



District and Supreme Court Appeal Kit



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This Kit provides information about the law only and does not constitute legal advice. You should seek legal advice if you have a specific legal problem.

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This information was last reviewed on 31 August 2020.

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Introduction

An appeal in a criminal matter is a review of a conviction or a sentence. This kit provides information on how to appeal to the Court of Appeal against a conviction or sentence from the District or Supreme Court. If the Court of Appeal finds an error has been made and a substantial miscarriage of justice has occurred, it will allow the appeal.

Definitions and terms

Term	Definition
Affidavit	An affidavit is a formal statement of the relevant facts in numbered paragraphs sworn in front of a JP or experienced lawyer.
Appeal	An appeal is where you seek a review of a conviction or sentence based on direct or implied error.
Appeal Book	This contains the documents which are considered for an appeal.
Court of Appeal	This court hears appeals from the District and Supreme Court.
Conviction	This is the charge you have been found guilty of or pleaded guilty to.
Error of Law	An error of law is where a judge made a mistake about the law.
Exhibits	The objects tendered in evidence at your trial.
Expedited	This is where you seek that an appeal hearing be held urgently.
Indictment	This is the written document containing the charges made against you.
Leave to appeal	Permission granted by the Court of Appeal to appeal. The test for getting leave to appeal is that a ground of appeal has a reasonable prospect of succeeding.
Leave 'referred'	The Court of Appeal may refer the question of leave to appeal to the hearing of the appeal before the Judges so that this question is decided at the same time as the appeal overall.
Legal Aid	Legal Aid WA assesses applications for legal aid for help with different types of legal matter. To apply for legal aid for an appeal, you should fill out a legal aid application form and either mail it to the Legal Aid office or put your name down to see Legal Aid at the prison. Legal Aid visits Casuarina, Acacia, Hakea and Bandyup each week. Other prisons are visited upon request. A decision will then be made to grant or refuse aid for your appeal. If you are refused aid, you have a right to ask for reconsideration. If you are refused aid after reconsideration, you have a right to ask that the Review Committee consider your application.
Court of Appeal Office	The Court of Appeal Office makes sure all documents relating to your appeal are properly completed and lodged.
Respondent	The Respondent is the other side in your appeal. The Respondent is The State of Western Australia represented by the WA Director of Public Prosecutions (DPP) for State offences or The Queen represented by the Commonwealth DPP for Commonwealth offences.
Submissions	A legal submission is a summary of the argument to be made in the appeal.
Transcript	Transcript is the typed written record of what happened in court.

Forms required

If you are considering or pursuing an appeal against a criminal conviction or sentence from the District or Supreme Court, you will need to access certain forms.

There are copies of the forms you need under Forms at the back of this kit (see page 14). They are:

- Transcript request form
- Fee waiver form
- Appeal notice x 2
- Service certificate
- Notice of self-representation
- Application in an appeal
- Affidavit
- Appellant's case cover sheet
- Practice Direction 7.4 Schedule of Evidence
- Discontinuance notice

Please note if you are typing up an electronic version of any of these forms, the content inserted must be typed in at least **size 12 font** and the line spacing must be at least **1.5cm**.

You may be able to access electronic versions of these forms directly from the District or Supreme Court websites:

- District Court website (www.districtcourt.wa.gov.au)
For **criminal forms** click on the heading **Forms & Fees** and then click on the heading **Criminal Procedure Forms** that will appear in the left hand menu.
- Supreme Court website (www.supremecourt.wa.gov.au)
For **criminal forms and Court of Appeal forms** click on the heading **Forms & Fees** in the menu. Then click on the heading **Court of Appeal Forms and Documents** that will appear in the left-hand menu.

To start an appeal

To start an appeal you need to file an **appeal notice**.

If you wish to appeal against your conviction and your sentence then you should do one appeal notice for the appeal against conviction and a separate one for the appeal against sentence.

Time limit

File your **appeal notice** within **21 days** of the date of your sentence.

See under Filing your documents, below, for information about how to file your appeal notice.

If you are outside the time limit you need to apply for an extension of time by filing an affidavit with the appeal notice. The affidavit should explain why you were late in starting your appeal. It is up to the Court of Appeal whether to allow an extension of time. The longer the delay the harder it is to get the extension.

Should I appeal?

You should only appeal if there is some chance of success. You should talk to a lawyer to see if you have grounds for appeal.

For an appeal to be successful it is not enough that you are unhappy with the result. You must show a substantial miscarriage of justice has occurred. Sometimes the Court of Appeal will dismiss an appeal even though an error was made because there has been no substantial miscarriage of justice.

If you believe that you have been wrongly convicted, it is not enough that the Judge (for cases of trial by Judge alone) or the jury failed to believe your evidence or the evidence of your witnesses. If there was sufficient evidence to support your conviction, your appeal will be dismissed.

If you believe your sentence is too long, it is not enough that you believe another Judge would have given you a shorter sentence. Be careful about how you use other cases as the facts of most cases vary greatly. A lower sentence in one case may not mean that it is correct for yours. You must show that the sentence you received was manifestly excessive having regard to your offence, your personal circumstances and sentencing standards. What you believe to be a harsh sentence may not be manifestly excessive.

