

NOVA SCOTIA COURT *of* APPEAL

Appeal Book Preparation Guide for Criminal Appeals

(see other Guides for civil and WCAT/tribunal appeals)



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Introduction

For a panel of judges to review your appeal, a complete record of all documents filed in the lower court, as well as transcripts of all hearings, must be filed with the Nova Scotia Court of Appeal. These documents will form what is called an Appeal Book. [Civil Procedure Rule 91](#) governs criminal appeals brought before the Nova Scotia Court of Appeal. More specifically, [Civil Procedure Rule 91.15](#) sets out the requirements for filing an Appeal Book. An Appeal Book that is filed in a criminal appeal must be in the same format as an Appeal Book under [Civil Procedure Rule 90.30\(3\)](#).

This document is intended to help you understand what documents to include in your Appeal Book. It also sets out formatting requirements for both paper copies of the Appeal Book and electronic copy of either the transcript or the complete Appeal Book, ensuring compliance with the Court's [Practice Directive: Electronic Filing of Documents in Appeal Proceedings](#).

The Court encourages individuals to reach out with any questions or concerns. Inquiries may be directed to appealcourt@courts.ns.ca or by phoning 902-424-3550. For a more complete overview of the appeal process, please review the '[How-To Manual for Criminal Appeals](#)' or '[Frequently Asked Questions](#)' on the Court's website.

Contents of Appeal Book

The parties may agree to abbreviate portions of the transcript or Appeal Book if the material is not relevant to the Appeal ([Civil Procedure Rule 91.16](#)). **If the parties do not agree**, the Appellant may make a motion to a judge for permission to exclude certain records or documents ([Civil Procedure Rule 91.16\(4\)](#)).

You may need to contact the court you are appealing from to make photocopies of the documents you will need for your Appeal Book. Contact information for Nova Scotia Courts may be found [here](#). **Please do not submit documents that you have marked on or otherwise altered.**

An Appeal Book is divided into two parts: Part I – Pleadings and Related Documents and Part II – Evidence and Related Materials.

PART I – Pleadings and Related Documents

[Civil Procedure Rule 90.30\(2\)\(a\)](#) and [91.15\(2\)\(a\)](#)

- ☐ Notice of Appeal
- ☐ Notice of Cross-Appeal, if any
- ☐ A copy of the lower court Order under appeal
- ☐ A copy of the Decision from the lower court.

NOTE: If the judge did not provide written reasons, a copy of the transcript of the oral decision must be provided to the lower court judge for review ([Civil Procedure Rule 90.26\(3\)](#))

- ☐ A copy of all pleadings filed in the lower court, including but not limited to:
 - Information and/or Indictment
 - Any pre-trial motions or applications
- ☐ A Reference Sheet which contains the following:
 - The lower court file name and number that you are appealing
 - Name of the lower court Judge
 - The date(s) your matter was heard in the lower court
 - The date of the Decision and Order

PART 2 – Evidence and Related Materials

[Civil Procedure Rule 90.30\(2\)\(b\)](#) and [91.15\(2\)\(b\)](#)

- ☐ Index of dates of proceedings in lower court
- ☐ Index of witnesses called during the hearing, including the following
 - Name of the witness
 - Party who called the witness (Crown / Defence)
 - Page reference in Appeal Book to:
 - Direct examination

- Cross examination
 - Re-direct examination
- ☐ Index of all exhibits entered during the trial
- NOTE: these indices are generally created by the transcriptionist at the beginning of the transcript and can be copied into your table of contents***
- ☐ Copies of all documentary and electronic exhibits [note: physical exhibits do not need to be reproduced for appeal book, but they should still be listed in the index of exhibits]
- ☐ Any written submissions, briefs, affidavits, statement of facts and written admissions filed during the lower court proceeding
- ☐ A copy the Charge to the Jury (if any), certified by the trial judge to be accurate

Contents of Appeal Book – Sentence Only

[Civil Procedure Rule 91.15\(2\)](#) requires all lower court material to be filed. However, **if you are appealing sentence only**, certain portions of the transcript or other documents that are not material to the appeal may be excluded from the Appeal Book ([Civil Procedure Rule 91.15\(3\)](#)). If you are appealing sentence only, the Appeal Book ***does not need to include:***

