

**UNREPRESENTED  
CRIMINAL  
APPELLANTS  
PROGRAM**

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**DOCUMENTS ATTACHED**

- A. INFORMATION FOR APPELLANTS AND REQUEST FOR UCAP HELP
- B. STANDARD LETTER CONCERNING INITIAL REFERRAL TO UCAP
- C. CONFIDENTIALITY UNDERTAKING FOR STUDENTS
- D. REQUEST BY PRACTITIONER TO BE INCLUDED ON THE UCAP PANEL

## INTRODUCTION

The Unrepresented Criminal Appellants Program (“UCAP”) aims to assist appellants who have initiated criminal appeals in the Court of Appeal and have been refused legal aid.

The program is managed by a Management Committee consisting of representatives from the Universities, the Supreme Court, Legal Aid WA and practitioners.

## UCAP PROCESS

The UCAP process is as follows:

- 1) A Legal Aid staff member conducting prison visiting may provide an information sheet concerning UCAP to prisoners who:
  - a. Have an appeal to the Court of Appeal;
  - b. Have been refused legal aid in relation to that appeal.
- 2) If a prisoner wishes to seek UCAP assistance then the prisoner is to complete the UCAP Help Request Form. This form is to be provided to the Court of Appeal Registry.
- 3) The Court of Appeal Registry will contact a practitioner from the pro bono panel of practitioners **and** a staff contact at a university.
- 4) The staff contact then allocates the request for assistance to a group of students at a university to undertake research into appeal merit for the practitioner.
- 5) In the event that the practitioner finds that, as a result of student research, there is no merit in the prospective application for leave to appeal, then the practitioner has a discretion to redraft the grounds of appeal to make clear the grounds that the applicant wishes to raise in relation to the appeal. The practitioner also has discretion to prepare any other document. The student group may assist the practitioner with any document preparation.
- 6) In the event that the practitioner finds that there is merit in an appeal then the practitioner may prepare any document or provide any other assistance including assisting the appellant to seek reconsideration of the decision to refuse legal aid. The student group may assist the practitioner with any document preparation.
- 7) The practitioner reserves the right to terminate UCAP assistance at any time and for any reason. Where the practitioner is ceasing to provide any further assistance pursuant to UCAP then the practitioner will advise the appellant and the Court of Appeal Registry in writing of this.

## **COURT OF APPEAL REGISTRY**

- If the Appellant completes and returns the Request for UCAP Help form then the Court of Appeal Registry will contact a practitioner from the list of pro bono practitioners and a staff contact from one of the universities to see if they can accept a referral. The Registry will advise the Appellant of the name of the practitioner that the referral had been made to.
- Where there is no one available to accept the referral, the Court of Appeal Registry will advise the Appellant of this in writing.
- The Court of Appeal Officer sends copies of the Notice of Appeal, Indictment and electronic transcript by disk to the practitioner.
- A record shall be kept on the court file and on a spreadsheet indicating the practitioner and university allocation.
- The file will be stamped or otherwise identified as a UCAP referral.

## **UNIVERSITY STAFF CONTACT PERSON**

- The university staff contact person will:
  - Invite and encourage students to submit an expression of interest for participation in the UCAP;
  - Convene a seminar of students participating in UCAP;
  - Obtain signed confidentiality agreements from all participating students; and
  - Allocate work to groups of students.
- Upon receiving the UCAP referral from the Court of Appeal Officer, the staff contact person allocates the referral to a group of students.
- The staff contact person keeps a record of the name of the appellant, the type of appeal, the student group allocated and the date of the allocation.
- The staff contact person contacts the practitioner and arranges the first meeting between the students and the practitioner at the practitioner's office.
- The staff contact then arranges a meeting for the student group assigned to the appeal to meet with the staff contact at the university. At that meeting, the staff contact:
  - Tells the students the details of their first meeting with the practitioner;
  - Asks the students to nominate a student liaison person for the group;
  - Provides the student liaison person with the contact details of the allocated practitioner;
  - Informs the student liaison person that it will be his or her responsibility to liaise with the practitioner on behalf of the group to arrange meetings

