



THE SUPREME COURT OF THE NORTHWEST TERRITORIES
LA COUR SUPRÊME DES TERRITOIRES DU NORD-OUEST

NOTICE TO THE PROFESSION

Section 525 Criminal Code Reviews

This replaces the Notice to the Profession, Section 525 *Criminal Code* (90 day) Reviews, dated February 21, 2013 and is issued to address procedures associated with detention review hearings held pursuant to section 525 of *Criminal Code* as a result of the decision in *R v Myers*, 2019 SCC 18 and amendments to the *Criminal Code*.

Scheduling a s. 525 Bail Review

When the Registry is advised by the correction authorities that an accused is eligible for a section 525 review, the Registry will schedule a tentative date for the hearing and communicate that date to counsel. If the Registry does not hear back from counsel, the assumption will be that the accused wishes to have a review hearing and is content with the proposed date. The Court will issue a Removal Order to have the accused brought before the Court on that date.

If the accused wishes to have a review hearing but wants it to proceed on a different Criminal Chambers date, counsel will so advise the Registry in writing. The matter will be placed on the docket for the date chosen by counsel and the Court will issue a Removal Order to have the accused brought before the Court on that date.

If a date has been scheduled but the accused is not prepared to proceed with the hearing on the scheduled date and wishes to adjourn the hearing to a later date, the matter can be adjourned to a date of the accused's choice. Counsel or a duly instructed agent will be required to appear to make this adjournment request on the record. The Court will not adjourn s. 525 hearings without a date.

If the accused wishes to waive the review hearing, this can be done by letter from counsel if a Designation of Counsel has been filed pursuant to section 650.01 of the *Criminal Code*. If no Designation of Counsel has been filed, a waiver signed by the accused can be sent to the Registry. In either situation, the hearing will not be scheduled and neither counsel nor the accused will be required to appear in court to confirm the waiver. The same options exist if a court appearance has been scheduled for the review hearing and the accused wishes to waive the review hearing and cancel the court appearance.

If the accused does not wish to proceed to a review hearing in the immediate future but wishes to preserve the option of having one at a later date, as opposed to waiving it altogether, the matter will be addressed in Court in the presence of the accused.

Materials Required for a Bail Review Hearing

Part 4 of the *Criminal Procedure Rules* deals with applications for judicial interim release and review. Rule 31(2) makes Part 4 applicable to s. 525 reviews with the exception of the requirement to file a notice of motion.

The following are, pursuant to Rule 32(2), required on a s. 525 review where the accused is seeking release:

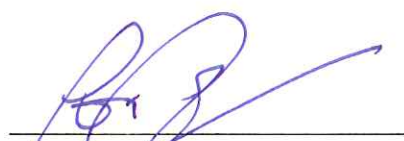
- An affidavit of the accused containing the information specified in Rule 32(3);
- Where practicable, an affidavit of each proposed surety containing the information specified in Rule 32(2)(b);
- The Form 12 Surety Declaration referred to in the Practice Direction “Surety Declaration” dated September 10th, 2020, signed by each proposed surety;
- Copies of exhibits as specified in Rule 32(2)(d); and
- The transcripts referred to in Rule 32(2)(c)

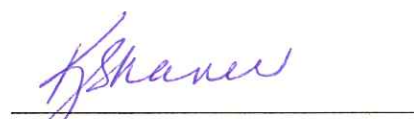
There is a standing direction that whenever a s. 525 or other bail hearing is conducted in the Supreme Court and a decision is made to detain, or to continue to detain, an accused, a transcript of that hearing is to be prepared and placed on the court file. Counsel and self-represented accused are responsible for ordering and paying for their own copies of the transcript.

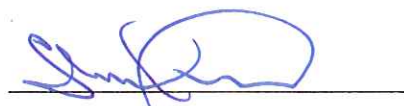
Where the bail decision for review was made by a Territorial Court Judge or a Justice of the Peace, counsel for the party seeking the review is expected to obtain, file and serve on the other side a transcript of the hearing and resulting decision.

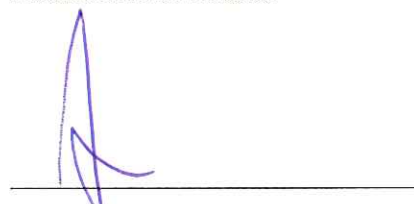
If the required transcripts are not filed, the s. 525 review may not proceed, subject to the direction of the presiding Judge.

Issued this ^{16TH} day of September 2020 by direction of the judges of the Supreme Court of the Northwest Territories


Justice L.A. Charbonneau


Justice K. M. Shaner


Justice S.H. Smallwood


Justice A.M. Mahar