

LEGAL NOTICE No. 87

REPUBLIC OF TRINIDAD AND TOBAGO

THE SUPREME COURT OF JUDICATURE ACT, 1962

RULES OF COURT

MADE BY THE RULES COMMITTEE UNDER SECTION 77 OF THE SUPREME COURT OF JUDICATURE ACT, 1962

THE CRIMINAL APPEAL (REFERENCE OF POINTS OF LAW) RULES, 1981

1. These Rules may be cited as the Criminal Appeal (Reference Citation of Points of Law) Rules, 1981.

2. In these Rules—

Definitions

“the Act” means the Supreme Court of Judicature Act, 1962; Act No. 12 of 1962

“the Court” means the Court of Appeal;

“form” means a criminal form set out in the Schedule;

“reference” means a reference of a point of law to the Court in pursuance of section 62A of the Act;

“Registrar” means the Registrar of the Supreme Court of Judicature;

“respondent”, in relation to a reference, means the acquitted person in whose case the point of law referred to arose.

3. (1) A reference shall be in writing, and shall—

Form of reference

(a) specify the point of law referred and, where appropriate, such facts of the case as are necessary for the proper consideration of the point of law;

(b) summarize the arguments intended to be put to the court; and

(c) specify the authorities intended to be cited;

but no mention shall be made in the reference of the proper name of a person or place that is likely to lead to the identification of the respondent.

(2) A reference shall be entitled “Reference by the Attorney General to the Court of Appeal under section 62A of the Supreme Court of Judicature Act, 1962” together with the year and number of the reference and shall be addressed to, and served on the Registrar within forty-two days of the acquittal.

4. (1) The Registrar shall cause to be served on the respondent a copy of the reference and a notice in Form A. Notice of reference

(2) In the notice the Registrar shall—

- (a) inform the respondent that the reference will not affect the trial in relation to which it is made or on acquittal in that trial; and
- (b) invite the respondent, within twenty-eight days from the date of service of the notice, to inform the Registrar if the respondent wishes to present any argument to the Court and, if so, whether he wishes to present the argument in person or by counsel on his behalf.

(3) When the respondent wishes to present any argument he shall serve a notice to that effect on the Registrar within the time specified in paragraph (2) and such notice shall summarise the argument and specify the authorities intended to be cited.

(4) The Court shall not hear argument by or on behalf of the Attorney General until the period specified in paragraph (2) has expired, unless the respondent agrees.

Withdrawal
of amend-
ment of
reference

5. (1) The Attorney General may withdraw or amend the reference at any time before the Court has begun the hearing or, after that, and until the Court has given its opinion, may withdraw or amend the reference by leave of the Court.

Form B

(2) Notice of withdrawal or amendment under paragraph (1) shall be in Form B and shall be served by the Attorney General on the Registrar and on the respondent.

Form C

(3) An application by the Attorney General for leave to amend or withdraw the reference after the termination of the hearing and before the Court gives its opinion shall be in Form C and a copy thereof shall be served by the Attorney General on the respondent.

Amendment
of respon-
dent's
argument

6. (1) Where a notice of amendment is served on the respondent under rule 5 he may within twenty-eight days thereafter serve on the Attorney General and on the Registrar a notice amending his argument.

(2) The respondent may also amend his argument at any time before the Court has begun the hearing, or after that, and until the Court has given its opinion, by leave of the Court.

Form D

(3) An application by the respondent for leave to amend his argument after the termination of the hearing and before the Court gives its opinion shall be in Form D and a copy thereof shall be served by the respondent on the Attorney General.

Application
under
section
62A(3)
of Act

7. (1) An application under section 62A(3) of the Act for a reference of a point of law to the Judicial Committee of the Privy Council may be made within fourteen days after the Court gives its opinion.

Form E

(2) The application shall be in Form E addressed to the Registrar, and a copy thereof shall be served by the applicant on the respondent or on the Attorney General, as the case may be, within fourteen days after the Court gives its opinion.

8. (1) Where a reference is made by the Attorney General under section 62A(1) of the Act no matter likely to lead members of the public to identify the respondent shall either be published in a written publication available to the public or be broadcast or televised, except as authorised by the Court. Non disclosure of respondent's identity

(2) The Court shall ensure that the identity of the respondent is not disclosed during the proceedings on a reference, except where the respondent has given his consent to the use of his name in the proceedings.

9. For the purpose of these Rules, service of a document on the respondent may be effected in an appropriate manner prescribed by section 23(2) of the Interpretation Act, 1962. Service on respondent Act No. 2 of 1962

10. For the purpose of these Rules, service of a document on the Registrar may be effected by addressing it to him and posting it to or leaving it at his office at the Court of Appeal, Trinidad House, St. Vincent Street, Port-of-Spain. Service on Registrar

11. These Rules shall come into operation on the 1st day of August, 1981. Commencement

SUPREME COURT OF JUDICATURE ACT, 1962

CRIMINAL FORM A

[Rule 4(1)]

Attorney-General's Reference No. of 19

NOTICE TO RESPONDENT of Reference by the Attorney General under section 62A(1) of the Supreme Court of Judicature Act, 1962 and rule 4(1) of the Rules of the Criminal Appeal (Reference of Points of Law) Rules, 1981.

To:

TAKE NOTICE that, by virtue of section 62A(1) of the Supreme Court of Judicature Act, 1962 the Attorney General has referred the following point of law for the opinion of the Court of Appeal arising out of the matter of the State v. which was determined by your acquittal on before Mr. Justice

(State point of law)

And further take notice that the reference will not have any effect either on the trial in relation to which it is made or on your acquittal but is solely to determine a point of law which arose therein.

You may within twenty-eight days from the date of service of this notice upon you, inform the Registrar whether you wish to present any argument to the Court on the said point of law and if so whether you wish to present such argument personally or by Counsel on your behalf. For this purpose please complete the attached notice and return to:

The Registrar,
Court of Appeal,
Trinidad House,
St. Vincent Street,
Port-of-Spain.

Registrar

Served on the respondent by _____ at _____ on the _____ day of _____, 19 _____

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CRIMINAL FORM B

[Rule 5(2)]

NOTICE TO RESPONDENT of withdrawal or amendment by Attorney General of Reference under rule 5 of the Criminal Appeal (Reference of Points of Law) Rules, 1981.

Attorney-General's Reference No. of 19.....

To:

TAKE NOTICE that by virtue of rule 5 of the Criminal Appeal (Reference of Points of Law) Rules, 1981, the Attorney General has *withdrawn/amended his reference

*The amendment is as follows:—

Dated this day of , 19

Attorney General

*Delete as appropriate

SUPREME COURT OF JUDICATURE ACT, 1962

CRIMINAL FORM C

[Rule 5(3)]

Attorney-General's Reference No. of 19
APPLICATION by Attorney-General to *withdraw/amend his reference under rule 5 of the Criminal Appeal (Reference of Points of Law) Rules, 1981.

TAKE NOTICE that the Attorney General hereby applies to the Court of Appeal to *withdraw/amend his reference.

*The amendment is as follows:

Attorney General

*Delete as appropriate.

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CRIMINAL FORM D

[Rule 6(3)]

Attorney General's Reference No. of 19
APPLICATION by respondent to amend his argument under rule 6 of the Criminal Appeal (Reference of Points of Law) Rules, 1981.

TAKE NOTICE that the respondent hereby applies to the Court of Appeal to amend his argument.

The amendment is as follows:

Respondent