- ☐ Exhibits entered at trial
- ☐ The transcript of the evidence at trial

The Appeal Book ***must include:***

- ☐ Any exhibits entered at sentence
- ☐ Transcript of the sentencing hearing
- ☐ A presentence report that was before the sentencing judge (including any IRCA or Gladue reports)
- ☐ A statement of the accused's criminal record that was before the sentencing judge (if any)

- ☐ A copy of each order related to sentence, such as discharge, probation order, conditional sentence order, or warrant of committal

Content of Appeal Book – Appeal from Summary Conviction

Appeal

Civil Procedure Rule 91.15(2) also applies to appeals from Summary Conviction Appeals from the Supreme Court. The Appeal Book should contain all material before the Summary Conviction Appeal Court Judge (ie the Appeal Book that would have been prepared for that hearing) plus:

- ☐ A copy of the Notice of Appeal filed at the Court of Appeal
- ☐ A copy of the lower court order and decision you are appealing from
- ☐ Any written submissions filed in the Supreme Court (Briefs or Facta)
- ☐ A transcript of the appeal hearings in the Supreme Court

Format of Paper Copy

[*Civil Procedure Rule 90.30\(3\)*](#)

An Appeal Book must be in a format that conforms with all of the following:

- Separate Part I and Part II into separate volumes, unless Part II is not lengthy. Part II may be more than one volume.
- Each volume has gray cardstock covers on both the front and back
- Proper heading on each volume, including volume number and page numbers in that volume
- Each volume is bound separately with plastic coil bindings
- Complete table of contents contained in each volume
- Pages are printed doubled sided on letter size paper
- Page numbering in the upper right corner of odd numbered pages and with page numbering in the upper left corner of even numbered pages
- Ensure certified court reporter has signed the transcript (a Certificate of Court Reporter should be located at the end of your transcript)

- Documentary exhibits should be numbered and tabbed in the same manner as at the trial (if not possible, a table of concurrence is required)

Although not mandatory under the *Rules*, using tabs to separate each document can make finding material easier.

Format of Electronic Copy

Practice Directive: Electronic Filing of Documents

- An electronic version of transcript is required per Civil Procedure Rule 90.30(6). Electronic copies of the complete Appeal Book are encouraged but not required.
- Each volume of the Appeal Book must be filed as a separate electronic document.
- Must be in word-processing format and/or text searchable PDF format. For scanned PDF documents, an Optical Character Recognition (OCR) format must be used to make the document text searchable.
- The bookmark for each tab, exhibit or attachment to a document must include the letter or number of the tab, exhibit or attachment and a description of the tab, exhibit or attachment.
- Transcripts and Appeal Books filed electronically **must include** electronic bookmarks to the first page of each item listed in the Table of Contents, including bookmarks for testimony of each witness (ie a bookmark to each court appearance, and to the testimony of each witness called).
- Formatted in such a way that, if printed, they print on letter size (8.5 x 11) paper.
- The page numbers of the document filed electronically **must** match the page numbers of the paper copy.

Filed by email to appealcourt@courts.ns.ca or provided on USB, together with the paper copies of your Appeal Book.

Appeal Book Preparation Checklist

Please ensure the following formatting steps have been taken before filing your Appeal Book ([Civil Procedure Rule 90.30\(3\)](#)):