- between the practitioner and the group, and to inform the staff contact of any problems; and
- Informs the rest of the group that they are each responsible for meeting the deadline, and that the student liaison person is not accountable for the rest of the group.
- The practitioner is to monitor the progress of the group.
- In the event that the practitioner finds that as a result of student research, there is no merit in the application for leave to appeal then UCAP assistance ends and the practitioner advises the appellant. The practitioner may redraft the grounds of appeal or prepare any other document at the discretion of the practitioner.
- The student liaison person informs the staff contact of this event, and the staff contact makes a note of this on his or her own records.

## **STUDENTS**

- The students attend a meeting with the practitioner allocated to their UCAP referral. The students receive instructions from the practitioner. The practitioner provides the student liaison person with the appeal documents including transcript.
- The student liaison person will place the appeal documents at the Law Library. Documents are not to be taken out of the library, other than for the purpose of taking them to a meeting with the practitioner.
- In accordance with the instructions of the practitioner, the students research the merit of an appeal including considering grounds of appeal for the practitioner. If the practitioner considers it appropriate, the students may also assist the practitioner to prepare documents such as an Appellant's Case. The preparation, or not, of the Appellant's Case is at the discretion of the practitioner, and is subject to whether there is merit found in the prospective application for leave to appeal.
- The work is to be provided to the nominated practitioner within the deadline nominated by the practitioner.
- The student liaison person is to arrange any further meetings deemed necessary by the student group with the practitioner.
- The student liaison person is also to keep the practitioner informed of the group's progress, as well as any problems that may arise.

## **PRACTITIONERS**

- The practitioner provides his or her full contact details (including email address) to the Court of Appeal Office and will receive emails and telephone calls from the Office. Practitioners are responsible for notifying the Office of changes in contact details.
- After accepting a referral, the practitioner is to provide the appellant with a letter in standard form advising of the UCAP referral.
- The practitioner meets with the students at his or her office to give instructions in relation to conducting research and if the practitioner deems appropriate, the preparation of documents such as the Appellant's Case. The practitioner provides the transcript and other materials to the students.
- The practitioner provides the students with a deadline and receives the work prepared by the student group.
- The practitioner supervises students and is available to meet with the students if further instructions are required by the students.
- The preparation of the Appellant's Case is at the discretion of the practitioner, and is subject to whether there is merit found in the prospective application for leave to appeal. Any further assistance is at the discretion of the pro bono practitioner.
- If the applicant in due course receives leave to appeal, the applicant will be able to successfully apply for legal aid to cover representation at the appeal proper. The practitioner may be retained to represent the appellant at the appeal on a legally aided basis. The practitioner may also assist the appellant in seeking reconsideration of the decision to refuse legal aid in advance of the determination of leave to appeal.
- In the event that practitioner finds that, as a result of student research, there is no merit in the prospective application for leave to appeal, then the practitioner may, at the discretion of the practitioner, still redraft the grounds of appeal to make clear the grounds that the applicant wishes to raise in relation to the appeal. The redrafted grounds of appeal will be provided to the appellant who may or may not decide to file the redrafted grounds of appeal. The practitioner may also prepare any other document at the discretion of the practitioner. The practitioner will then advise the appellant and the Court of Appeal Registry that the practitioner is unable to assist further.
- Whether the practitioner attends upon the appellant in prison is a matter for determination by the practitioner concerned. If the practitioner does consult with the appellant in prison he or she may be accompanied by students assigned to the appeal, however students shall not consult with the appellant at any time unless in the presence of the practitioner.

# **UNREPRESENTED CRIMINAL APPELLANTS PROGRAM**

## **WHAT IS UCAP?**

The Unrepresented Criminal Appellants Program (“UCAP”) is a scheme set up to assist those people who do not have their own lawyer to help them with their appeal against conviction or sentence. It involves a lawyer assisting you free of charge with help from students from one of the law schools.

