

CANADA

COURT OF APPEAL OF QUEBEC

PROVINCE OF QUEBEC
REGISTRY OF [MONTREAL or QUEBEC]

[NAME OF THE APPLICANT]

[your address]

No.: [leave empty so that the Office of the Court may attribute a number to your file]

APPLICANT – Accused

v.

No.: [file number(s) before the Superior Court or Court of Québec]

HIS MAJESTY THE KING

[[MONTREAL ou QUEBEC]

RESPONDENT – Prosecutrix

MOTION FOR LEAVE TO APPEAL FROM A SENTENCE

(Section 675(1)(b) of the *Criminal Code*)

Applicant

Dated [date on which the pleading is signed]

[Application presented to a judge]

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

I — EXPRESS REFERENCE

1. This file contains no confidential information.

[OR]

The files 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 — FACTS

2. On [date on which you appeared], the applicant appeared in [city where you appeared], judicial district of [name of district], regarding file number(s) [file number(s)] of the [Superior Court or Court of Québec], on the following counts:

a) **Count No. 1:** [insert the text of the offence];

- b) **Count No. 2:** [...].
3. On [date on which you stood trial], the applicant stood trial on the counts described in the first paragraph before the Honourable [name of judge] of the [Superior Court or Court of Québec] at the [name of city] Courthouse, judicial district of [name of district].
4. On [date of judgment], the trial judge found the applicant:
- a) **Count No. 1:** [indicate the judge's conclusion on each count];
- b) **Count No. 2:** [...].
5. The trial lasted for [precise the duration of the trial] days.
6. On [date of sentencing], as it appears in the judgment attached hereto (**Schedule [number of schedule]**), the applicant was sentenced to:
- a) **Count No. 1:** [sentence imposed for each count];
- b) **Count No. 2:** [...].
7. The conviction has not been appealed.
- [OR]
8. On [indicate the date on which the sentence has been appealed], the applicant [appealed or sought or obtained leave to appeal] the conviction in file number(s) [file number(s) before the Court of Appeal].

III — GROUNDS OF APPEAL

9. The applicant seeks leave to appeal the sentence imposed by the trial judge on the following grounds:
- 9.1 The trial judge erred by concluding that [provide a detailed statement of the grounds you intend to raise];
- 9.2 The trial judge erred by concluding that [...].
- 10 The applicant will ask the Court of Appeal to:
- a) **ALLOW** the appeal;

- b) **SET ASIDE** the sentence imposed by the trial judge on [date of judgment];
- c) **SUBSTITUTE** any other sentence that the Honourable Court deems fit;
- d) **ISSUE** any order required in the interest of justice.

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

[OR]

At trial, the applicant was not represented by counsel.

12 At trial, the respondent was represented by Mtre [name of counsel], criminal and penal prosecuting attorney, whose offices are located at [address of the respondent's counsel].

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the applicant's application for leave to appeal from the sentence imposed on [date of judgment] by the Honourable [name of judge] of the [Superior Court or Court of Québec] in file number(s) [file number(s)] or, subsidiarily, **REFER** its hearing to a panel of the Court;

DECLARE that the proceedings shall be undertaken without briefs, on the basis of the fast-track procedure in accordance with section 64 of the *Rules of the Court of Appeal of Quebec in Criminal Matters*.

Signed on [date on which the pleading is signed], in [name of city].

[your signature]

[your name]

[Applicant or Applicant's counsel]

[your address]

[your phone number]

[your fax number, if applicable]

[your email address]

[your permanent code, if applicable]

[If applicable, attach an affidavit]

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 or Applicant's counsel] and I am personally aware of all the facts alleged in the application to which this affidavit is attached;
2. All the facts alleged in the application to which this affidavit is attached are, to my personal knowledge, true.

SIGNED on [date on which you have signed]
in [city in which you have signed]

[your signature]

[your name]

[Applicant or Applicant's counsel]

[address]

Solemnly sworn before me on [date on which you have signed]

[signature of the person taking the affidavit]

[name and standing of the person taking the affidavit]

NOTICE OF PRESENTATION

TO: HIS MAJESTY THE KING

Respondent

Represented by [name of the respondent's counsel at trial], [address].

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

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

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

NOTICE IS HEREBY GIVEN that this application for leave to appeal will be presented before a justice of the Court of Appeal sitting at the Quebec City 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 SUPPORTING
THE APPLICATION FOR LEAVE TO APPEAL**

		Pages	Tabs
SCHEDULE 1:	Copy of the Confidentiality Order [if applicable]	[...]	1
SCHEDULE 2:	Judgment rendered by [name of the judge] of the [Superior Court/Court of Québec] on [date of the judgment which is the subject of the application for leave to appeal from a sentence]	[...]	2
SCHEDULE 3:	[describe Schedule 3] [if applicable]	[...]	3

[If necessary, include all schedules required to support your application]