- ☐ Separate Part I and Part II into separate volumes, unless Part II is not lengthy
- ☐ Cover page printed on gray cardstock, to include the following:
 - CA number
 - Proper style of cause (name of case) as filed on your Notice of Appeal
 - Name of each party, or their counsel, and their title, ie Appellant or Respondent
 - Volume number and page numbers contained within the volume
- ☐ Complete table of contents in each volume¹. Documentary and electronic exhibits should be numbered and tabbed in the same manner as at the trial (if not possible, a table of concurrence is to be provided). Physical exhibits should be listed but do not need to be reproduced.
- ☐ Each volume bound with plastic coil bindings
- ☐ Pages are printed **doubled sided** on letter size paper
- ☐ Page numbering in the upper right corner of odd numbered pages and with page numbering in the upper left corner of even numbered pages [note: if transcript is in its own volume or tab you may use page numbering provided on the document]
- ☐ Transcript must be signed by a Certified Court transcriptionist
- ☐ If no written reasons were provided by the lower court judge, ensure the transcript of the oral decision is provided to the judge for review as soon as it is received from the Court Reporter ([Civil Procedure Rule 90.26\(3\)](#))
- ☐ If matter was heard before a judge and jury, transcript of Charge to the Jury is signed by the judge as accurate ([Civil Procedure Rule 90.30\(2\)\(b\)\(vi\)](#))
- ☐ Five hard copies prepared for the Court, plus a hard copy for each opposing party (unless the other party agrees to accept electronic version of Appeal Book)
- ☐ Electronic copy of the transcript (or Appeal Book), compliant with the Court's [Practice Directive: Electronic Filing of Documents in Appeal Proceedings](#), is to be sent with the hard copies either on a USB stick or by emailing a copy to appealcourt@courts.ns.ca

¹ Although not mandatory under the *Rules*, using tabs to separate each document can make finding material easier.

Example Cover Page:

year appeal was started

2021

****PRINTED ON GRAY PAPER****

your court file number

C.A.C No. 123456

Nova Scotia Court of Appeal

Between:

JOHN DOE

[name of Appellant]

Appellant

- and -

HIS MAJESTY THE KING

[name of Respondent]

Respondent

Appeal Book is broken into Part I and Part II as described above. Ensure each volume (not part) is also labelled. It is helpful to also include the page numbers contained within the volume

APPEAL BOOK

PART 1, VOLUME 1

PAGES 1-45

OR

APPEAL BOOK

PART 2, VOLUME 2 [3, 4, 5, etc.]

PAGES 46-300

John Doe
123 School Street
Halifax, Nova Scotia

Terry Lane
Law Firm Name
456 Any Street
Dartmouth, Nova Scotia

Appellant

[insert Appellant or Appellant lawyer
contact information here]

Counsel for the Respondent

[insert Respondent lawyer's
information here]

****PLASTIC COMB BINDING****

Example Table of Contents

TABLE OF CONTENTS		
PART I, VOLUME 1		
TAB	DESCRIPTION	PG.
A	Notice of Appeal dated July 12, 2022	1
B	Order of Justice [name] dated July 7, 2022	6
C	Written decision of Justice (name) dated June 30, 2022	9
D	Information sworn August 7, 2019	12
E	Indictment sworn September 22, 2019	14
F	S11(b) Charter Motion filed June 10, 2022	20
G	Reference Sheet	32
PART II, VOLUME 2		
H	Transcript of August 28, 2023, hearing	1
	Index of Witnesses	2
	Index of Exhibits	2
	John Doe, direct examination by Ted Smith	19
	John Doe, cross-examination by Jane Langille	22
	John Doe, re-direct examination by Ted Smith	42
	Discussion	48
I	Transcript of September 22, 2023, hearing	1
	Submissions by Ted Smith	7
	Submissions by Jane Langille	22
	Discussion	34
PART II, VOLUME 3		
J	Trial Exhibit 1 – Booklet of photographs	33
K	Trail Exhibit 2 – Audio Statement of John Doe	48
L	Crown Brief dated August 4, 2023	56
M	Affidavit of Jane Doe sworn August 16, 2023	62
N	Defence Brief dated August 16, 2023	71

Example Reference Sheet

REFERENCE SHEET

2020

use the lower court information here
(file number, Plaintiff/Defendant, Supreme Court, etc.)

CRH No. 509177

Supreme Court of Nova Scotia

Between:

HIS MAJESTY THE KING

Plaintiff

-and-

JOHN DOE

Accused

Judge: The Honourable Justice _____

Heard: Date and location matter was heard

Date of Decision: Date of judge's decision

Date of Order: Date order was issued (if any)

Enter in the appropriate information as it relates to your case