There are reasons against lodging an appeal:

- During the time it takes for an appeal to be heard, your prison security rating could be higher.
- Your parole may be deferred.
- There is a possibility that your appeal may prompt a cross appeal by the prosecution.

You should ask a lawyer about the possibility of a cross appeal and check the prison rating impact with the prison authorities.

There is no punishment imposed by the Court of Appeal for an unsuccessful appeal.

If the Judges of the Court of Appeal think that they might increase your sentence as a result of your appeal against sentence, then they will generally tell you. You can then consider whether you want to abandon your appeal.

Getting help with an appeal – applying for a grant of legal aid

You may be eligible for a grant of legal aid to get help with your appeal from a lawyer. If you are in prison, you can apply for a grant of legal aid for an appeal by putting your name down to see Legal Aid at the prison. Legal Aid visits Casuarina, Acacia, Hakea and Bandyup each week. Other prisons are visited upon request.

Grounds of appeal

Grounds of appeal are the **reasons** why a conviction or sentence was wrong. To win your appeal you need to show a ground of appeal that is accepted by the law and that a substantial miscarriage of justice has occurred. It may be that the Judge, your lawyer or the prosecutor made an error or allowed an error to occur.

A ground of appeal cannot be considered unless the Court of Appeal grants leave (permission) for it to be considered. Leave will not be granted for a ground of appeal unless the Court of Appeal is satisfied that the ground has a reasonable prospect of succeeding. Leave is required for **each** ground of appeal.

Examples of grounds of appeal against conviction

1. **Evidence was wrongly admitted**, such as hearsay evidence. Hearsay evidence is where a witness gives evidence about something, which he or she did not personally see or hear, but which someone else told them.
2. The trial Judge failed to exclude a **confession** that was only made because of duress, intimidation or pressure (it was involuntary).
3. The trial Judge wrongly failed to exclude **evidence obtained unlawfully or unfairly**. The trial Judge has discretion to exclude evidence when the unfairness of the evidence is greater than the need to allow the evidence to be given to show what happened.
4. The trial Judge **wrongly stopped evidence** being given.
5. The trial Judge made a wrong decision about some **procedural matter**, such as refusing an adjournment, and that decision prevented the defence being able to present all the relevant evidence.
6. The trial Judge **failed to properly direct the jury** on some aspect of the law relating to your case, such as in relation to the law concerning a defence raised by the evidence.
7. The verdict of the jury was **unreasonable or could not be supported** where a jury acting reasonably should have had sufficient doubt to acquit the accused. Please note that an appeal court does not have the advantage of seeing witnesses give evidence and assessing their demeanour. The loss of this advantage imposes a restriction on the court's ability to make that assessment where a case turns on the credibility of witnesses.
8. **Fresh evidence has become available** since the conviction and if the jury had heard the evidence they would have acquitted you. Fresh evidence is evidence which did not exist, was not known about, or was not disclosed or available at the time of the trial.

Examples of grounds of appeal against sentence

1. That an individual sentence is **manifestly excessive** having regard to the circumstances of the offence, the personal circumstances of the appellant and sentencing standards, reflected in other cases considered on appeal.
2. Where a person has been sentenced for a number of offences, the sentence imposed was **disproportionate to the total criminality**, compared with sentences imposed on other people for similar offending committed in similar circumstances.
3. The Judge **overlooked or made a mistake** about something to do with the law or the facts or your personal circumstances and that affected the sentence you were given.
4. The Judge **did not properly consider** factors such as the following:
 - the time spent in remand custody before sentence
 - a plea of guilty at an early opportunity
 - the sentence received by your co-offender ("parity" of sentence).
5. The Judge **did not consider other sentences** which were reasonably open in the circumstances such as an Intensive Supervision Order.
6. The Judge considered something that was **irrelevant** in deciding what sentence to impose.
7. The Judge did not order **parole** where this should have been done.

Research

If you want to look up the law to see if you have grounds of appeal, you firstly need to work out what the legal issues in your case were.

Ask your lawyer for a copy of the transcript or apply to the court that dealt with your case for a copy of the transcript. If you are in prison then you can apply for the transcript fee to be waived. A form for requesting the transcript and a form for asking for the fee to be waived is in the back of this kit. The transcript is the typed written record of what happened at trial. You should read through the transcript to see what issues came up and look at the direction of the Judge to the jury and the reasons the Judge gave for imposing your sentence.

The criminal law in Western Australia is made up of legislation and cases. You need to find the legislation that relates to your key words. Legislation is a written law from Parliament, such as the *Misuse of Drugs Act 1981* (WA). You need to find the cases that relate to your key words. Cases are the previous decisions by courts on legal issues. Start with having a look in the index of a general textbook for your key words. Read the pages in the book that relate to the key words and note any legislation or cases. The law and rules about appeals are found in:

- Previous court cases
- *Criminal Appeals Act 2004* (WA)
- *Supreme Court (Court of Appeal) Rules 2005* (WA)

Legislation

Legislation includes Acts, such as the *Criminal Code* or *Criminal Appeals Act* as well as subsidiary legislation which are regulations or rules associated with an Act, such as the *Supreme Court (Court of Appeal) Rules*.

