

CANADA

COURT OF APPEAL OF QUEBEC

PROVINCE OF QUEBEC
DISTRICT OF [MONTRÉAL ou QUÉBEC]

[YOUR NAME],
domiciled and residing at [your address],
district of [name of district]

N° : C.A. : [leave empty]

[C.Q. or S.C.] : [file number in first
instance]

APPLICANT – Accused

v.

HER MAJESTY THE QUEEN

RESPONDENT – Prosecutrix

**MOTION FOR LEAVE TO APPEAL FROM A CONVICTION ON A GROUND THAT
INVOLVES A QUESTION OF FACT**

(Article 675(1)a(ii) of the *Criminal Code*)

On [date on which the pleading is signed]

**TO ONE OF THE HONOURABLE JUSTICES OF THE COURT OF APPEAL, THE
APPLICANT RESPECTFULLY SUBMITS:**

I – FACTS

1. On [date on which you appeared], the applicant appeared in [city where you appeared], district of [name of district], regarding the file number [file number] of the [trial court] to face the following charges :
 - a) **Count n° 1** : [insert the text of the offence];
 - b) **Count n° 2** : [...].
2. On [date on which you stood trial], the applicant stood trial for the charges mentioned in the previous paragraph before the Honourable [name of judge] of the [trial court] of [name of city], district of [name of district].
3. On [date of judgment], the trial judge found, as it appears in the judgment attached to this proceeding (**schedule 1**), the applicant:

- a) **Count n° 1** : [indicate the judge's verdict on each count];
 - b) **Count n° 2** : [...].
4. The trial lasted for [precise the duration of the trial] days.
5. On [date of sentencing], the applicant was sentenced to :
- a) **Count n° 1** : [sentence imposed for each count];
 - b) **Count n° 2** : [...].

[OR]

At the time of drafting of this motion, the sentence had not yet been imposed.

6. The present file does not contain confidential information.

[OR]

The present file contains confidential information: [indicate which aspects of the file are confidential and set out the legal provision or order that is the basis of the confidentiality (attach a copy of the order, if applicable)].

II – GROUNDS OF APPEAL

7. The applicant seeks leave to appeal [this OR these] conviction[s] on the following grounds [provide a detailed statement of the grounds that you intend to raise] :

7.1 The trial judge erred in fact by concluding that [...];

7.2 The trial judge erred in fact by concluding that [...].

8. The applicant will ask the Court of Appeal to :

- a) **GRANT** the appeal;
- b) **ANNUL** the conviction entered by the trial judge on [date of judgment];
- c) **SUBSTITUTE** an acquittal for the judgment rendered by the trial judge;

[OR]

ORDER a new trial;

- d) **RENDER** any order that comply with the standards of justice.

9. At trial, the applicant was represented by Mtre [name of counsel], whose offices are located at [counsel's address];

[OR]

At trial, the applicant was not represented by counsel;

10. At trial, the respondent was represented by Mtre [name of counsel], [title], whose offices are located at [address of the respondent's counsel].

FOR THESE REASONS, MAY IT PLEASE THE COURT TO :

GRANT this motion;

AUTHORIZE the applicant to appeal the judgment rendered on [date of judgment] by the Honourable [name of judge] of the [trial court] of [name of city], district of [name of district].

On [date on which the pleading was signed], in [name of city].

[your signature]

[your name]

Applicant

[your address]

[your phone number]

[your fax number, if applicable]

[your email address]

AFFIDAVIT

I, the undersigned, [your name], domiciled and residing at [your address], in [indicate the city where you live], solemnly declare the following:

1. I am the applicant and I am personally aware of all the facts alleged in this motion;
2. All the facts alleged in the motion to which this affidavit is attached are, to my personal knowledge, true.

IN WITNESS WHEREOF, I HAVE SIGNED IN [indicate the city
in which you have signed], on [indicate the date on which you have
signed]

[your signature]

[your name]

Applicant

[your address]

SOLEMNLY SWORN BEFORE ME IN [city
where the affidavit was signed], on [date on
which you have signed].

[signature of the person authorized to
receive an affidavit]

[person authorized to receive an affidavit]

NOTICE OF PRESENTATION

TO : HER MAJESTY THE QUEEN

Respondent

Represented by [name of counsel], [title].

[if the motion is to be heard in Montreal, indicate :]

NOTICE IS HEREBY GIVEN that the motion for leave to appeal will be presented before a judge of the Court of Appeal sitting at Edifice Ernest-Cormier, located at 100, Notre-Dame Street East, in Montreal, on [scheduled date], at 9 h 30 a.m., in room RC-18.

[if the motion is to be heard in Quebec City, indicate :]

NOTICE IS HEREBY GIVEN that the motion for leave to appeal will be presented before a judge of the Court of Appeal sitting at the Quebec Courthouse, located at 300, Jean-Lesage Boulevard, in Quebec City, on [scheduled date], at 9:30 a.m., in room 4.30.

PLEASE ACT ACCORDINGLY

LIST OF SCHEDULES

SCHEDULE 1: Judgment rendered by [name of the judge] of the [Superior/Quebec] Court on [date of judgment]

SCHEDULE 2: (if applicable) Confidentiality order rendered by [name of the judge] of the [Superior/Quebec] on [date of order]

SCHEDULE 3: [The motion shall be accompanied by all documents necessary for their adjudication (pleadings, judgments including reasons, exhibits, depositions, minutes, etc. (art. 47 R.C.a.Q.c.m.)]

