

B45.

Para. 166(2)

Information Sheet to be exhibited in an Affidavit in support of an Application for Permission under Section 394H of the Criminal Procedure Code 2010

Before an applicant can make an application to review an earlier decision of an appellate court (“review application”), the applicant must first apply for and obtain the permission of the appellate court to make the review application.

To apply for permission to make a review application, the applicant must file written submissions, together with a supporting affidavit, as required under Section 394H(3) of the Criminal Procedure Code 2010 read with Rules 11(2)(a) and (b) of the Criminal Procedure Rules 2018 (“CPR 2018”).

The applicant is to note the following:

- Where the applicant is represented by one or more advocates, the supporting affidavit should state all the matters listed in Rule 11(2)(a) of the CPR 2018.
- Where the applicant is not represented by an advocate, the supporting affidavit should state all the matters listed in Rule 11(2)(b) of the CPR 2018.
- Where the applicant is a prisoner awaiting capital punishment, any supporting affidavit must also state the additional matters listed in Rule 11(2A) of the CPR 2018.

Please attach this information sheet as an exhibit in the supporting affidavit.

A Please set out the background relating to the earlier decision of the appellate court which the applicant is seeking permission to review.

1 Was the appellate court the Court of Appeal, or the General Division of the High Court?

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2 When was the decision made?

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3 For each charge, did the appellate court convict, or uphold the conviction of, the accused? If the appellate court convicted, or upheld the conviction of, the accused on a particular charge, what was the accused convicted of and finally sentenced to?

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4 Is the applicant seeking permission to review the decision on conviction, the decision on sentence, or both?

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B Please identify the material that the applicant wishes to rely on in the present application to show that there was a miscarriage of justice in the earlier court decision.

1 Is the material new evidence? If so, set out the new evidence.

2 Is the material a new legal argument? If so, set out the new legal argument.

C If the material is new evidence:

1 When and from whom was the new evidence first obtained, whether by the applicant or the applicant's advocate(s)? If it was first obtained by the applicant, when did the applicant first communicate the new evidence to the applicant's advocate(s)?

2 Has the new evidence been canvassed at any stage of the proceedings in the criminal matter in respect of which the earlier court decision was made?

3 If the answer to question C2 is "No", why was the new evidence not canvassed in the earlier court proceedings?

4 What efforts did the applicant make to try to obtain the new evidence for the earlier court proceedings?

5 Please state the interval of time between the date when the material was first obtained and the date of filing of the present application for permission. Please state the reasons why the application for permission was not filed earlier.

6 Why does the applicant say that the new evidence is compelling, meaning that it is reliable, substantial, powerfully probative and capable of showing almost conclusively that there has been a miscarriage of justice in the earlier court decision?

D If the material is new legal argument:

1 When did the applicant or the applicant's advocate(s) first become aware of the new legal argument?

2 Has the new legal argument been canvassed at any stage of the proceedings in the criminal matter in respect of which the earlier court decision was made?

3 If the answer to question D2 is "No", why was the new legal argument not made in the earlier court decision?

4 Please state the interval of time between the date when the material was first obtained and the date of filing of the present application for permission. Please state the reasons why the application for permission was not filed earlier.

5 Why does the applicant say that the new legal argument is compelling, meaning that it is reliable, substantial, powerfully probative and capable of showing almost conclusively that there has been a miscarriage of justice in the earlier court decision?

6 A change in the law must have arisen from any decision made by a court after the conclusion of all proceedings in respect of which the earlier court decision was made.

Please state the name(s) of the subsequent court decision(s) that the applicant says has/have changed the law. Please also explain what is the change in the law that the new legal argument is based on.

E Why does the applicant say that the new evidence, the new legal argument or both show that there has been a miscarriage of justice?

1 Is it because the earlier court decision is demonstrably wrong? Or

- 2 Is it because the earlier court decision is tainted by fraud or a breach of the rules of natural justice such that the integrity of the judicial process is compromised?

F If the applicant says that the earlier court decision is demonstrably wrong:

- 1 For review of conviction - why does the applicant say that it is apparent, based only on the evidence tendered in support of the application and without any further inquiry, that there is a powerful probability that the earlier court decision is wrong?

- 2 For review of sentence - why does the applicant say that the earlier court decision was based on a fundamental misapprehension of the law or the facts, thereby resulting in a decision that is blatantly wrong on the face of the record?

G If the applicant says that the earlier court decision is tainted by fraud or a breach of the rules of natural justice, such that the integrity of the judicial process is compromised:

- 1 Please elaborate why the earlier court decision is tainted by fraud or a breach of the rules of natural justice, such that the integrity of the judicial process is compromised.

H Please set out the details of any previous applications for permission and review applications the applicant has been involved in.

- 1 Has the applicant (whether alone or together with any other person), with or without the involvement of any advocate, filed any other application for permission and/or review application?

- 2 If the answer to question H1 is “Yes”, please state the details of all such applications (including the date and case number of the application(s), the order sought in the application(s), the decision of the court in the application(s), and whether there was any finding of abuse of process in the application(s)).

I If the applicant is a prisoner awaiting capital punishment, please set out the details of any relevant previous applications and/or actions filed by the applicant.

1 Has the applicant (whether alone or together with any other person), with or without the involvement of any advocate, filed any application for permission to make a post-appeal application in a capital case (“application for PACC permission”) and/or PACC application (as defined in Section 60F of the Supreme Court of Judicature Act 1969)?

2 If the answer to question I1 is “Yes”, please state the details of all such applications (including the date and case number of the application(s), the order sought in the application(s), the decision of the court in the application(s), and whether there was any finding of abuse of process in the application(s)).

3 Has the applicant (whether alone or together with any other person), with or without the involvement of any advocate, filed any application (other than the applications already stated) or action on or after 28 June 2024, in relation to which the appellate court has found that the applicant had abused the process of the court in order to delay or frustrate the carrying out of the sentence of death?

4 If the answer to question I3 is “Yes”, please state the details of all such applications/actions (including the date and case number of the application(s)/action(s), the order sought in the application(s)/action(s), and the decision of the court in the application(s)/action(s)).

I declare that all the information contained in this information sheet is true and correct to the best of my knowledge and belief.

Applicant or Advocate for the Applicant

(Note: if there is more than one deponent to the affidavit, the name and signature of each deponent must be set out clearly)