The State Law Publisher (SLP) is the official publisher of Western Australian legislation and statutory information. The Parliamentary Counsel's Office hosts a website that stores current copies of all legislation that may be accessed at no cost: www.legislation.wa.gov.au. Alternatively, you may access legislation in hard copy from the SLP but you are likely to be charged a fee. The SLP is located at Dumas House, 2 Havelock Street, West Perth and may be contacted on (08) 6552 6000.

If you access legislation via the website, you need to select **Acts** or **Subsidiary legislation** and then **in force**. Then select the starting alpha letter of the name of the Act or Subsidiary legislation, for example **C** for **Criminal Code**, and navigate to that legislation in the alphabetical list. If you click on the link to the legislation you want you can then select to view the Act in PDF, Word or HTML.

Cases

The court system has courts at different levels with the Magistrates Court being at the lowest level. Lower courts must follow decisions by higher courts; therefore, you need to look for cases decided by higher courts first, such as the High Court and the Court of Appeal. Cases are an important part of legal research because they show the law on an issue. You need to find cases that deal with the same issue that you are researching. Cases may be available in law reports or online. Each case has a specific name and "citation" that is used to identify the case. A citation is a description of where the case can be found. For example, the citation for the case of *Mathews v The Queen* is (2001) 24 WAR 438. This citation refers to Volume 24 of the West Australian Reports at page 438. You should find out if a case you have found has been followed or rejected in later cases.

Steps involved in an appeal

The steps involved in a criminal appeal are as follows:

1. Complete an **appeal notice**, or two **appeal notices** if you are appealing against both conviction and sentence.
2. Complete an **affidavit**, or two affidavits if you are appealing conviction and sentence, if you are outside the 21-day appeal time limit.
3. **File the document/s** at the Court of Appeal and serve them on the respondent, being the relevant Director of Public Prosecutions (DPP) (State DPP for State cases or the Commonwealth DPP for Commonwealth cases).
4. Complete then send a **service certificate** to the Court of Appeal.
5. The respondent (DPP) provides a **notice of respondent's intention**.
6. Within 56 days of filing your appeal notice, complete and send the **appellant's case** to the Court of Appeal or apply for an extension of time.
7. The Court of Appeal will decide whether to grant leave to appeal on the basis of the appellant's case filed or whether to have a leave to appeal hearing.
8. If leave is granted a notice will be issued by the Court requiring a **respondent's answer** within 21 days.
9. The respondent (DPP) provides a **respondent's answer**.
10. If leave granted, **appeal books** are prepared.
11. The appeal will be **heard** by the Court of Appeal.
12. The **decision** will be handed down by the Court of Appeal at a later date.

Completing the appeal notice

The appeal notice starts the appeal process. If you want to appeal against your conviction **and** your sentence then you will need to complete an appeal notice **for each**. The layout of the appeal notice is at the back of this kit.

Parties

This is the first section of the appeal notice that you need to complete. You are the **appellant**. You need to put your full name before the word 'appellant'. You need to underline your surname. The **respondent** to your appeal or application for leave to appeal is The State of Western Australia if you have an appeal relating to a State offence, such as aggravated burglary. The respondent to your appeal if the offence was a Commonwealth offence is The Queen.

Offender

The next section of the Appeal Notice refers to the **offender**. You need to put in your full name and then your date of birth. You need to underline your surname.

Primary court's decision

Under the section headed **primary court's decision** you need to put in the details of the case that you are appealing against.

- **Primary court:** Put in whether the court being appealed from is the District or Supreme Court and the place where the Court was held (e.g. Perth, Kalgoorlie etc).
- **Indictment number:** Put in the number of the indictment for the case you are appealing against.

- **Date of the decision:** Put in the date of the conviction or sentence.
- **Judicial officer:** Put in the name of the Judge that dealt with your case.

Decision details

- **Convictions recorded:** Put in the offences that you were convicted of.
- **Sentence imposed:** Put in the sentence or sentences imposed.
- **State other orders made:** Put in any other orders made.

Where there are several charges

If there are too many charges to list on the form, you should write on the appeal notice 'See Attached' and then list them on a separate piece of paper headed "Attachment – List of Offences". You should staple the attachment to the back of the appeal notice.

Appeal details

Tick the relevant box as to whether your appeal relates to the conviction or the sentence or other order. If you wish to appeal against both the conviction and the sentence, please do a **separate** appeal notice for each.

Grounds of appeal

In this section you need to list each error made by the Judge or jury that you are relying on as your grounds of appeal.

List each ground of appeal separately and give each ground of appeal a number.

For example,

- The learned trial Judge made an error by ... (put in the details).
- There was a miscarriage of justice because ... (put in the details).
- The learned sentencing Judge imposed a sentence that was manifestly excessive having regard to the circumstances of the offence, the personal circumstances of the appellant and sentencing standards.

Set out the details that support the ground of appeal in further numbered paragraphs under each ground of appeal.

