

Docket #: _____

IN THE PROVINCIAL COURT OF ALBERTA

JUDICIAL DISTRICT OF _____
(Court Location)

BETWEEN:

HER MAJESTY THE QUEEN

Respondent

-and-

(print your full name)

Applicant / Accused

**NOTICE OF APPLICATION FOR FUNDING FOR UNREPRESENTED
ACCUSED (ROWBOTHAM APPLICATION)**

TAKE NOTICE THAT on the _____ day of _____, 20____, or a date to be later set in court the Applicant will apply to the presiding Judge of the Provincial Court of Alberta, sitting in Courtroom #_____, in _____ Provincial Court, for the following:

1. An order granting the Applicant funding for the Applicants representation by a lawyer at trial.

2. A finding that there has been, or that there is a substantial likelihood that there will be, a breach of the Applicant's rights as guaranteed by section 7 and section 11(d) of the *Canadian Charter of Rights and Freedoms* unless he is represented by counsel; and
3. An order for a conditional stay of proceedings of the charges before the court, pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms*, unless and until such funding for counsel is provided.

AND FURTHER TAKE NOTICE THAT the grounds for this Application are as follows:

1. The Applicant has been charged with offences as listed in the Information filed in this matter.
2. The Applicant has applied for Legal Aid funding but was denied. The Applicant appealed this decision, but the appeal processes of Legal Aid have been exhausted.
3. The Applicant is not currently represented by a lawyer and cannot afford to retain a lawyer privately.
4. The case is the result of a complex and detailed investigation, is legally complex and involves substantial disclosure.
5. Sections 7 and 11(d) of the *Canadian Charter of Rights and Freedoms* guarantee the Applicant the right to a fair trial. Given the Applicant's circumstances and the nature of these charges, there is a substantial likelihood that the Applicant will not receive a fair trial in this matter if the Applicant is not represented by a lawyer.

6. Accordingly, the Applicant is entitled to a remedy pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms*, and the Applicant requests that a conditional stay of proceedings be imposed until such time as the Crown makes arrangements to provide the Applicant with a state-funded lawyer.

AND FURTHER TAKE NOTICE THAT the Applicant intends to rely on:

- 1) the attached Affidavit of the Applicant in support of this Application;
and
- 2) such further and other materials as this Honourable Court may permit.

AND FURTHER TAKE NOTICE THAT the Applicant relies on the following authorities in support of this Application:

1. R. v. Smart, 2014 ABPC 175;
2. Rowbotham v. The Queen, [1988] OJ No 271, 41 C.C.C. (3d) 1 (Ont. C.A.);
3. R. v. Rain, 1998 ABCA 315; and
4. R. v. Malik, 2003 BCSC 1439.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at the City of _____ in the Province of Alberta this _____ day of _____, 20____.

Applicant's Signature _____

Applicant's Name _____

Applicants Address _____

Telephone _____

Email _____

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Applicant / Accused

AFFIDAVIT OF THE APPLICANT
*IN SUPPORT OF APPLICATION FOR FUNDING FOR
UNREPRESENTED ACCUSED (ROWBOTHAM APPLICATION)*

I, _____, MAKE OATH AND

SAY AS FOLLOWS:

[1] I am the Applicant in this matter, and as such, I have personal knowledge of the matters set out herein, except where stated to be based on belief.

[2] I make this Affidavit in support of my application that the charges against me be conditionally stayed until I am provided with a state-funded lawyer.

[3] I am currently: *(check one)*

Residing at _____, in the _____ of _____, in the Province of Alberta.

Incarcerated at _____.

Of no fixed address.

[4] I am currently _____ years old, I was born in _____, and I am: *(check one)*

A Canadian Citizen.

A Canadian Permanent Resident.

Not a Canadian Citizen or a Canadian Permanent Resident.

[5] My first language is _____, and: *(check one)*

I can read, write, and speak either English or French.

- I cannot read, write, and speak either English or French without help from someone else, and I need the following kinds of help reading, writing, or speaking English or French:

[6] The highest level of schooling I have completed is: (*check one*)

- Less than High School.

The last grade I completed was grade _____.

- High School.

- Technical or Trade School. The institutions I attended and certificates/diplomas I received are:

- College or University. The institutions I attended and certificates/diplomas I received are:

_____.

[7] I am currently: (*check one*)

Unemployed.

Employed as a _____.

[8] I have been employed in these jobs with these employers in the past five (5) years:

<i>Start Date</i>	<i>End Date</i>	<i>Employer</i>	<i>Job Title</i>	<i>Monthly Salary (\$)</i>

[9] I applied to Legal Aid for coverage in this matter on the _____ day of _____, 20____. Legal Aid did not appoint a lawyer to represent me. I have attached the letter from Legal Aid informing me that my application for coverage was denied as shown in the attached documentation.

[10] I appealed Legal Aid's decision to deny me coverage to the Appeals Committee on _____ day of _____, 20____. My appeal was denied. I have attached the letter from Legal Aid informing me that my appeal was denied as shown in the attached documentation.

[11] It is my belief that the criteria used by the Legal Aid to decide whether to fund counsel has no direct relationship to my ability to defend myself or whether or not I will receive a fair trial if I'm denied counsel.

[12] I have attached my Income Tax Returns from the Canada Revenue Agency for the following years:

Year	Income
Average Income	

[13] I have contacted three (3) private lawyers who practice criminal law in Alberta. I asked them how much they would charge to defend me at a trial in this matter. They estimated it would cost about this much to defend me at trial, and requested a retainer of about this much:

Lawyer #1 - Trial: \$ _____ - Retainer: \$ _____,

Lawyer #2 - Trial: \$ _____ - Retainer: \$ _____,

Lawyer #3 - Trial: \$ _____ - Retainer: \$ _____,

[14] I currently have the following assets:

Asset	Estimated Value

[15] I currently have the following liabilities:

Liability	Estimated Amount Owning

_____.

[19] I make this affidavit in support of the within application and for no improper purpose.

SWORN BEFORE ME at the City) _____
of _____ in the Province of)
Alberta this ____ day of _____,)
2011.)

A Commissioner for Oaths in and for the Province of Alberta