

## Appeals

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April 14, 2022

### Personal and Confidential

Mr. Patrick Fox  
c/o NFA

PLEASE NOTE\*\*\*Although funding was refused on April 14, 2022, we had no physical address to mail to client. Advised Mr. Fox about refusal of funding by telephone on April 25, 2025 and this letter will be sent by email to Mr. Fox c/o email address PatrickHFox@gmail.com on April 25, 2022.

Mr. Fox:

**Re: Your applications for legal aid to appeal.  
Our Legal Aid BC File # SR003337378**

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On February 25, 2022, the trial judge convicted you of breach of probation. On the same day the trial judge imposed an effective sentence of imprisonment of 12 months and, after credit for pre-sentence custody, an actual sentence of two months and 18 days. The trial judge also imposed probation to follow for three years. You applied to our Section for legal aid to appeal the conviction and sentence.

I regret to inform you that your applications for legal aid to appeal are denied. I will first provide the reasons for denying your applications for legal aid and then I will outline your options for appealing without the assistance of legal aid.

Legal aid is not provided for every conviction or sentence appeal. Legal aid is only provided where our Section is of the opinion there is a reasonable prospect of success on appeal.

I have reviewed with care the trial judge's *Reasons for Judgment* and your *Notice of Appeal*, with its suggested grounds of appeal. Most of those grounds challenge the findings of fact of the trial judge and the reasonableness of the trial judge's guilty verdict. Those findings of fact including the findings of the trial judge on the credibility of your evidence. In my opinion, there is no reasonable prospect of demonstrating the trial judge erred in finding the facts or that the guilty verdict was unreasonable or unsupported by the evidence.

You also complain the trial judge misinterpreted the condition you were said to have breached. In my opinion, there is no reasonable prospect of demonstrating the trial judge misinterpreted that condition.

You complain the trial judge erred in concluding you could have adduced the alleged email where you sought to have the website taken down. In my opinion, there is no reasonable prospect of demonstrating the trial judge erred on that fact. In any case that finding is not material, as the trial judge rejected your evidence and, from all the evidence, found that you retained control of the website. In my opinion, there is no reasonable prospect the Court of Appeal will find error in the trial judge rejecting your evidence and finding that you retained control of the website.

You also complain about the trial judge's mismanagement of your cross-examination of witness Kyle Dent. I reviewed that cross-examination and, in my opinion, there is no reasonable prospect of demonstrating the trial judge erred in managing that cross-examination.

For the reasons given above, in my opinion there is no reasonable prospect of success on an appeal of your conviction and therefore your application for legal aid to appeal your conviction is denied.

I have also read with care the trial judge's *Reasons for Sentence*. In my opinion, there is no reasonable prospect of success in demonstrating the trial judge erred in principle in sentencing you for that offence. In my opinion, there is also no reasonable prospect of demonstrating the sentence you received, including the conditions of probation, are unfit or unreasonable. For the reasons given above, in my opinion there is no reasonable prospect of success on an appeal of your sentence and therefore your application for legal aid to appeal your sentence is also denied.

You may decide to appeal your conviction, sentence or both without the assistance of legal aid. I have enclosed our booklets which explain how appeal without the assistance of legal aid. The booklets also explain how to apply to the Court of Appeal for a court-appointed lawyer under section 684 of the *Criminal Code*.

Yours truly,

  
for:

**Garth Barriere**

**Barrister and Solicitor**

Appeals Section

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Enclosures