- (i) Set out the details of the error which you say the Judge made. For example,
"The learned trial Judge misdirected the jury in relation to self-defence when he said the following: [Add the misdirection]."
- (ii) Set out the details of the relevant evidence that you say was missing so that the verdict was unreasonable and cannot be supported.
"The verdict cannot be supported because there was no evidence from any witness that I was involved in or even knew about the fight that caused the grievous bodily harm."

Next to each ground of appeal you must identify the paragraph or page number from the primary court's decision where you say the error occurred.

Last date for appealing

You have **21 days** from the date of sentencing to file your Appeal Notice. In the section "Last Date for Appealing" put in the following:

- **Last Date:** Put down the date 21 days after the date of your sentencing.

- Is an Extension of Time Needed? Put down “Yes” if you are outside the 21-day period. Put down “No” if you are within the 21-day period.

If you are outside the appeal time limit you will also need to file an Affidavit. This is discussed below.

Affidavit in support of extension of time

If 21 days have passed before you file your appeal notice, you must complete an affidavit to go with your appeal notice. The affidavit is a formal statement explaining why you have been late in sending in your appeal notice and why you believe the Court of Appeal should still let you proceed with your appeal. An example of an affidavit format is in the back of this kit. The information in the affidavit should be set out in numbered paragraphs. The affidavit will need to be sworn before a Justice of the Peace or a lawyer who has been practising for more than two years.

Filing your documents

When you have completed the appeal notice and the affidavit (if requesting an extension of time), you need to provide them to the Court of Appeal Office at the Supreme Court. This can be done in person or by email, post or fax.

In person

To file in person you need to attend the Court of Appeal Office at the Stirling Gardens address noted under **Contacts** in this kit. If the Office is closed you should place your documents into the secure box.

Post

To file by post you need to send your documents to the Court of Appeal Office at the postal address noted under **Contacts** on page 13 of this kit.

Email

To file by email, send the documents to courtofappeal.filing@justice.wa.gov.au. Each document and its attachments must be no more than 40 pages long. The first page of a document sent by email should have a statement saying that the document emailed is the original document and must include the date and time the document was sent by email.

Fax

If filing by fax, send the documents to the Court of Appeal Office on **9421 5471**. Each document and its attachments must be no more than 20 pages long. The document must have a cover page stating your:

- Name;
- Postal address;
- Document exchange number (if any);
- Telephone number;
- Fax number; and
- The number of pages (including cover page) being sent by fax.

The first page of a document sent by fax should also have a statement saying that the document faxed is the original document and must include the date and time the document was sent by fax.

Always keep copies of everything you send. Your documents are considered “filed” at the time they are received by the Court of Appeal Office. If they are received **after** 4pm on a working day, they are taken to be ‘filed’ on the next working day. Once received, the Office will give the appeal a “CACR” number.

Serving your documents

You must serve (provide) a copy of your documents to the solicitor for the respondent, being the relevant Director of Public Prosecutions. This must be done **no later than 3 days** after the date on which the documents were filed in the Court of Appeal.

There are two Directors of Public Prosecutions (DPP):

- The State DPP for Western Australia, which deals with State charges.
- The Commonwealth DPP, which deals with Commonwealth charges.

If your appeal relates to a State law your appeal documents are served on the State DPP. If your appeal relates to a Commonwealth law your appeal documents are served on the Commonwealth DPP.

You must serve your documents **in person, unless you are in prison, in which case you may serve them by post**. The addresses for the State DPP and Commonwealth DPP are under **Contacts** in this kit.

After you have sent the documents to the relevant DPP, complete a **service certificate** explaining how you served the DPP. This form is in the back of the kit. The service certificate must be filed at the Court of Appeal Office. The options for doing this are noted under Filing your documents, above.

Applications in an appeal

Bail

To apply for bail pending appeal you need to complete an application in an appeal and an affidavit in support, and file these with the Court and serve them on the DPP. It is very hard to get bail pending appeal from a District or Supreme Court case and bail is rarely given. You should get legal advice about this before deciding whether to seek bail.

Urgent appeal

You can apply for the appeal to be heard quickly (i.e. on an 'expedited basis') where there is a need for the appeal to be heard urgently. To do this you need to complete an application in an appeal and an affidavit in support.

Additional evidence

To give the Court of Appeal additional evidence you need to complete an application in an appeal and an affidavit in support (which attaches the additional evidence you want the court to consider or explains the relevance of another affidavit such as from a witness who you were not aware of before). You should get legal advice about this.

Appellant's case

Within 56 days of filing your appeal notice you need to prepare and send a collection of documents called the appellant's case. If you are appealing your conviction and your sentence you need to do a separate appellant's case for each appeal.

An example of the format of these documents is in the back of this kit. If you cannot complete the appellant's case in this time you need to file and serve an application for an extension of time.

