



Procedures When Inmate Declines to Appear Via Video Conference

The following procedures apply when an inmate, in either a federal or provincial institution and who is a party to an appeal, declines to appear via video conference (including CCTV) before the Court of Appeal of Alberta.

These procedures relate only to video conference appearances in the Court of Appeal and not the Court of Queen's Bench of Alberta or the Provincial Court of Alberta.

- (1) If a person in custody has indicated that he or she declines to appear via video conference (including CCTV), the inmate should be invited to provide a reason for so declining.
- (2) If the reason given for declining to appear is that the inmate wishes to appear in person before the Court, the inmate should be told that the scheduled video conference appearance gives the inmate an opportunity to explain to the Court why the inmate wishes to appear in person.
- (3) If the reason given for declining to appear is that the inmate has arranged with his or her counsel not to appear, the Court must be advised.
- (4) If the inmate is not represented by counsel, and the inmate is content to have the appeal proceed in his or her absence, the inmate should appear via video conference and confirm to the Court that he or she does not wish to be present for the hearing of the appeal. Alternatively, the inmate may complete a [Notice of Non-Appearance Form](#). The Court has asked the institutions to arrange to provide that Form to the appropriate Court Registry (Edmonton or Calgary) and for a staff member of the institution to witness the signature.
- (5) If the reason given for declining to appear has to do with the mental or physical health of the inmate, this should be communicated to the Court as soon as possible for further direction.
- (6) If the inmate persists in declining to appear without an appropriate explanation, the inmate is to be informed by the institution as follows:

- (i) the inmate's decision to decline to appear on the video conference will be recorded and will be reported to the Court;
- (ii) if the inmate is required to appear, the inmate's decision to decline to appear on the video conference could result in a charge for failing to appear in court as required, or for contempt of court; and
- (iii) if the inmate does not appear on the video conference, the appeal, if commenced by or on behalf of that inmate, may proceed in the inmate's absence. That means that the inmate's appeal may be decided or, alternatively, presumed to be abandoned. A Crown appeal involving the inmate may be decided without the inmate being present.

The Court has asked all institutions to take all reasonable steps to facilitate the video conference appearance, but if an inmate who is required by law to attend does not do so, the Court does not require the Warden to do anything more than set out above.

By way of reminder, video arrangements can be made directly with the appropriate Registry as follows:

- Fax: 780-422-4217 or Edmonton.Registry@albertacourts.ca
- Fax: 403-297-5294 or Calgary.Registry@albertacourts.ca