

SUPREME COURT OF YUKON

PRACTICE DIRECTION
CRIMINAL-4

Applications in Criminal Law Matters

All applications in criminal law matters shall be made in the Notice of Application form attached as Appendix A.

Where the accused is self-represented, the Notice of Application form may be amended to reflect a case management date to schedule the application rather than the date of the application itself.

An order of the Court may be drawn up by any party and attached to the Notice of Application for endorsement by the judge. Contested orders should be in the form attached as Appendix B, and consent orders in the form attached as Appendix C.

Any affidavits filed in support of an application shall be in the Affidavit form attached as Appendix D.

An Affidavit of Delivery shall be completed and filed in the form attached as Appendix E. Copies of the front page of each document delivered shall be attached as separate exhibits.

Nothing in this Practice Direction shall be interpreted as preventing an accused from making an application at any point in the trial, but the failure of the accused to give timely notice for such an application may be taken into account by the trial judge in determining

- whether to hear the application forthwith or to adjourn the trial to hear it; and
- on what terms the judge will hear the application.

Charter applications

- 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.
- In applications:
 - 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

- to exclude evidence under s. 24(2) of the *Charter*, where the grounds for the application are known before trial,

the Notice of Application shall be delivered to the required parties at least seven (7) days before the hearing date, unless the Court orders otherwise.

- to exclude evidence under s. 24(2) of the *Charter*, where the grounds for the application 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.

Applications under statutes

In applications governed by statute, the notice requirement set out in the statute should be followed.

Other applications

In any other applications, 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. Reasonable notice shall be considered to be not less than two (2) clear days' notice, unless the Court orders otherwise.

Duncan C.J.
September 3, 2021

Appendix A

S.C. No. _____

SUPREME COURT OF YUKON

Between

HIS MAJESTY THE KING

Applicant/Respondent

and

(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 hour of _____ in the courthouse in _____, Yukon, 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. _____
3. _____
- ...

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. _____
3. _____
- ...

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

1. _____
2. _____
3. _____
- ...

(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 [Applicant or Counsel]

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

Appendix B

S.C. No. _____

SUPREME COURT OF YUKON

Between

HIS MAJESTY THE KING

Applicant/Respondent

and

Applicant/Respondent

ORDER

BEFORE THE HONOURABLE) day, the
CHIEF JUSTICE/JUSTICE) day of , 20

THE APPLICATION of _____, coming
on for hearing at Whitehorse, Yukon, on the _____ day of _____, 20____,
and on hearing _____, lawyer for the
_____, and _____, lawyer for the
_____.

THIS COURT ORDERS that:

- 1.
- 2.
- 3.

By the Court

Justice

SUPREME COURT OF YUKON

Between

HIS MAJESTY THE KING

Applicant/Respondent

and

Applicant/Respondent

CONSENT ORDER

BEFORE A JUDGE OF THE COURT) day, the
) day of , 20

THE APPLICATION of _____, without
a hearing and by consent.

THIS COURT ORDERS that:

- 1.
- 2.
- 3.

By the Court

Justice

Consented to and Approved:

Applicant [*Signature*]

Respondent [*Signature*]

Applicant [*Print Name*]

Respondent [*Print Name*]

SUPREME COURT OF YUKON

Between

HIS MAJESTY THE KING

and

AFFIDAVIT

I, [*name, address, and occupation of deponent*] _____,

MAKE

OATH (OR SOLEMNLY AFFIRM) AND SAY THAT:

1. _____

2. _____

3. _____

...

SWORN (OR AFFIRMED) before
me at _____, in
_____ on this
___ day of _____, 20 ___

A Notary Public in and for the
Yukon

Deponent

SUPREME COURT OF YUKON

Between

HIS MAJESTY THE KING

and

AFFIDAVIT OF DELIVERY

I, _____, of _____, in Yukon,
MAKE OATH AND SAY AS FOLLOWS:

I DELIVERED:

[list of each document delivered] _____

attached and marked as exhibits _____ by leaving

a copy of the documents with *[name of person or party]* _____

on *[date and time when documents delivered]* _____

at *[complete address where documents delivered]* _____

Sworn before me at the _____ of
_____, in the Yukon,
this ___ day of _____, 20___

Notary Public In and For the Yukon

Signature