

[Court of Appeal's file number]
COURT OF APPEAL OF QUEBEC
([indicate: Montreal or Quebec])

Appeal from a judgment of the [Superior Court or Court of Quebec], District of [name of district], rendered on [date] by the Honourable [name of judge]

No.: [file number in first instance]

[INDICATE THE NAME OF THE APPELLANT]

APPELLANT –
([indicate the party's status at trial])

v.

[INDICATE THE NAME OF THE RESPONDENT]

RESPONDENT –
([indicate the party's status at trial])

APPELLANT'S BRIEF

Dated [date on which the pleading is signed]

[Name of council OR your name]
[Address]
[Phone number]
[Fax number]
[email address]

Appellant

[Name of council OR your name]
[Address]
[Phone number]
[Fax number]
[email address]

Respondent

[the cover page of the appellant's brief shall be yellow (sec. 41a) Rules of the Court of Appeal of Quebec in Criminal Matters]

WARNING: THIS TEMPLATE DOES NOT EXEMPT THOSE WHO USE IT FROM READING THE APPLICABLE LEGISLATION. IT IS AVAILABLE TO FACILITATE THE PREPARATION OF PLEADINGS. EVERY PLEADING MUST BE SUBMITTED TO THE CLERK, WHO MAY REFUSE IT OR REQUIRE MODIFICATIONS IF THE PLEADING DOES NOT COMPLY WITH THE APPLICABLE LEGISLATION.

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SCHEDULE II (i) – PLEADINGS

[include all relevant proceedings to the appeal. For example:]

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SCHEDULE II (iii) – ALL APPLICABLE STATUTORY AND REGULATORY PROVISIONS

[include all applicable statutory and regulatory provisions, in both official languages, if available, other than those mentioned at sec. 39b)(iii) R.C.a.Q.c.m.]

SCHEDULE III – EXHIBITS AND DEPOSITIONS

EXHIBITS

[include exhibits necessary for the Court to decide the issues in dispute (sec. 41j) R.C.a.Q.c.m.)]

Letter from Dr. Marc Tremblay dated [date] (P-4)..... 15

DEPOSITIONS

[include depositions or extracts thereof necessary for the Court to decide the issues in dispute (sec. 41j) R.C.a.Q.c.m.)]

Hearing of February 1, 2016

Crown's Evidence

MARC DUPUIS

Re-exam. by Mtre Côté

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Defence's Evidence

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ATTESTATION

Attestation of the author of the brief.....

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ARGUMENT OF THE APPELLANT

PART I: FACTS

[the appellant shall succinctly state its position and recite the facts]

1. [...]
2. [...]
3. [...]

Brief page numbers shall be consecutive and centered at the top of the page (s. 41(d) *R.C.A.Q.C.M.*);

Parts I to IV of the argument may not exceed 30 pages, unless a judge decides otherwise (s. 38 *R.C.A.Q.C.M.*);

The text of the argument shall have at least one and one-half spaces between lines (s. 41(e) *R.C.A.Q.C.M.*);

The typeface shall be 12-point Arial font for the entire text. The margins shall be no less than 2.5 cm (s. 41(e) *R.C.A.Q.C.M.*);

The paragraphs of the argument shall be numbered (s. 41(f) *R.C.A.Q.C.M.*);

Quotations shall be single-spaced and indented. 11-point Arial font may be used (s. 41(e) *R.C.A.Q.C.M.*);

10-point Arial font may be used for footnotes (s. 41(e) *R.C.A.Q.C.M.*);

The argument and schedule I shall be printed on the left-hand side of the volume, the other schedules shall be printed on both sides (s. 41(g) *R.C.A.Q.C.M.*).

PART II: ISSUES IN DISPUTE

[the appellant shall concisely state the issues in dispute]

5. The appellant identifies the issues in dispute as follows:

1. [first issue in dispute]

6. [résumer votre position pour cette première question en litige]

2. [second issue in dispute]

7. [résumer votre position pour cette deuxième question en litige]

8. [...]

9. [...]

10. [...]

PART III: SUBMISSIONS

[develop your submissions, with specific reference to the content of the schedules]

1. [Title of subject]

11. [...]

12. In her decision on sentencing, the trial Judge makes comments that seem to reflect the respondents' opinion that the jury was not affected by the justification defences put to them. In paragraphs eleven (11) and twelve (12), she states that:

[11] At trial, the defence basically argued that the band council resolution was not adopted in a democratic way, that it was illegal, that the planned police operation was provocative, more particularly in that the new Assistant Chief of Police was not acceptable to the community, and that the accused had a right to defend "their" police station against "invading forces" and to prevent the First Nations police officers from leaving it until their departure could be arranged on the protesters' terms. And indeed, it was eventually arranged that the confined First Nations police officers would leave the Kanesatake police station under guard from the Kahnawake Peacekeepers in the early morning of January 14, the Sûreté du Québec having declined to intervene.

[12] These defences of justification, property, trespass and reasonable force were left with the jury, which nonetheless convicted 13 out of 19 accused of either unlawful assembly as a lesser included offence in the offence of riot, or of riot and forcible confinement, as already mentioned.¹

13. [...]

