**Form 2**

NOTICE OF MOTION FOR INMATE APPEALS AND WHERE MOVING PARTY IS UNREPRESENTED

COURT OF APPEAL FOR ONTARIO

MOTION FOR LEAVE TO APPEAL

UNDER THE PROVINCIAL OFFENCES ACT

To: The Registrar

Name of defendant ............................................................................................................................

Place of trial ......................................................................................................................................

Name of court[[1]](#footnote-1) appealed from ..........................................................................................................

Name of judge appealed from ...........................................................................................................

Offence(s) of which convicted[[2]](#footnote-2) ........................................................................................................

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Statute under which defendant convicted[[3]](#footnote-3) ........................................................................................

Plea at trial ........................................................................................................................................

Sentence imposed ..............................................................................................................................

Date of conviction .............................................................................................................................

Date of imposition of sentence .........................................................................................................

Date of disposition of appeal ............................................................................................................

Name and address of place at which appellant is in custody ............................................................

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I, the above named defendant, hereby give you notice that I desire to appeal to the Court

of Appeal against my[[4]](#footnote-4) .......................................................................................................................

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on the grounds hereinafter set forth on page 3 of this notice.

I desire to present my case and argument for leave to appeal,

1. in person and request that the Registrar fix a date for the hearing of the motion; or
2. in writing.[[5]](#footnote-5)

Dated this ...................................day of .................................................., 20...................................[[6]](#footnote-6)

Signed ................................................................................................................................................

 Appellant

I hereby apply for an extension of time within which I may launch my motion for leave to appeal upon the following grounds (here state reasons for delay.)

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The moving party [strike out inapplicable provisions]

1. applies under s. 131 [or s. 139] of the Provincial Offences Act for leave to appeal conviction upon grounds involving a question of law alone.
2. applies under s. 131 of the Provincial Offences Act for leave to appeal sentence.
3. applies under s. 139 of the Provincial Offences Act for leave to appeal sentence upon grounds involving a question of law alone[[7]](#footnote-7)

Grounds of Appeal

These must be filled in before notice is sent to the Registrar. The moving party must here set out the grounds or reasons he or she alleges why the conviction should be quashed or the sentence reduced. The moving party must also set out the special grounds for granting leave to appeal.

Additional pages may be added and you may include your written argument if you do not wish to appear in person.

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Notes

Grounds for leave to appeal

1. (a) You may apply for leave to appeal to the court of appeal from conviction only upon questions of law alone and only on special grounds which make it essential in the public interest or for the due administration of justice that leave be granted.

(b) You may apply for leave to appeal to the Court of Appeal from sentence only upon special grounds which make it essential in the public interest or for the due administration of justice that leaves be granted, and in proceedings commenced under Part I or II only on a question of law alone.

Time for serving this notice

1. (a) Whether your motion for leave to appeal is from conviction, sentence or both, this notice must be served within 30 days of the date of the order or decision from which leave to appeal is sought.

(b) If this notice is served beyond that time when you must apply for an extension of time by completing the application above.

Manner of service of this notice where person in custody

1. If you are in custody this notice of motion must be served by delivering it to the senior official of the institution in which you are confined.

Manner of service of this notice where person not in custody

1. If you are not in custody you must serve a copy of this notice on the prosecutor and the Crown Law Office (Criminal) of the Ministry of the Attorney General if the prosecutor is not acting on behalf of the Crown. This notice must then be filed in the office of the Registrar of the Court of Appeal, with proof of service, within five days after service.

Filing argument in writing if in custody

1. If you are in custody and desire to submit your case and argument for leave to appeal in writing you may deliver your written argument to the senior official of the institution in which you are confined, with this notice of motion or not later than 15 days from the date that you serve this notice.

Filing argument and motion record if person not in custody

1. If you are not in custody you must comply with subrule 3 (9) by serving and filing a motion record and transcripts within 30 days of filing of this notice, whether or not you wish to present your argument in writing or in person. The contents of the motion record are described in subrule 3 (9), a copy of which may be obtained from the Registrar's office. If you wish to present your argument in writing, the argument may be included with this notice or filed with the motion record.

Filing notice of appeal

1. If leave to appeal is granted you will be notified by the Registrar. You will then have 10 days to file a notice of appeal. If you are in custody the notice of appeal must be in Form 3. Copies of Form 3 may be obtained from the officials in the institution or from Legal Aid Duty Counsel. If you are not in custody the notice of appeal must be in Form 4. Copies of Form 4 may be obtained from the Registrar.

If you are in custody you may apply for bail pending your appeal if leave to appeal is granted.

1. Superior Court of Justice or Ontario Court of Justice [↑](#footnote-ref-1)
2. e.g. careless driving [↑](#footnote-ref-2)
3. e.g. *Highway Traffic Act* [↑](#footnote-ref-3)
4. If you wish to appeal against conviction, you must write the word “conviction”. If you wish to appeal sentence, you must write the word “sentence”. If you wish to appeal both conviction and sentence, you must write the words “conviction and sentence”. If you are convicted of more than one offence and wish to appeal against some only of the convictions or sentences, you must state clearly the convictions or sentences against which you wish to appeal. [↑](#footnote-ref-4)
5. See the notes at the end of this form. [↑](#footnote-ref-5)
6. This notice must be signed by the defendant. If the defendant cannot write he or she must affix his or her mark in the presence of a witness. The name and address of the witness must be given. [↑](#footnote-ref-6)
7. You may apply for leave to appeal sentence in proceedings commenced under Part I or Part II of the Provincial Offences Act under s. 131 of the Act only on a question of law alone. [↑](#footnote-ref-7)