



COURT OF APPEAL OF YUKON

**Court of Appeal of Yukon  
Practice Directive (Criminal)**

**Title: Applications for a Court-Appointed Lawyer  
Under Section 684 of the *Criminal Code***

**Issued: 18 May 2017**

**Effective: 01 June 2017**

**Cite as: *Applications for a Court-Appointed Lawyer Under Section 684 of the Criminal Code (Criminal Practice Directive, 01 June 2017)***

Application is made by notice of motion and affidavit, according to the forms attached.

Applicants should generally be able to show that:

- They cannot afford to retain counsel for the appeal;
- They applied to the Legal Services Society for legal aid and were refused;
- They appealed the refusal, and were again denied legal aid.

Fill out the **Letter of Authority** (Appendix A) and make three copies. Mail the original to the Legal Services Society.

Applicants must show the Court there is a reasonable possibility the appeal will succeed. To assist the Court in assessing the application, applicants must authorize the Legal Services Society to give the Court all the materials they have on the case, excluding any confidential letters of counsel assessing the merit of the appeal.

Fill out the **Notice of Motion** for Appointment of Counsel (Appendix B). File the original and two copies with the Registry.


Fill out the **Affidavit** for Appointment of Counsel (Appendix C). File the original and two copies with the Registry.

Applicants should include the following details in their affidavit:

1. Why they cannot afford a lawyer.
2. Their education level and their ability to defend themselves.
3. That they applied for legal aid and were refused.
4. Proof that they authorized Legal Services Society to send the materials on the case to the Registry (copies of the Letter of Authority).

5. The main points to be argued.
6. Why the case is complex.
7. Why the case may succeed.
8. Why they need a lawyer to organize the case and present it.
9. Whether they have already had one level of appeal.

See *Re Baig and the Queen* (1990), 58 C.C.C. (3d) 156 (B.C.C.A.) and *R. v. Redlick* (1996), 75 B.C.A.C. 241.

  
\_\_\_\_\_  
The Honourable Chief Justice Bauman  
for the Court of Appeal of Yukon

History:

Replaces the criminal Practice Directive titled *Applications for a Court-Appointed Lawyer Under Section 684 of the Criminal Code*, 2006.

**Appendix A**  
**Letter of Authority**

Legal Services Society  
2131 2<sup>nd</sup>. Ave  
Whitehorse, Yukon  
Y1A 1C3

**Attention: Appeals Division**

I intend to apply under section 684 of the **Criminal Code** for assignment of counsel in my appeal [*describe the conviction and/or sentence you are appealing*]

Please send your letter to the Court of Appeal Registry, 2134 - 2<sup>nd</sup> Ave. Whitehorse, Yukon Y1A 5H6. Your letter should state:

1. Whether you have refused me legal aid for my appeal.
2. Whether the refusal was for financial reasons.
3. The grounds of appeal you considered.
4. The materials from the trial record that you reviewed (enclosing a copy of those materials).

This is my authority for you to release the materials.

\_\_\_\_\_  
*[your signature]*

\_\_\_\_\_  
*[please print your name]*

Dated at \_\_\_\_\_ on \_\_\_\_\_.  
*[place]* *[day, month, year]*

**Appendix B**

Court of Appeal File No. \_\_\_\_\_

Court of Appeal Registry \_\_\_\_\_

**COURT OF APPEAL**

BETWEEN:

**REGINA**

Respondent

AND:

\_\_\_\_\_  
Appellant

**NOTICE OF MOTION FOR APPOINTMENT OF COUNSEL**

TAKE NOTICE that an application will be made by \_\_\_\_\_, the Appellant, to the Presiding Judge in Chambers at the Courthouse at 2134 - 2<sup>nd</sup> Avenue, in the City of Whitehorse, Yukon, at 9:30 in the forenoon, or soon thereafter as the Appellant may be heard, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for an Order that counsel be assigned to act on behalf of the Appellant, pursuant to Section 684 of the **Criminal Code**.

AND TAKE NOTICE that in support of the application will be read the affidavit of \_\_\_\_\_, the Appellant, sworn the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

DATED at the \_\_\_\_\_ of \_\_\_\_\_, Yukon, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
APPELLANT

TO: The Registrar, Court of Appeal  
2134 2<sup>nd</sup> Ave. Whitehorse, Yukon  
Y1A 5H6

AND TO: Public Prosecution Service of Canada  
Elijah Smith Building  
300 Main Street, Suite 200  
Whitehorse, Yukon  
Y1A 2B5

This NOTICE OF MOTION is filed by \_\_\_\_\_, Appellant,  
of \_\_\_\_\_, whose address for service is \_\_\_\_\_

**Appendix C**

**Instructions**

Use the same registry number as on your Notice of Appeal

Court of Appeal File No. \_\_\_\_\_

Court of Appeal Registry \_\_\_\_\_

**COURT OF APPEAL**

BETWEEN

**REGINA**

Respondent

AND

\_\_\_\_\_

Appellant

You are the appellant. Print your name on the line.

**AFFIDAVIT FOR APPOINTMENT OF COUNSEL**

Print your name. Give the name of the prison. Then say where it is located. First say if it is a city/town/village, then give its name.

I, \_\_\_\_\_, presently incarcerated at \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, Yukon,  
**MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Appellant and personally know about the matters referred to in this Affidavit, except where they are based on information and belief, in which case I believe them to be true.

2. I cannot afford a lawyer because of my financial circumstances.

Fill in the amounts as accurately as you can.

- a) my income is \$ \_\_\_\_\_
- b) my expenses are \$ \_\_\_\_\_
- c) my debts total \$ \_\_\_\_\_
- d) all the things that I own have a value of \$ \_\_\_\_\_

Put down the highest grade you went to.

3. I am not able to present the appeal myself. I have no legal training and my education level is:

Give the date you were refused legal aid.

4. I have been refused legal aid. I applied for legal aid but was refused on:

\_\_\_\_\_ (day) \_\_\_\_\_ ( month) \_\_\_\_\_ (year).

Attach three copies of the "Letter of Authority". Label them "Exhibit A".

5 \_\_\_\_\_ (day) \_\_\_\_\_ ( month) \_\_\_\_\_ (year).

I sent a letter to the Legal Services Society authorizing the release of the materials on my appeal to the Registry. A copy of this letter is attached. It is marked "Exhibit A".

List the errors in the decision under appeal.

6. At the appeal I will be arguing the following points:

7. I need a lawyer to argue my case because I do not have the necessary skills to organize the facts, research the law, and present the case myself.

Give reasons why you think your case is complex.

8. I believe my case is complex because:

Give reasons why you think your case may succeed.

9. I believe my case may succeed because:

If you have appealed at a lower court, give the place and name of the court, and the date you appealed.

10. I have/have not appealed at a lower court.

At: \_\_\_\_\_

On: \_\_\_\_\_  
(day) (month) (year).

I swear this Affidavit in support of an application that the Court of Appeal or a Judge of that Court assign counsel to act on my behalf.

You sign in front of the lawyer or notary. You are the appellant.

SWORN BEFORE ME at the city of \_\_\_\_\_, Yukon  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Appellant

The lawyer or notary fills out the date and place, and signs.

\_\_\_\_\_  
A Notary Public in and for the Yukon or a Commissioner for Taking Oaths in the Yukon

Name \_\_\_\_\_

Office \_\_\_\_\_

Expiry Date : \_\_\_\_\_