

CANADA

COURT OF APPEAL OF QUEBEC

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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]

[APPELLANT OR APPLICANT] – Accused

v.

**HER MAJESTY THE QUEEN**

RESPONDENT – Prosecutrix

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**MOTION FOR RELEASE FROM PRISON**

**(Article 679(1) of the *Criminal Code*)**

On [date on which the pleading is signed]

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**TO ONE OF THE HONOURABLE JUSTICES OF THE COURT OF APPEAL, THE  
[APPELLANT OR APPLICANT] RESPECTFULLY SUBMITS:**

**I – FACTS**

1. On [date on which you appeared], the [appellant or 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 [appellant or 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 the judgment when the sentence was pronounced], as it appears from the judgment attached to this proceeding (**schedule 2**), the applicant was sentenced to :

a) **Count n° 1** : [sentence imposed for each count];

b) **Count n° 2** : [...].

6. On [date that you produced your notice of appeal at the Court of Appeal], the [appellant or applicant] brought to appeal before this honourable Court the guilty charge rendered at trial, as it appears in the notice of appeal attached to this proceeding (**schedule 3**);

[OR]

On [date that you obtained the authorisation to appeal the trial judgment], the [appellant or applicant] obtained the permission to bring to appeal the guilty charge [AND/OR the sentence, if applicable] rendered at trial, as it appears in the judgment having granted the permission to appeal attached to this proceeding (**schedule 3**);

[OR]

During the presentation of the present motion, the [appellant or applicant] asks the permission to bring the appeal of the guilty charge [AND/OR the sentence, if applicable] rendered at trial, as it appears in the motion for leave to appeal attached to this proceeding (**schedule 3**);

7. On [indicate the date of presentation of the motion for leave to appeal], the applicant presented a motion to the Court of Appeal of Quebec for leave to appeal from a the guilty charge, such as it appears from the motion for leave to appeal attached to this proceeding (**schedule 3**);

8. The [appellant or applicant] respectfully presents that the appeal is not trivial and has a valid argument to present, as it appears in the notice attached to this proceeding (**schedule 3**);

[OR]

The permission to appeal having been granted, as it appears in the judgment attached to this proceeding (**schedule 3**), the [appellant or applicant] respectfully establishes that the appeal cannot be considered as being trivial and has a valid argument to present;

[OR]

The [appellant or applicant] respectfully presents that the appeal is not trivial and has a valid argument to present, as it appears in the motion for leave to appeal attached to the present proceeding (**schedule 3**);

9. The [appellant or applicant] respectfully asks to be released from prison while waiting for the final judgment of the Court of Appeal considering the following facts:

8.1 [describe all the facts that could be in favour of your release from prison];

8.2 [...]

10. The detention of the [appellant or applicant] is not necessary in the public interest;

11. The [appellant or applicant] will respect the terms and conditions to intervene following this motion;

12. The [appellant or applicant] will act according to the terms and conditions of the judicial interim release order.

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO :**

**GRANT** this motion;

**ORDER** the release of the [appellant or applicant] during the appeal;

**FIX** useful and necessary conditions for the release of the [appellant or applicant];

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

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

[your signature]

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[your name]

[appellant or applicant]

[your address]

[your phone number]

[your fax number, if applicable]

[your email address]

## AFFIDAVIT

(Art. 31 of the *Rules of the Court of Appeal of Quebec in Criminal Matters*)

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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. [indicate your places of residence in the three years prior to conviction and the place you intend to reside if released];
3. **[if applicable]** [indicate your employment before conviction and intended employer and employment if released];
4. **[if applicable]** [indicate your previous convictions, including convictions outside canada];
5. **[if applicable]** [indicate any charges pending against the appellant, in canada and elsewhere, at the time of the application];
6. [indicate whether or not you hold a canadian or foreign passport or have a pending passport application];
7. 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]

[appellant or applicant]

[your address]

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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]

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[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

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

**SCHEDULE 2:** Judgment rendered by [name of the judge] of the [Superior/Quebec] Court on [date of judgment]

**SCHEDULE 3:** Notice of appeal OR Motion for leave to appeal OR Judgment granting the permission to appeal

**SCHEDULE 4:** [include in the schedules all previous judgments and records of other courts or lower courts relevant to the study of the motion]

**SCHEDULE 5:** [include in the schedules any proceedings filed in the first instance file relevant to the study of the motion]

**SCHEDULE 6:** [include in the schedules all evidence relevant to the study of the motion]

**SCHEDULE 7:** [include in the schedules the transcripts of all depositions relevant to the study of the motion]

**SCHEDULE 8:** [include in the schedules the text of all laws and regulations invoked (in both official languages, if available) other than those listed below]

[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**

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

**[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])

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

---

**[YOUR NAME]**

[APPELLANT OR APPLICANT] – Accused

v.

**HER MAJESTY THE QUEEN**

RESPONDENT – Prosecutrix

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**MOTION FOR RELEASE FROM PRISON**  
**(Article 679(1) of the *Criminal Code*)**  
On [date on which the pleading is signed]

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[ORIGINAL or COPY]

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[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. 47 *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.*). To this end, please pay particular attention to the date of signing of the affidavit. The people authorized to take the oath include lawyers, notaries and commissioners for oaths appointed by the Minister of Justice.

### **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/>).
- Except in the case of the interim release of the appellant, a party who declares that a motion will not be contested may request, in writing addressed to the clerk to be excused from attendance at the hearing (art. 53 *R.C.a.Q.c.m.*).



### **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.
- If the motion is not contested, the parties shall file a project of the agreed upon conditions to the judge in charge of the motion for release from prison.

### **Notification**

- The parties shall serve or notify their pleadings and documents attached thereto in the matter set forth in the *Code of Civil Procedure*. The notice of appeal and motion for leave to appeal shall be served by bailiff or peace officer. Other pleadings shall be notified unless these Rules provide otherwise or if the relevant party chooses to serve the pleading (art. 22 *R.C.a.Q.c.m.*).

### **Institution of the appeal**

- The motion shall be filed in two copies, which includes an original (art. 47 *R.C.a.Q.c.m.*).

**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.