

Criminal Appeals to the Court of Appeal

A. Is there a right to appeal? (See sections 675 – 676.1 & 784 of the Criminal Code and as specified in other legislation)

- No – an appeal may not be filed.
- Yes – proceed to Box B.

B. Is permission (leave) to appeal (PTA) required? (See Rule 16.4 of the Alberta Rules of Court, sections 675 – 676.1 of the Criminal Code and as specified in other legislation)

- No – proceed to Box C.
- Yes – applicant files and serves an Application¹ (Form CRA-C), a Memorandum of Argument, an (optional) Affidavit and any other materials at least 10 days before the application date. The respondent files a Memorandum of Argument, an (optional) Affidavit and any other materials at least 5 days before the application date.

Note: There are some instances where the application for permission to appeal is deemed to be included in the notice of appeal and a separate application is not filed. See rule 16.4(4).

Application for permission to appeal is heard by a single judge in chambers

Application allowed

Application denied

Application reserved

Reasons for Decision filed

C. Permission (leave) to appeal is not required or PTA granted:

Appellant files and serves a Notice of Appeal (Form CRA-A [In person] or Form CRA-B [with counsel]) within (Rule 16.7):

- 10 days after PTA granted,
- one month after the date of decision, or
- the applicable legislated appeal period

Conviction Appeal²

Sentence Only Appeal

Sentence Following Conv. Appeal

The appellant orders the transcripts & Appeal Record, or begins preparation of the same, within 10 days of filing the notice of appeal and files and serves a copy of the order form within 5 days of ordering. (Rule 16.12)

The appellant files and serves the transcript and the appeal record no later than 4 months after the date on which the notice of appeal was filed. (Rule 16.12(d))³

The appellant files and serves the transcript and the appeal record no later than:

- 2 months after the date on which the notice of appeal was filed (where the net sentence is 6 months or less); or
- 3 months after the date on which the notice of appeal was filed (where the net sentence is greater than 6 months) (Rule 16.12(a)(b))³

The appellant files and serves the transcript and the appeal record no later than 2 months after conviction dismissed or abandoned⁴ (Rule 16.12(c))³

The appellant's factum, extracts of key evidence and book of authorities must be filed and served before the earlier of:

- 2 months after the filing of the Appeal Record, and
- 6 months after the filing of the Notice of Appeal³ (Rules 16.16(2)(a) & 16.19)

The appellant's factum, extracts of key evidence and book of authorities are filed and served before the earlier of:

- 2 months after the filing of the Appeal Record, and
- 4 months after the filing of the notice of appeal³ (Rules 16.16(2)(b) & 16.19)

The appellant's factum, extracts of key evidence and book of authorities are filed and served no later than 3 months after conviction appeal dismissed, struck or abandoned³ (Rules 16.16(2)(c) & Rule 16.19)

The respondent's factum, extracts of key evidence and book of authorities, or letter of intention not to file a factum must be filed and served no later than 2 months after service of the Appellant's factum. (Rules 16.16(4)(a) & 16.19)

The respondent's factum, extracts of key evidence and book of authorities, or letter of intention not to file a factum must be filed and served before the earlier of:

- 1 month after service of the appellant's factum, and
- 10 days before opening day of sitting at which appeal is to be heard (Rules 16.16(4)(b) & 16.19)

The respondent's factum, extracts of key evidence and book of authorities, or letter of intention not to file a factum must be filed and served before the earlier of:

- 1 month after service of the appellant's factum, and
- 10 days before opening day of sitting at which appeal is to be heard (Rules 16.16(4)(b) & 16.19)

Attend Unscheduled Criminal Appeals List if required (Rule 16.20 (2)(3))

Appeal scheduled for hearing before a panel of three judges (Rule 16.20(1))⁴

Appeal scheduled for hearing before a panel of three judges (Rule 16.22)⁵

Appeal allowed or allowed in part

Appeal dismissed

Appeal reserved

Reasons for judgment filed

¹ Applications for permission to appeal must be heard within 6 months from the date of the filing of the application failing which the application will be deemed to have been abandoned (rule 16.24(3)).

² Conviction appeals include acquittal and decision appeals.

³ If the appellant misses this deadline the appeal will be struck, unless the appellant is a self-represented appellant and is in custody, in which case the Registrar may refer the appeal to a single judge for directions.

⁴ If oral argument is not scheduled within 9 months of the filing of the notice of appeal, the appeal will be struck, unless the appellant is a self-represented appellant, in which case the Registrar will schedule the appeal for oral argument.

⁵ 20 days before the opening day of each scheduled sitting, unless the Case Management Officer has directed otherwise, the Registrar will set down at that sitting every sentence appeal where:

- a) the appeal record and appellant's factum have been filed,
- b) the appeal record has been filed in a sentence appeal started by a self-represented appellant,
- c) the appeal record has not been ordered in an appeal started by a self-represented appellant in custody, or
- d) the net sentence is 6 months or less, the appellant is in custody, and judicial interim release has not been granted.

In addition:

- an appeal can be dismissed for want of prosecution (rules 14.37(2)(d) and 14.62) or abandoned at any stage of the appeal (rule 16.32), and
- other than applications for permission to appeal and applications to admit new evidence, all applications must be heard within 3 months from the date of the filing of the application failing which the application will be deemed to have been abandoned (rule 14.52).