

INSTRUCTIONS

Staff at the court registry will give you the file number. Print the name of the registry. Print the court where your trial will be heard: Provincial or Supreme.

File No. _____

_____ Registry

IN THE _____ COURT OF BRITISH COLUMBIA

BETWEEN:

HIS MAJESTY THE KING

and

(Applicant's name)

You're the applicant. Print your name on the line.

NOTICE OF APPLICATION AND CONSTITUTIONAL ISSUE

*(Constitutional Question Act, R.S.B.C. 1996, c. 68, Section 8;
Constitution Act, 1982, Part I, Sections 7, 11(d) and 24(1))*

**TO: Attorney General of Canada
900 – 840 Howe Street
Vancouver BC V6E 3P9
AGC_PGC_Vancouver@justice.gc.ca**

and

**TO: Attorney General of British Columbia
PO Box 9290
Stn Prov Govt
Victoria BC V8W 9J7
Attn: Duty Counsel**

Visit the Attorney General website at gov.bc.ca/justice and search for the "serving legal documents on the Attorney General" page for more information.

Print the court name: Provincial or Supreme.

You get the hearing date, time, and place from the staff at the court registry.

TAKE NOTICE that the applicant will make an application to a judge of the _____ Court on the day of _____, 20_____ at _____, or as soon after that time as the application can be heard at the _____ Court at (address): _____

Where it says, Attorney General of _____, you'll probably put "British Columbia." But, if you're charged under certain federal laws, such as the Controlled Drugs and Substances Act or the Fisheries Act, put "Canada."

THE APPLICATION IS FOR an Order staying the proceedings until the Attorney General of _____ provides the necessary funding for counsel subject to any assessment of counsel's bill.

THE GROUNDS FOR APPLICATION ARE:

Write in the date the registry gives you for a fix-date.

List all of the charges you face.

Give your age and what grade you completed in school. (Or give the number of years of high school you completed if you didn't go to school in Canada).

1. The applicant has a hearing date of _____ with respect to offences, including charges of:

(list charges here) _____

2. The applicant wishes to retain counsel to defend these charges. To that end, the applicant applied to Legal Aid BC for legal aid and legal aid has been refused.

3. The applicant cannot pay for a lawyer.

4. Representation of the applicant by counsel is essential to a fair trial and to the ability of the applicant to make full answer and defence. The applicant believes that the charges are serious and complex. The applicant is _____ years old and his/her level of education is _____.

5. The appropriate remedy is a stay of proceedings until the necessary funding of counsel is available.

THE CONSTITUTIONAL ISSUES TO BE RAISED AND PRINCIPLES TO BE ARGUED ARE:

6. The applicant relies on Sections 7 and 11(d) and 24(1) of the *Charter*, Section 650(3) of the *Criminal Code of Canada*.

7. Sections 7 and 11(d) of the *Charter* guarantee the applicant the right to a fair hearing in accordance with the principles of fundamental justice and accordingly require funded counsel to be provided if the accused wishes counsel, cannot pay a lawyer, and representation of the accused by counsel is essential to a fair trial: *R. v. Rowbotham* [1988] O.J. No. 271.

8. Sections 7 and 11(d) of the *Charter* also guarantee the right to make full answer and defence.

9. The proper remedy is a stay of proceedings pursuant to Section 24(1) of the *Charter* until the necessary funding of counsel is provided: *R. v. Rowbotham* (1988), 41 C.C.C. (3d) 1 (Ont. C.A.).

IN SUPPORT OF THIS APPLICATION, THE APPLICANT RELIES UPON THE FOLLOWING:

- (a) the Affidavit of the applicant;
- (b) such further and other evidence as the court may permit.

Fill in this line at the registry.

DATED at _____, BC this ____ day of _____, 20 ____

Sign and print your name.

Applicant's signature: _____

Applicant's name: _____

Write in your address and phone number.

Address: _____

Phone: _____

Once you've completed this Notice of Application and Constitutional Issue, make **4 COPIES**.

Take these copies plus the original to the court registry. Ask for the **ADDRESS FOR SERVICE** of the Crown office that is responsible for your file. Put one copy of this Notice of Application and Constitutional Issue and the Affidavit in an envelope and MAIL IT to this address (**copy 1**). **Send by registered mail.**

Then, SEND ONE COPY of this Notice of Application and Constitutional Issue and the Affidavit to the ATTORNEY GENERAL OF CANADA (**copy 2**). Contact information is on this form. (If you choose to mail the copy, send it by registered mail to keep track of it and get proof of delivery.)

SEND ONE COPY to the ATTORNEY GENERAL OF BC (**copy 3**). Contact information is on this form. (If you choose to mail the copies, send them by registered mail to keep track of them and to get proof of delivery.)

KEEP ONE COPY for yourself (**copy 4**).