



J. TORODE
HER MAJESTY'S
GREFFIER

REGISTRAR-GENERAL
BIRTHS, MARRIAGES, DEATHS

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PRACTICE DIRECTION NO 2 OF 2015

Court of Appeal (Criminal Division)

CRIMINAL APPEALS

The overriding objective of this Practice Direction is that criminal appeals be dealt with justly. This is a consolidated practice direction and replaces all previous directions relating to criminal appeals.

1. *Interpretation*

In this Practice Direction, unless the context otherwise requires:-

“**The Court**” means the Court of Appeal

“**The Greffier**” means Her Majesty’s Greffier (Registrar of the Court of Appeal)

“**The Law**” means The Court of Appeal (Guernsey) Law 1961

“**The Rules**” mean The Court of Appeal (Criminal Division) (Guernsey) Rules 1964

2. *Extension of time limits*

Rule 4 of the Rules permits an application for the time limit in Section 30(1) of the Law to be extended. Any such application must be presented with a notice of appeal or an application for leave to appeal and must give the reasons why the request for an extension is being made.

3. *Legal aid*

The amount of time allowed for the work of an advocate in respect of the hearing before a single judge will be determined by the single judge. If leave to appeal is granted by the single judge he will award legal aid for the preparation of grounds for the Plenary Court.

If the application is refused by the single judge, the applicant can renew his application for leave to the Plenary Court, without legal aid. If the Court allows the application for leave and hears the appeal it will deal with legal aid retrospectively.

4. *Conviction Appeal Procedure*

Immediately following the conclusion of a trial counsel should express a view as to the possible grounds of appeal, (whether against conviction sentence or both). *This obligation is part of the Royal Court trial and is covered by the legal aid certificate, if granted.* If there are reasonable grounds of appeal and the advocate is so instructed by the client, formal grounds of appeal should be drafted.

When the appeal is received the Greffier will forward a copy of the appeal and grounds to the prosecution.

The Greffier is responsible for the supervision of the appeal process. Counsel must cooperate to ensure that all the papers are put in order.

5. *Setting Down and Timetable*

As soon as possible after a notice of appeal has been received, or an application for leave to appeal has been granted, the Greffier will contact counsel, in order to set a date for the hearing of the appeal and agree a timetable for the submission to the Greffier of agreed court bundles. Any application for an adjournment of the hearing or a variation of the timetable shall be determined by a single judge.

6. *Notice of Appeal*

A notice of appeal that has been submitted without the grounds of appeal being set out is ineffective and will not be accepted as a notice of appeal within Section 30 of the Law and Rule 2 of the Rules. Grounds of appeal should be substantial and particularised and not a mere formula.

If a notice of appeal is proposed to be amended by the addition of new grounds or amended grounds, a new notice should be submitted containing all grounds.

Skeleton arguments must give all relevant points and a brief statement of the supporting arguments.

7. *Documents*

Section 38 of the Law sets out that the Greffier “shall obtain and lay before the Court in proper form all documents, exhibits and other things relating to the proceedings in the court before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.”

Counsel must agree which documents will be included in the agreed bundle. All documents must be indexed and paginated. Each bundle shall have an index at the front, specific to that bundle, indicating the tab number of each document contained therein. One paper copy and one copy on USB stick (or by email using Egress Switch) must be submitted by counsel to the Greffier by the agreed deadline. The agreed bundle will comprise the following sets of documents:

- A applicant's submission
- B respondent's submissions
- C evidence before the Royal Court (statements/transcripts)
- D exhibits
- E transcripts
- F authorities

The bundles should be concise and to the point with no duplication.

8. *Transcripts*

In most cases a full transcript of the trial is not required. Counsel should agree which sections are required (if necessary by listening to the recordings). When counsel have agreed which parts of the trial need to be transcribed, the Greffier must be notified in writing.

If a transcript is produced unnecessarily, the Court may consider making an order in relation to any unnecessary costs which have been occasioned by the non-compliance with this practice direction, either against a party to the appeal or against counsel.

9. *Sentence: appeal procedure*

Documents required for an application for leave to appeal sentence are: the prosecution's opening statement, any material spoken in Court which added to or derogated from the written opening statement, the transcript of plea in mitigation, the reports and material that were available to the sentencing court, and the sentencing remarks.

10. *Time estimate*

Advocates shall provide in writing an estimate of the time that they will require to give their oral submissions.

11. *New Counsel*

Legal aid will only be awarded to new counsel in exceptional circumstances.

This revised procedure will take effect from 3rd August 2015.

Her Majesty's Greffier