

COURT OF APPEAL

The law allows one calendar month for an appeal to be lodged. An extension may be granted in limited circumstances.

WHO CAN APPEAL?

There are generally three situations in which appeals can be lodged:

1. If convicted (found guilty) by a jury, the accused has the right to appeal the conviction and the sentence imposed.
2. An accused person who pleads guilty to a charge has the right to appeal against the sentence imposed.
3. The Attorney-General can appeal against the sentence imposed in limited circumstances.

Appeals are heard in the Court of Appeal by three judges and there is no jury.

Lawyers for both sides (one representing the accused and one from the ODPP) present arguments to the court. The judges listen to the arguments of both lawyers and have a transcript of the trial or sentence (and other material including written submissions on behalf of both parties) before them as the arguments are presented.

CAN A CONVICTED PERSON APPLY FOR BAIL ONCE AN APPEAL HAS BEEN LODGED?

In rare cases, a convicted person who has been sentenced to imprisonment may be granted bail until their appeal is heard.

You will be informed if the convicted person makes an application for bail pending the outcome of their appeal.

WHAT ARE THE POSSIBLE OUTCOMES FROM THE COURT OF APPEAL?

When they have considered the arguments, the Judges come to a decision about whether to dismiss or allow the appeal. This may be on the same day or some time later.

If the Judges do not come to a decision on the day the appeal takes place, this is referred to as the Judges 'reserving' their decision.

If the appeal is dismissed, the original conviction and sentence is confirmed.

If an appeal is allowed for a conviction then the Court can

- order a new trial; or
- order that an acquittal (found not guilty) be entered and the convicted person is free to go; or
- convict the accused of an alternative (lesser) offence.

If an appeal is allowed for a sentence, a new sentence is imposed by the Court.

WHAT IS YOUR ROLE IN THE APPEAL PROCESS?

You will be notified if an appeal is to be held, and you are welcome to attend the hearing if you wish. There is an area at the court where you can sit.

If you are not present, the ODPP will let you know the result as soon as possible after the court gives its decision.

On appeal, it is usually only the lawyers who attend the Court hearing.

**CAN THE PROSECUTION APPEAL IF THE JURY
ACQUITTED THE ACCUSED?**

No, there can be no appeal if the accused is found not guilty. The legal process is over and the accused is free to go.

WILL I NEED A LAWYER AT AN APPEAL?

No, the prosecutor from the ODPP will argue on behalf of the State — that is, against the counsel for the accused.

**WILL I HAVE TO GIVE EVIDENCE AT AN
APPEAL?**

It is unusual that evidence is called at an appeal hearing.

However, if the appeal court decides that another trial must be held, you may be called as a witness again at the re-trial.

WHERE IS THE COURT OF APPEAL?

In Queensland, the Court of Appeal sits in;

Brisbane -

Level 3, Law Courts Complex,
415 George Street, Brisbane.

Townsville -

Level D, Townsville Law Courts
31 Walker Street, Townsville

Cairns -

Cairns Law Courts
5D Sheridan Street, Cairns

JULY 2012

SUN	MON	TUE	WED	THU	FRI	SAT
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