

Chapter 11: Appeals

1. What if I think the judge was wrong to find me guilty?

If the judge finds you guilty and you disagree with the judge, you may appeal to a higher level court. This means you are asking the judge(s) of the higher level court to figure out if the first judge was right or wrong. If the judge(s) of the higher level court thinks the first judge was wrong, then you can get a new trial with a new judge. If the higher level court thinks the first judge was right, then the first judge's decision will be approved. s. 37(1), s. 37(5). The prosecutor can also appeal if the prosecutor thinks the judge did not follow the law correctly.

2. What if I only disagree with the sentence?

If you think the judge was right to find you guilty but that the sentence was wrong, you can appeal just the sentence. If the appeal judge thinks that your sentence is unreasonable, the appeal judge can give you a different sentence. The prosecutor can also do the same thing.

3. Can I get my sentence changed without an appeal?

Yes, after some time has passed, you can ask a judge to look at your situation again to see if the sentence can be changed. This is called a "sentence review". The amount of time you will have to wait before you can ask the judge for a sentence review will depend on your situation. The judge may ask for a progress report from the people who have been supervising you. s. 59, s. 94

If you are sentenced to custody for more than 1 year, there will be an automatic sentence review of your youth sentence every year. s. 94

4. What other things can I appeal?

These are some of the other things you can appeal:

- the decision to give you an adult sentence, s.72
- the decision to allow your identity to be published, s. 75(2)

If you want to appeal either of these things, you have to also appeal your sentence at the same time. s. 37(4)

You can also appeal the decision to keep you in custody instead of serving part of your sentence under supervision in your community. s. 101(1)

5. Will I have to stay in custody during an appeal?

Under certain circumstances, even if you got custody as your sentence, the higher level court can let you out of custody while the appeal is going on. If you are in custody, you are allowed to go to court on the day of the appeal if you want. s. 37; s. 679 and s. 688 of the *Criminal Code of Canada*

6. How do I know whether to appeal?

You should get advice from a lawyer to see if you have a legal reason to appeal.