¹ *R. v. Conway*, 2006 QCCS 1214, para. 11-12

Argument of the Appellant

Conclusions

PART IV: CONCLUSIONS

[state the precise conclusions sought]

THE APPELLANT ASKS THE COURT OF APPEAL TO:

ALLOW the appeal;

SET ASIDE the judgment of conviction rendered by the trial judge on [date of judgment];

SUSBTITUTE a verdict of acquittal for the judgment rendered by the trial judge;

[OR]

ORDER a new trial;

ISSUE any order required in the interest of justice.

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

[signature]

[Nom of the author]
Appellant

PART V: AUTHORITIES

[prepare a list of authorities in order in which they appear in the argument, making specific reference to the paragraphs at which they are cited]

Paragraph(s)

CASE LAW

R. v. Harbottle, [1993] 3 S.C.R. 306 7

R. v. Cinous, [2002] 2 S.C.R. 3 12

R. v. Corbert, [1988] 1 S.C.R. 670 13

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DOCTRINE

Tristan Desjardins, *L'appel en droit criminel et pénal* (Montréal, Éditions LexisNexis, 2008).....24

[the book of authorities shall be notified and filed 30 days before the hearing of the appeal (sec. 46 R.C.a.Q.c.m.)]

SCHEDULE I – JUDGMENT UNDER APPEAL

[schedule I shall be printed on the left-hand side of the volume (sec. 41g) R.C.a.Q.c.m.)]

[insert the judgment]

SCHEDULE II (i) – PLEADINGS

[schedule II shall be printed on both sides (sec. 41g) R.C.a.Q.c.m.)]

Notice of Appeal dated [date of the pleading]

[insert the pleading]

SCHEDULE II (ii) – INDICTMENT AND MINUTES OF HEARING

[insert documents, if applicable]

SCHEDULE II (iii) – STATUTORY AND REGULATORY PROVISIONS

[in both official languages, if available]

[Provisions in the following statutes do not have to be included in the brief (s. 39(b)(iii) R.C.A.Q.C.M.):

- *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.]

[insert documents, if applicable]

SCHEDULE III
EXHIBITS

[schedule III shall be printed on both sides (sec. 41g) R.C.a.Q.c.m.)]

The exhibits shall be reproduced consecutively as they are numbered. Each exhibit shall be reproduced beginning on a new page that includes the exhibit number, the page and nature of the exhibit (s. 41(j) R.C.A.Q.C.M.).

P-4: Letter from Dr. Marc Tremblay dated [date]

[insert the exhibit]

SCHEDULE III

DEPOSITIONS

[schedule III shall be printed on both sides (sec. 41g) R.C.a.Q.c.m.)]

Each deposition shall begin on a new page and mention in the title the surname of the witness (in upper case letters), followed by the witness' given name, age and place of residence (in lower case letters), if these details were provided, as well as the following information in abbreviated form (in parentheses):

- (i) the status of the party who called the witness ;
- (ii) the stage of the trial (case in chief, defense, rebuttal);
- (iii) the stage of the examination (examination-in-chief, cross-examination, re-examination).

The title of each following page shall restate the witness' name and the information in abbreviated form (s. 41(k) *R.C.A.Q.C.M.*).

Depositions may be reproduced on paper with four pages printed on a page as long as they respect section 41(l) *R.C.A.Q.C.M.*

DUPUIS, Marc, 485 St-Olivier Street, Quebec City (Defence, Case in chief, Cross-exam.)

[insert the transcript of the hearing]

DUGUAY, Daniel, 485 St-Olivier Street, Quebec City (Defence, Defence's Evidence, Examination-in-Chief)

[insert the transcript of the hearing]

ATTESTATION OF THE AUTHOR OF THE BRIEF

I, the undersigned, [name of the author], attest to the brief's conformity with the *Rules of the Court of Appeal of Quebec in Criminal Matters* and undertake to make available to any other party, at no cost, the depositions obtained in paper or technological format.

The time requested for the presentation of my oral argument is [number of minutes requested] minutes.

On [date on which the brief was signed], in [city where it was signed]

[signature]

[name of the author]
Appellant

NOTIFICATION AND FILING OF THE BRIEF

Notification

- The appellant shall notify two (2) copies on paper of its brief and one (1) copy of the technological version to the respondent (USB key) (s. 42 *R.C.A.Q.C.M.*);
- The proof of notification shall be filed with the Office of the Court no later than three (3) working days following the expiry of the 60-day time limit (s. 42 *R.C.A.Q.C.M.*).

Filing

- The appellant shall file seven (7) copies on paper and seven (7) copies of the technological version (s. 42 *R.C.A.Q.C.M.*).
- The technological version of the brief shall be filed as a USB key permitting keyword searches and include hyperlinks from the table of contents to the brief and from the arguments to the schedules. The USB key shall be identified in the same manner as a pleading (file number, designation of the parties, abbreviated title, references to confidentiality in red) (s. 12 *R.C.A.Q.C.M.*).

Non-compliance

- If a brief does not comply with the requirements, the clerk shall advise its author of the corrections required and establish a time limit within which a corrected brief may be filed (s. 43 *R.C.A.Q.C.M.*).