You need to do the following to complete the appellant's case:

- Complete the cover sheet for the **appellant's case**. The cover sheet for the appellant's case is in the back of this kit. You need to sign and date the cover sheet.
- Complete a **grounds of appeal** document. In this document set out in numbered paragraphs the final grounds of appeal that you want the Court of Appeal to look at. Next to each ground of appeal you must identify the page number from the transcript where the error is said to have occurred.
- Complete a **submissions** document. In this document, set out the points that you wish to make in relation to each ground of appeal. Also set out the legislation and cases that support any points of law you wish to make in relation to your appeal. You need to sign the end of the submissions.
- If you have a ground of appeal that the verdict of the jury was unreasonable or not supported by the evidence or that there was a miscarriage of justice, then you should complete a **Practice Direction 7.4 Schedule of Evidence** document. In this document, list all the evidence that was put before the original court that supports the conviction and the evidence that supports your ground of appeal. You must identify the transcript page, exhibit or the unchallenged finding of fact in the schedule. The schedule must be in a table format. There is a template schedule of evidence document at the back of this kit. You must sign and print your name on the completed document.
- Complete a **legal authorities** document. In this document list all of the sections of legislation and cases that you refer to in your submissions.
- Complete an **orders** document. In this document set out in numbered paragraphs the orders that you wish the Court of Appeal to make. E.g. "The appeal against conviction be allowed, the conviction quashed and the matter remitted for retrial."
- If you are appealing against conviction then complete a **draft chronology** document. In this document, set out the dates of each event that are relevant to your appeal. First set down the date of the event and then describe what the event was next to it.
- Complete draft **appeal book index/es** document. In this document set down all of the documents that you propose to include in the appeal book such as the appeal notice, indictment and transcript. See the section below called "appeal books" to find out what documents need to be listed here.

File the appellant's case with the Court of Appeal and serve the appellant's case on the DPP in person, by fax or by post.

Leave to appeal

After you have filed the appellant's case, your case will be considered by the Court of Appeal. The Court of Appeal may then either grant leave to appeal on the basis of the appellant's case, or list the case for a leave hearing before the Court of Appeal. If you are attending a leave to appeal hearing, you should prepare notes beforehand of what you want to raise with the Court. You address the judges as "Your Honour". The DPP do not normally go to this type of hearing. The Court will hand down their decision on another day, after the hearing.

If you get leave to appeal, contact Legal Aid WA

If you get leave to appeal and were previously refused a grant of legal aid then you should ask Legal Aid to reconsider this decision. You can do this by writing to Legal Aid or by putting your name down to see someone from Legal Aid at the prison.

Respondent's answer

If leave to appeal is granted or referred, the Registrar will provide a notice to the respondent (the DPP) requiring that a respondent's answer be filed and served within 21 days. The respondent's answer sets out the DPP's submissions and the legal authorities they are relying on and replies to your draft chronology and appeal book indexes.

The Court of Appeal Registrar finalises the appeal book indexes after the respondent's answer has been filed.

Appeal books

If you are not represented by a lawyer and are in prison then the Court of Appeal will prepare the appeal books for your appeal.

Final hearing

If you are in custody, you will be brought to the Supreme Court to argue your appeal. **You begin** the argument. You do this by referring to your outline of submissions and list of authorities. Take this chance to emphasise each point you want to make about your case.

When you have finished, the DPP lawyer will be given the opportunity to answer the points you have made and say why they believe your appeal should not be granted. You will be allowed to speak to the Court again after the DPP so that you have the last say. When you and the DPP have had a say, the Court of Appeal will make a decision. The decision in the appeal will usually be handed down another day.

Discontinuing your appeal

If you decide not to go ahead with your appeal, you can "discontinue" (end) it at any time. You must complete a discontinuance notice. A copy of this form is at the back of this kit. This form must be filed at the Supreme Court and served on the relevant DPP. If you discontinue your appeal or application for leave to appeal this is the end of your appeal.

Court etiquette

Be on time – The time should be written on your court papers. If you are not sure ring the court and check. If you are late for court or do not come at all things might happen in your absence.

Dress neatly – Take off any sunglasses or hats. You will not be allowed into court in a singlet or without shoes.

No mobile phones, food or drink – Turn off all mobile phones and any other electronic devices before entering the court. Do not take any food or drink into court.

Court room behaviour – When entering and leaving the courtroom it is customary to bow towards the judge. Stand up when the judge enters and leaves the courtroom. Stand up when you are being spoken to or when you wish to speak, otherwise remain quietly seated. Address the judge as "Your Honour".

Contacts

Court of Appeal

Court of Appeal Office, Supreme Court
Stirling Gardens
Barrack Street
Perth WA 6000

Phone: (08) 9421 5563

Fax: (08) 9421 5471

Email for filing:

courtsofappeal.filing@justice.wa.gov.au

Email for general enquiries:

courtsofappeal.office@justice.wa.gov.au

Postal address:

Level 11, David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

State Director of Public Prosecutions

55 St George's Terrace
PERTH WA 6000

Phone: (08) 9425 3999

Fax: (08) 9425 3600

Email: dpp@dpp.wa.gov.au

Commonwealth Director of Public Prosecutions

Level 1
226 Adelaide Terrace
Perth WA 6000

Phone: (08) 9264 7264

Fax: (08) 6208 3213

Email: perth@cdpp.gov.au

Postal address:

Commonwealth DPP
GPO Box B92
PERTH WA 6001

Legal Aid WA

www.legalaid.wa.gov.au

Telephone Infoline: 1300 650 579 (General Enquiries) Open Monday to Friday 9.00 am to 4.00 pm (Australian Western Standard Time) except public holidays.