REMARKS

Format and content

- All pleadings must comply with the following presentation requirements (s. 20 of the *Rules of the Court of Appeal of Quebec in Criminal Matters (R.C.A.Q.C.M.)*):
 - The pleading filed on paper shall be printed on a good quality white paper in letter format (21.5 cm by 28 cm).
 - Pleadings and their schedules shall be paginated consecutively.
 - Handwritten pleadings shall not be accepted unless they are easily legible and intelligible.
 - 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 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 10point Arial font may be used for footnotes.
 - The margins shall be no less than 2.5 cm.
 - All pleading must be signed by the party or the party's counsel.
- The status in appeal of each party shall be indicated beneath the name of the party in upper case letters, followed by the party's status in first instance in lower case letters (s. 21 *R.C.A.Q.C.M.*).
- The heading, contained on the first page of the pleading, shall indicate the filing party, the nature of the pleading, its date and, if the pleading includes a request, the provision on which it is based (s. 22 *R.C.A.Q.C.M.*).
- The application for leave to appeal includes the following information: (ss. 26 (g), (h) and (i) *R.C.A.Q.C.M.*):
 - The facts and the grounds of appeal stated concisely, in a maximum of 10 pages (the designation of the parties and the conclusions sought being excluded from the page count).
 - The address and, if available, the email address of the applicant or the applicant's counsel.
 - The name, address and, if available, the email address of the respondent and, if applicable, of the other parties and their counsel at trial.
- The PDF file of the Application for leave to appeal must comply with the ***Chief Justice's Directive on the Rules respecting the preparation of the PDF Files.***

Affidavit

- Any application 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 (s. 51 *R.C.A.Q.C.M.*). Persons entitled to administer oaths include lawyers, notaries, and commissioners for oaths appointed by the Minister of Justice.

Date of presentation of the application

- An application shall be accompanied by a notice stating the date and time (9:30) it is to be presented and the courtroom (RC-18 in Montreal; 4.30 in Quebec) in which it will be presented.
- The application shall be filed with the Office of the Court at least five working days prior to the date of its presentation. In all cases, time limits are calculated excluding Saturdays (s 53 *R.C.A.Q.C.M.*). Definition of “Working Day”: Monday to Friday, excluding the holidays listed at art. 18 of the *Code of Penal Procedure* (CQLR, c. C-25.01) (s. 3 *R.C.A.Q.C.M.*).
- The clerk publishes on the Court’s website the calendar of the available hearing dates for applications presentable before the Court, a judge or the clerk ([Calendar - Available hearing dates - Motions - Cour d’appel du Québec](#)).

Documents attached to the application

- The application must be accompanied by the documents necessary for its consideration, separated by numbered tabs (pleadings, judgments including exhibits, depositions, minutes and others) (s. 54 para. 1 *R.C.A.Q.C.M.*).
- Documents thus attached must be preceded by a table of contents referring to the numbers of tabs and pages. The application and its schedules must be presented as a unit and be stapled or bound with a spiral binding or other type of binding (s. 54 para. 2 *R.C.A.Q.C.M.*).

Confidentiality

- The application for leave to appeal contains one of the following (s. 9 *R.C.A.Q.C.M.*):
 - The application for leave to appeal includes an express reference that the file contains no confidential information.
 - If any part of a file is confidential, the pleadings shall call attention to this by including the word “CONFIDENTIAL” beneath the court file number, and clearly indicate which aspects of the file are confidential and set out the legal provision or order that is the basis of the confidentiality. In the latter case, a copy of the order shall be filed with the Office of the Court at the same time as the notice of appeal or the application for leave to appeal; when a copy of the order is not available on that date, it must be filed within the deadline stipulated by the clerk.

Filing and service

- The application for leave to appeal is served and filed within 30 days from the judgment (s. 25, para. 1 *R.C.A.Q.C.M.*):
 - Where the accused is the applicant and is represented by counsel, the latter’s notification of the application for leave to appeal to the respondent to shall constitute service (s. 25 para. 2 *R.C.A.Q.C.M.*).

- Where the accused is the applicant and is not represented by counsel, the clerk shall send a copy of the application for leave to appeal to appeal to the respondent (s. 25 para. 3 *R.C.A.Q.C.M.*).
- The application for leave to appeal must be filed at the counter of the Office of the Court (or through the Digital Office of the Court of Appeal (DOCA)):
 - If the filing is made via DOCA, the paper versions must be received at the counter of the Office of the Court within five working days after the e-filing (see ***Clerk's Practice Direction No.3***).
 - If the filing is made at the counter of the Office of the Court, the PDF file of the application for leave to appeal must be transmitted to the Office of the Court via DOCA on the day the paper version is filed (see ***Clerk's Practice Direction No.7***).
- The application for leave to appeal presented before a judge shall be filed in the following number of copies (s. 27 paras. 1(b) and 2 *R.C.A.Q.C.M.*):
 - If the applicant is represented by counsel: 4 copies (two for the Court file and two for the office of the trial court).
 - If the applicant is not represented by counsel: 5 copies (two for the Court file, two for the office of the trial court and one for the respondent).
 - The appellant may file only two copies of its schedules if desired.

Transcript of trial proceedings (s. 31 *R.C.A.Q.C.M.*)

- The appellant or applicant shall file in the office of the trial court an application to obtain a transcript and the exhibits that it requires within 30 days of the filing of the notice of appeal or he granting or deferral of the application for leave to appeal, unless an extension of time was granted by the Court's clerk, such written application for leave to appeal being notified to the other parties (See ***Clerk's Practice Direction No. 9***).
- The appellant or applicant shall use the application form available at the Office of the Court and on the Court's website « ***Application for a transcript of the proceedings and the reproduction of exhibits*** » — « ***Form SJ-980*** ».
- The appellant or applicant shall also send within the same time period to the Office of the Court a copy of the aforementioned application with proof of filing with the office of the trial court as well as proof of notification to the other parties.

WARNING: THIS TEMPLATE DOES NOT EXEMPT THOSE WHO USE IT FROM READING THE APPLICABLE LEGISLATION. IT IS AVAILABLE TO FACILITATE THE DRAFTING AND 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.