

IN THE TERRITORIAL COURT OF YUKON

PRACTICE DIRECTION # 23

Applications in Criminal Law Matters

1. All applications in criminal law matters shall be made in the Notice of Application form attached as Appendix A.
2. In applications not made pursuant to the *Canadian Charter of Rights and Freedoms*, and in applications not otherwise governed by statute, reasonable notice shall be given to the other party by delivering a filed copy of Notice of Application, together with copies of any materials or authorities the applicant intends to rely upon at the hearing. The Notice of Application shall set out the precise relief sought on the application and the grounds on which the applicant relies. Reasonable notice shall generally be considered to be not less than two (2) clear days notice, unless the court orders otherwise.
3. In *Charter* applications challenging the constitutional validity of a Yukon enactment or an enactment of Canada, the Notice of Application shall be delivered to the required parties at least thirty (30) days before the hearing date, pursuant to the *Constitutional Questions Act*, R.S.Y. 2002, c. 39.
4. In applications:
 - (a) for a remedy under s. 24(1) of the *Charter* on account of an infringement or denial of any right or freedom guaranteed by the *Charter*, or
 - (b) to exclude evidence under s. 24(2) of the *Charter*, where the grounds for the application are known in advance of trial,

the Notice of Application shall set out the nature of the application in sufficient detail to inform the other party of the case they have to meet. In particular, such applications shall include a statement of the *Charter* provision(s) at issue and a general indication of the evidence, grounds and case authorities to be relied upon. When the applicant intends to tender evidence, the application should provide an outline of what that evidence will be, including any potential witnesses. Such applications shall be on reasonable notice to the other party, which shall generally be considered to be not less than seven (7) days before the hearing date, unless the court orders otherwise.

4. In applications to exclude evidence under s. 24(2) of the *Charter*, where the grounds are not known before trial, or the full basis for the application is not established until evidence emerges at trial, the trial judge will manage the application process.
5. Nothing in this Practice Direction shall be interpreted as derogating from the right of an accused to make an application at any point in the trial, but the failure to give timely notice for such an application may be taken into account by the trial judge in determining
 - (a) whether to hear the application forthwith or to adjourn the trial to hear it; and
 - (b) on what terms the judge will hear the application.

Chief Judge M. Cozens

December 12, 2011

T.C. No _____

IN THE TERRITORIAL COURT OF YUKON

REGINA

Applicant/Respondent

v.

(Name of accused)

Applicant/Respondent

NOTICE OF APPLICATION

TAKE NOTICE that an application will be made by _____ to the court on _____, the ___ day of _____, 20__ at the courthouse in _____ for an order:

- Granting a remedy pursuant to s. 24(1) of the *Charter*, specifically:

- Granting the exclusion of evidence pursuant to s. 24(2) of the *Charter* (specify evidence to be excluded):

- Granting other relief (specify):

- Declaring the following enactment constitutionally invalid:

This application is based upon: (specify the sections of the *Charter*, *Criminal Code*, other

statutory or common law source of authority upon which the application is based)

- 1.
- 2.
- ...

In support of this application, the applicant relies upon the following:

(a) evidence: *(set out documents, e.g. affidavits, transcripts, etc., and any potential witnesses upon which you intend to rely)*

- 1.
- 2.
- ...

(b) grounds: *(set out a brief description of your argument)*

- 1.
- 2.
- ...

(c) case authorities: *(list case law on which you intend to rely)*

It is expected that the application will take _____ hours.

Dated at _____ this _____ of _____, 20____.

(signature of applicant or counsel)

(set out name, address, telephone and fax numbers (if applicable))