Translating and Interpreting Service: 131 450

National Relay Service (for hearing and speech impaired): 133 677

Perth Office

32 St Georges Terrace
Perth, WA 6000
1300 650 579
(08) 9261 6222

Great Southern Office

Unit 3, 43-47 Duke Street,
Albany, WA 6330
(08) 9892 9700

East Kimberley Office

98 Konkerberry Drive,
Kununurra, WA 6743
(08) 9166 5800

Southwest Office

7th Floor, Bunbury Tower,
61 Victoria Street
Bunbury, WA 6230
(08) 9721 2277

Goldfields Office

Suite 3, 120 Egan Street,
Kalgoorlie, WA 6430
(08) 9025 1300

Midwest & Gascoyne Office

Unit 8, The Boardwalk,
273 Foreshore Drive,
Geraldton, WA 6530
(08) 9921 0200

West Kimberley Office

Upper Level, Woody's Arcade,
15-17 Dampier Terrace,
Broome, WA 6725
(08) 9195 5888

Pilbara Office

28-32 Throssell Road,
South Hedland, WA 6722
(08) 9172 3733

Indian Ocean Office

Administration Building,
20 Jalan Pantai, Christmas
Island,
Indian Ocean, WA 6798
(08) 9164 7529

Forms – copies to use

The forms that you need to pursue an appeal against a decision of the District or Supreme Court are included in the following pages. They are:

- Transcript request form
- Fee waiver form
- Appeal notice x 2
- Service certificate
- Notice of self-representation
- Application in an appeal
- Affidavit
- Appellant's case cover sheet
- Practice Direction 7.4 Schedule of Evidence
- Discontinuance notice

You may be able to access electronic versions of these forms directly from the District or Supreme Court websites:

- District Court website (www.districtcourt.wa.gov.au)
For **criminal forms** click on the heading **Forms & Fees** and then click on the heading **Criminal Procedure Forms**.
- Supreme Court website (www.supremecourt.wa.gov.au)
For **criminal forms and Court of Appeal forms** click on the heading **Forms & Fees** and then click on the heading **Court of Appeal Forms and Documents**.

**DISTRICT / SUPREME COURT
TRANSCRIPT REQUEST FORM**

I, _____
of _____ (address)

Request a certified copy of a transcript for the following matter:

ACCUSED'S NAME: _____

THE STATE OF WESTERN AUSTRALIA / THE QUEEN:

DATE/S OF HEARING: _____

ACTION NUMBER/S: _____

JUDGE (if known): _____

SECTION OF TRANSCRIPT REQUIRED _____

I undertake to pay the sum of \$_____ now and will pay the balance when the transcript is ready for collection. Transcript is estimated at \$___ and 75% is payable forthwith. If the total cost is less than the 75% paid, I understand I will be entitled to a refund.

TRANSCRIPT FORMAT: Hardcopy, Email, Electronic, Running

I declare the following interest in the above-mentioned proceedings:

☐ I am a party to the proceedings; OR

☐ Other (provide details): _____

SIGNATURE: _____

DATE: _____

CONTACT TELEPHONE: _____

To apply for the transcript fee to be waived:

Form 2 Application to Remit Fees			
In the District/ Supreme Court of Western Australia		No. _____ of 20_____	
Plaintiff:			
Defendant:			
Applicant:	Full name:		
	Address:		
	Date of birth:		
	MDL No.		
<p>The following reasons are my special reasons for applying to have the fees and poundage in relation to the above matter waived/ reduced/ refunded/ deferred*.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p><i>*Strike out those that are not applicable.</i></p>			
<p>If the special reasons include financial hardship the information required in the following part of this form must be provided by the applicant.</p>			
<p>I am employed as a by.....,</p> <p>Their business is</p>			
<p>I am unemployed/ a pensioner* and registered with the Department of Social Security at.....</p>			
<p>I am single/ married/ separated.*</p>			
<p>I have/ do not have* a dependant wife/ husband/ de facto spouse* anddependant children.</p>			
<p>My weekly/ fortnightly* income and expenditure is as follows (in whole dollars)-</p>			
Income		Expenditure	
Wage/salary/benefit (net)		Rent/ board	\$
Self	\$	Mortgage payment	\$
Spouse	\$	Maintenance for dependants	\$
De facto	\$	Food	\$
Total	\$	Electricity/gas	\$
Money in bank or other financial institution		Telephone	\$
Self		Water	
Spouse		Rates and taxes	
De facto		Court orders	