SCHEDULE[#]: [Include all applicable statutory and regulatory provisions, in both languages, if available, other than those mentioned hereafter]

[The following provisions do not have to be included in your schedules:

- *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11;
- *Criminal Code*, R.S.C. 1985, c. C-46;
- *Controlled Drugs and Substances Act*, S.C. 1996, c. 19;
- *Canada Evidence Act*, R.S.C. 1985, c. C-5;
- *Interpretation Act*, R.S.C. 1985, c. I-21;
- *Youth Criminal Justice Act*, S.C. 2002, c. 1.]

SCHEDULE 1

Judgment rendered by [name of the judge] of the
[Superior/Quebec] Court on [date of judgment]

[Insert Schedule 1]

SCHEDULE 2

[If applicable] Confidentiality order rendered by [name of the judge] of the [Superior/Quebec] Court on [date of order]

[Insert Schedule 2]

SCHEDULE [3]

[description of the schedule]

[Insert Schedule]

N° : C.A. : [leave empty]
[SC or CQ] ([indicate file number(s) in first instance])

COURT OF APPEAL OF QUEBEC
DISTRICT OF [MONTREAL or QUEBEC]

[YOUR NAME]

APPLICANT – Accused

v.

HER MAJESTY THE QUEEN

RESPONDENT – Prosecutrix

**MOTION FOR LEAVE TO APPEAL FROM A CONVICTION ON A
GROUD THAT INVOLVES A QUESTION OF FACT**

(Article 675(1)a)(ii) of the *Criminal Code*)

On [date on which the pleading is signed]

[ORIGINAL or COPY]

[your name]
[your address]
[your phone number]
[your fax number, if applicable]
[your email address]

REMARKS

Format

- The pleadings shall be drafted on a good quality white letter paper (21.5 cm by 28 cm) (art. 18 Rules of the *Court of Appeal of Quebec in Criminal Matters R.C.a.Q.c.m.*);
- The text shall be reproduced on one side only of each sheet, with a minimum of one and one-half spaces between the lines, except for the quotations which shall be single-spaced and indented. The typeface shall be 12-point Arial font for the entire text. Exceptionally, 11-point Arial font may be used for quotations and 10-point Arial font may be used for footnotes (art. 18 *R.C.a.Q.c.m.*).
- The margins shall be no less than 2.5 cm (art. 18 *R.C.a.Q.c.m.*);
- All pleadings shall be signed by the party or that party's counsel (art. 18 *R.C.a.Q.c.m.*);
- The facts and the grounds of appeal shall be written concisely, in a maximum of 10 pages (art. 24 f) *R.C.a.Q.c.m.*)

Confidentiality

- The motion for leave to appeal shall include an express reference that the file contains no confidential information. If any part of a file is confidential, the pleadings shall include an express reference to this effect, clearly indicate which aspects of the file are confidential and set out the legal provision or order that is the basis of the confidentiality. The respondent shall indicate any correction it deems necessary (art. 9 *R.C.a.Q.c.m.*).
- Each pleading which refers to something confidential must call attention to confidentiality with the word "CONFIDENTIAL" written beneath the court record number (art. 9 *R.C.a.Q.c.m.*).

Affidavit

- Any motion alleging facts that do not appear in the record shall be supported by the affidavit of a person who has personal knowledge of those facts (art. 48 *R.C.a.Q.c.m.*).

Presentation of the motion

- The motion shall be accompanied by a notice of presentation. The notice of presentation shall specify the date, the time (9:30 a.m.) and the courtroom where it will be presented (room RC-18 in Montreal; room 4.30 in Quebec City).
- The motion shall be filed at the Office of the Court at least two working days before the date of its presentation (art. 50 *R.C.a.Q.c.m.*). The rules define "working day" as the following: means weekdays, Monday to Friday, excluding the holidays enumerated at section 18 of the *Code of Penal Procedure* (CQLR, c. C-25.1) (art. 2 *R.C.a.Q.c.m.*).
- The dates available to present the motion can be found on the Court of appeal's website (<http://courdappelduquebec.ca/roles-daudience/calendrier-des-disponibilites-journees-dauidition-requetes/>).

Schedules

- The motion for leave to appeal shall be accompanied by all documents necessary for their adjudication (pleadings, judgments including reasons, exhibits, depositions, minutes, laws and regulations, or extracts of these documents, etc.) (art. 47 *R.C.a.Q.c.m.*).

- The schedules may be printed on both sides of each page.

Service

- If the appellant or the applicant is the accused and is not represented by counsel, the clerk serves the notice of appeal to the respondent (art. 23, 26 and 50 *R.C.a.Q.c.m.*).

Institution of the appeal

- The motion for leave to appeal shall be filed at the appropriate Office of the Court of Appeal within 30 days from the judgment (art. 23 (*R.C.a.Q.c.m.*)).
- If the **applicant is the accused and is not represented by counsel**, the notice of appeal shall be filed in 1 original and 4 copies (art. 25 *R.C.a.Q.c.m.*);
- If the **applicant is represented by counsel**, it shall be filed in 1 original and 3 copies (art. 25 *R.C.a.Q.c.m.*).
- **NOTE REGARDING THE SCHEDULES**: they may be filed in 1 original and 1 copy.

WARNING: THIS TEMPLATE DOES NOT EXEMPT THOSE WHO USE TO IT FROM READING THE RELEVANT LEGAL PROVISIONS. IT IS AVAILABLE TO FACILITATE THE CONFECTION OF PROCEEDINGS IN APPEAL. EVERY PROCEEDING IS VERIFIED BY THE CLERK OF THE COURT OF APPEAL AND MAY BE REFUSED OR SUBJECT TO MODIFICATIONS IF IS NOT CONFORM.