

CANADA

COURT OF APPEAL OF QUEBEC

PROVINCE OF QUEBEC
REGISTRY OF [MONTRÉAL ou QUÉBEC]

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

N^o: 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 SUSPENSION OF THE SENTENCE

(Article 683(5) 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^o 1** : [insert the text of the offence];
 - b) **Count n^o 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 processing (**schedule 1**), the applicant :
 - a) **Count n^o 1** : [indicate the judge's verdict on each count];

b) **Count n° 2** : [...].

4. The trial lasted for [precise the duration of the trial].

5. On [date of sentencing], 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 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 2**);

[OR]

On [date that you obtained the authorisation to appeal the trial judgment], the 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 2**);

[OR]

During the presentation of the present motion, the 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 2**);

7. The 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 2**);

[OR]

The permission to appeal having been granted, as it appears in the judgment attached to this proceeding (**schedule 2**), the applicant respectfully establishes that the appeal cannot be considered as being trivial and has a valid argument to present;

[OR]

The 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 2**);

8. It is imperative for the applicant that the sentence imposed be suspended pending the appeal for the following reasons:

8.1 [state the reasons why you wish to suspend the execution of the sentence];

8.2 [...]

9. The applicant submits that the sentence imposed is not necessary in the public interest for the following reasons:

9.1 [state the reasons why maintaining the sentence is not necessary in the public interest];

9.2 [...]

10. The applicant respectfully submits that the suspension of the sentence would not violate public confidence in the administration of justice considering the aforementioned elements.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO :

GRANT this motion;

ORDER the suspension of the sentence imposed on [date the sentence was rendered] by the Honorable [name of judge] of the [Superior Court/Court of Quebec] pending a definitive decision in appeal;

RENDER any order that comply with the standards of justice.

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 Court/Court of Quebec] Court on [date of judgment]

SCHEDULE 2: Notice of appeal OR Motion for leave to appeal OR Judgment granting the permission to appeal

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 Court/Court of Quebec] Court on [date of judgment]

[Insert schedule 1]

SCHEDULE 2

Notice of appeal OR Motion for leave to appeal
OR Judgment granting the permission to appeal

[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 SUSPENSION OF THE SENTENCE

(Article 683(5) 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-daudition-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.

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.