Total	\$	Lease or other (give details)	\$
Income from investments	\$	Other Debts owing (give details)	\$
Other income	\$		
Money owed to me	\$		
TOTAL		TOTAL	
ASSETS		VALUE \$	
My assets and liabilities are as follows-			
Houses or real property (give addresses)			
TOTAL			
Motor vehicles (car, utility, motor cycle, truck, etc)			
Make and model		Reg No	
TOTAL			
Home contents		yes/no	
Television		yes/no	
Video recorder		yes/no	
Stereo system		yes/no	
Furniture		yes/no	
Dishwasher		yes/no	
Microwave oven		yes/no	
Collection of coins/stamps, etc		yes/no	
Other collectables			
Interest in business or company			
Other assets			
TOTAL			
LIABILITIES			
Mortgage to		For \$	
Other to		For \$	
Time to pay order.....		For \$	
TOTAL			
Signature of applicant:			
Date:			
<p><i>*Strike out words that are not applicable.</i></p> <p><i>Note: It is an offence under regulation 7(4) of the District Court (Fees) Regulations 2002 for a person to make a statement or representation in this application that the person knows or has reason to believe is false or misleading in a material particular. The maximum fine is \$1000.</i></p>			

SUPREME COURT OF WESTERN AUSTRALIA		NO: CACR	
COURT OF APPEAL		APPEAL NOTICE (Criminal)	
Parties to the Appeal	(Your full name, underlining the family name)		
	The State of Western Australia / The Queen		Appellant
			Respondent
Offender	(Your full name)	Date of Birth	(your date of birth)
Primary Court's Decision			
Primary Court	(District or Supreme Court)		
Indictment No.	at (place)		
Date of decision			
(put down the date of the conviction or sentence)			
Judicial officer	(name of Judge)		
Decision details			
Convictions recorded	(List the offences you were convicted of)		
Sentence imposed	(Describe the sentence imposed for the offences you are appealing against)		
Other orders made			
Appeal Details			
Notice of Appeal	<input type="checkbox"/> The Appellant applies to the Court of Appeal for leave to appeal against the above conviction		
(Tick the box which applies – you must lodge separate appeal notices for appeals against sentence and conviction)	<input type="checkbox"/> The Appellant applies to the Court of Appeal for leave to appeal against -		
	<input type="checkbox"/> the above sentence		
	<input type="checkbox"/> the above order		
	<input type="checkbox"/> The Appellant applies to the Court of Appeal for leave to appeal against the above decision.		

Draft Grounds of Appeal <i>(Briefly outline the draft grounds of appeal. Your final grounds of appeal are set out in the Appellant's Case that you file later.)</i>		
Notice to the Respondent	If you want to take part in this appeal you must file a Form 4 under the <i>Supreme Court (Court of Appeal) Rules 2005</i> within 7 days after you are served with this notice and serve it on the appellant.	
Last date for appealing	Last date: Is an extension of time needed? YES / NO	
Legal representation	Is the Appellant legally represented in this appeal? YES /NO Is the Appellant applying for legal aid? YES / NO	
Appellant's details for service		
Name Street Address Telephone no Email address Reference No.	Fax No	
Signature of Appellant Appellant	Date:

SUPREME COURT OF WESTERN AUSTRALIA		NO: CACR	
COURT OF APPEAL		APPEAL NOTICE (Criminal)	
Parties to the Appeal	(Your full name, underlining the family name)		
	The State of Western Australia / The Queen		Appellant
			Respondent
Offender	(Your full name)	Date of Birth	(your date of birth)
Primary Court's Decision			
Primary Court	(District or Supreme Court)		
Indictment No.	at (place)		
Date of decision			
(put down the date of the conviction or sentence)			
Judicial officer	(name of Judge)		
Decision details			
Convictions recorded	(List the offences you were convicted of)		
Sentence imposed	(Describe the sentence imposed for the offences you are appealing against)		
Other orders made			
Appeal Details			
Notice of Appeal	<input type="checkbox"/> The Appellant applies to the Court of Appeal for leave to appeal against the above conviction		
(Tick the box which applies – you must lodge separate appeal notices for appeals against sentence and conviction)	<input type="checkbox"/> The Appellant applies to the Court of Appeal for leave to appeal against -		
	<input type="checkbox"/> the above sentence		
	<input type="checkbox"/> the above order		
	<input type="checkbox"/> The Appellant applies to the Court of Appeal for leave to appeal against the above decision.		

Draft Grounds of Appeal <i>(Briefly outline the draft grounds of appeal. Your final grounds of appeal are set out in the Appellant's Case that you file later.)</i>		
Notice to the Respondent	If you want to take part in this appeal you must file a Form 4 under the <i>Supreme Court (Court of Appeal) Rules 2005</i> within 7 days after you are served with this notice and serve it on the appellant.	
Last date for appealing	Last date: Is an extension of time needed? YES / NO	
Legal representation	Is the Appellant legally represented in this appeal? YES /NO Is the Appellant applying for legal aid? YES / NO	
Appellant's details for service		
Name Street Address Telephone no Email address Reference No.	Fax No	
Signature of Appellant Appellant	Date:

SUPREME COURT OF WESTERN AUSTRALIA		NO: CACR
COURT OF APPEAL		SERVICE CERTIFICATE
Parties to the Appeal	<p>(Your full name with surname underlined)</p> <p style="text-align: right;">Appellant</p> <p>THE STATE OF WESTERN AUSTRALIA / THE QUEEN</p> <p style="text-align: right;">Respondent</p>	
Certificate Where Appellant Not in Prison	<p>I certify that on _____ (date) at _____ (place) _____ (name of server) served the Respondent personally with:</p> <p>An appeal notice dated _____ (date); and A copy of every other document that was filed with the appeal notice. I undertake to file an affidavit of service if the Court requires me to.</p>	
Certificate Where Appellant in Prison	<p>I certify that on¹ _____ (date) I sent the following to the Respondent by post:</p> <p>An appeal notice dated² _____ (date); and a copy of every other document that was filed with the appeal notice. (1 & 2 – insert the relevant dates in here)</p>	
Signature of Appellant Appellant	Date:

SUPREME COURT OF WESTERN AUSTRALIA COURT OF APPEAL		NO: CACR
		NOTICE OF SELF REPRESENTATION
Parties to the Appeal	<i>(Your full name, underlining surname.)</i> <div style="display: flex; justify-content: space-between;"> The State of Western Australia / The Queen Appellant </div> <div style="text-align: right;">Respondent</div>	
Notice	<p>I, the appellant, no longer have a lawyer acting for me in this appeal.</p> <p>My address for service is set out below.</p>	
Address for service		
Street Address Telephone no Email address Reference	Fax No	
Signature of Appellant Appellant	Date:

SUPREME COURT OF WESTERN AUSTRALIA		NO: CACR
COURT OF APPEAL		APPLICATION IN AN APPEAL
Parties to the Appeal	<i>(Appellant's full name, underlining the family name)</i> <div style="text-align: right;">Appellant</div> The State of Western Australia / The Queen <div style="text-align: right;">Respondent</div>	
Applicant	Appellant / Respondent	
Application	The applicant applies for –	
Conference between the parties	The parties to this application have conferred about the issues giving rise to this application and have not resolved them. The parties to this application have not conferred about the issues giving rise to this application because <i>(state reasons)</i>	
Applicant's address for service		
Firm name Street Address Telephone no Email address Reference	<i>(Applicant's name)</i> <i>(Address)</i> <div style="text-align: right;">Fax No</div>	
Signature of Applicant or lawyer Applicant	Date:

SUPREME COURT OF WESTERN AUSTRALIA		NO: CACR
COURT OF APPEAL		AFFIDAVIT
Parties to the Appeal	(Appellant's full name, underlining the family name)	
	The State of Western Australia / The Queen	Appellant Respondent
Person making affidavit	(Name of the person making the affidavit)	
Date Made	(Date the affidavit was sworn)	
Purpose	(Reason you are preparing the affidavit)	
Filed by	Appellant	
Index	Contents	Page
	1. Affidavit	
	(List the annexures, describing each one. Number the pages of the affidavit and fill out the index.)	
Appellant's details for service		
Name		
Street Address		
Telephone no	Fax No	
Email address		
Reference No.		

I, _____ of _____ in the State
of Western Australia, _____ being duly sworn MAKE OATH
AND SAY AS FOLLOWS :

1.

2.

3.

4.

SWORN by the above named)
Deponent at _____)
in the State of Western Australia)
this _____)
day of _____ 20_____)
before me :)

Justice of the Peace / Legal Practitioner who
has held a practising certificate for at least 2
years and who holds a current practising certificate.

SUPREME COURT OF WESTERN AUSTRALIA		NO: CACR
COURT OF APPEAL		APPELLANT'S CASE
Parties to the Appeal	<i>(Appellant's full name, underlining the family name)</i> <div style="text-align: right;">Appellant</div> The State of Western Australia / The Queen <div style="text-align: right;">Respondent</div>	
Notice	Attached to this form are these documents in this order – <ul style="list-style-type: none"> ▪ Grounds of appeal; ▪ Submissions; ▪ Legal Authorities; ▪ Orders wanted; ▪ Draft chronology; and ▪ Draft appeal book indexes. 	
Certificate	I certify – That in preparing the attached documents I have fully prepared the appellant's case; and That in all respects, other than the preparation of the appeal books, the appellant is ready for the hearing of this appeal.	
Time Estimate	I estimate that it will take ¹ _____ to orally present the appellant's case at the hearing of this appeal. <i>(1 – put in an estimate of time of how long it will take you to argue your case before the Court of Appeal)</i>	
Appellant's address for service		
Firm name Street Address Telephone no Email address Reference	<div style="text-align: center;">Fax No</div>	
Signature of Appellant Appellant	Date:

[illegible]

This Schedule complies with Practice Direction 7.4.

Appellant's signature

Name _____

SUPREME COURT OF WESTERN AUSTRALIA		NO.: CACR
COURT OF APPEAL		DISCONTINUANCE NOTICE
Parties to the Appeal	<i>(Appellant's full name, underlining the family name)</i> Appellant The State of Western Australia/The Queen Respondent	
Notice	The appellant discontinues this appeal.	
Appellant's address for service		
Firm name Street Address Telephone no Email address Reference	Fax No	
Signature of Appellant Appellant	Date: