rules*, acknowledge that, on the __ day of _____, 20 __, I received a document to be delivered to (*name of imprisoned person*) _____.

In compliance with rule 16(4), I initialed and endorsed on the document the date of receipt, and I delivered the document to (*name of imprisoned person*).

The title on the document was

- notice of appeal
- factum
- book of authorities
- appeal book
- acknowledgement of receipt of a document
- other (*title on the document*) _____

(signature)

To: The Registrar
Court of Appeal
P.O. Box 937
287 Duckworth Street
St. John's, NL A1C 5M3

**CRIMINAL APPEAL RULES, 2025- REPEAL OF PRACTICE NOTES
IN CRIMINAL PROCEEDINGS**

NOTICE

1. The *Court of Appeal Criminal Rules, 2025* will be coming into force 90 days after their publication in Part I of the Newfoundland and Labrador Gazette. The *Supreme Court of Newfoundland and Labrador – Court of Appeal Criminal Appeal Rules (2002)*, SI/2002-96, Canada Gazette Part II, Vol. 136, No. 13, are repealed immediately upon the coming into force of the new rules.
2. Accordingly, all previous Practice Notes issued for criminal proceedings are repealed upon the coming into force of *Court of Appeal Criminal Rules, 2025*.