## **WHO CAN GET HELP FROM UCAP?**

You are only eligible for UCAP assistance if:

- You have an appeal in the Court of Appeal which is a criminal appeal from the District or Supreme Court; and
- You have applied for legal aid to help with your appeal and have been refused legal aid.

You should seek UCAP help before your application for leave to appeal has been decided.

## **HOW CAN I GET HELP FROM UCAP?**

You need to complete the Request for UCAP Help, which is attached, and give it to the Court of Appeal Registry. You should also seek an extension of time for filing the Appellant’s Case.

## **WHAT WILL UCAP DO?**

Once you have been registered as a UCAP participant, you will be allocated a lawyer who will consider if your appeal has merit. He or she will be helped by a group of students at one of the law schools. If no lawyer is available you will get a letter telling you that UCAP cannot help.

If the lawyer thinks that there is no chance of your appeal having success or does not want to help further, he or she can withdraw and the UCAP help will end. If this is the case, you will get a letter from the lawyer.

If the lawyer thinks that your appeal does have merit then the lawyer may prepare and file your Appellant’s Case at the Supreme Court for you or assist in some other way such as assisting you in seeking reconsideration of the decision to refuse legal aid.

If you want to contact the lawyer then you can write to them. The lawyer is under no obligation to visit you in prison and if he or she does so, it will be entirely their choice.

**REQUEST FOR UCAP HELP AND**  
**AUTHORITY TO PROVIDE**  
**INFORMATION**

I, \_\_\_\_\_ wish to be considered for assistance by the Unrepresented Criminal Appellants Program (UCAP) and hereby authorise and request that the Supreme Court supply all relevant documents and any information the possession of the Supreme Court to the people involved in UCAP including voluntary lawyers, Legal Aid WA and law school staff and students.

I am at \_\_\_\_\_ prison (please state which prison you are at).

SIGNED: \_\_\_\_\_

DATED: \_\_\_\_\_

Date \_\_\_\_\_

Applicant's Name \_\_\_\_\_

Court File No \_\_\_\_\_

Prison \_\_\_\_\_

Dear \_\_\_\_\_

**UNREPRESENTED CRIMINAL APPELLANTS PROGRAM**

Please note that your request for UCAP assistance has been referred to the following lawyer who is working on a voluntary basis:

Name of lawyer:

\_\_\_\_\_

Address:

\_\_\_\_\_

That lawyer will consider the merits of your appeal and will then contact you to advise by letter whether or not he or she is able to assist further. The lawyer will be assisted by a group of law students from one of the law schools.

If you want to provide further information to the above lawyer, please write to the lawyer.

Yours faithfully

# **STUDENT CONFIDENTIALITY** **UNDERTAKING**

I,

\_\_\_\_\_ OF \_\_\_\_\_  
\_\_\_\_\_

hereby acknowledge that I have read and understood the UCAP Outline of Program, and the responsibilities required of student participants of the Program.

I agree to act in accordance with those responsibilities.

I understand that the nature of UCAP work involves looking at information that is sensitive to the applicant, his or her family and/or the complainant and his or her family.

I agree not to make a record of, or divulge or communicate to any person, information concerning the affairs of another person acquired by me by reason of my participation in UCAP otherwise than is necessary by reason of my participation in UCAP

I understand that if I am found to have contravened this agreement, the UCAP Management Committee is entitled to discharge me from the Program.

Signed \_\_\_\_\_

Date: \_\_\_\_\_

# **REQUEST TO BE INCLUDED IN THE** **UCAP PRO BONO PANEL OF** **PRACTITIONERS**

Please note that I wish to be included in the Pro Bono Panel of Practitioners for the Unrepresented Criminal Appellants Program.

**My contact details are as follows:**

Name of practitioner:

Name of firm:

Address of firm:

Telephone number:

Facsimile number:

Email address:

**I am interested in assisting in appeals (please tick):**

1. Relating to sentence only
2. Relating to conviction only
3. Relating to conviction and/or sentence.