

[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])

RESPONDENT'S BRIEF

Dated [date on which the pleading is signed]

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

Appellant

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

Respondent

[the cover page of the appellant's brief shall be green (sec. 41(a) 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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The first volume of the brief shall begin with a general table of contents and each volume shall begin with a table of its contents (s. 41(c) *R.C.A.Q.C.M.*)

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SCHEDULE I – JUDGMENT UNDER APPEAL

No document
[this document was included in the appellant's brief]

[IF APPLICABLE] SCHEDULE II – PLEADINGS AND LEGISLATION

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ARGUMENT OF THE RESPONDENT

PART I: FACTS

[the respondent may comment and relate additional 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.*).

Argument of the Respondent

Issues in Dispute

PART II: ISSUES IN DISPUTE

[the respondent shall respond to the questions raised by the appellant and may raise any further questions that the respondent intends to debate]

5. The respondent's position in regards to the issues in dispute identified by the appellant is the following:

1. [first issue in dispute]

6. [resume your position on this first question]

2. [second issue in dispute]

7. [resume your position on this second question]

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 Respondent

Conclusions

PART IV: CONCLUSIONS

[state the precise conclusions sought]

THE RESPONDENT ASKS THE COURT OF APPEAL TO:

DISMISS the appeal;

AFFIRM the judgment of acquittal rendered by the trial judge on [date of judgment];

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]
Respondent

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

<i>R. v. Harbottle</i> , [1993] 3 S.C.R. 306	7
<i>R. v. Cinous</i> , [2002] 2 S.C.R. 3	12
<i>R. v. Corbert</i> , [1988] 1 S.C.R. 670	13
<i>R. v. Brooks</i> , [2000] 1 S.C.R. 237	19

DOCTRINE

Tristan Desjardins, <i>L'appel en droit criminel et pénal</i> (Montréal, Éditions LexisNexis, 2008).....	24
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[le cahier des sources est déposé au plus tard 30 jours avant l'audition (art. 46 R.C.a.Q.m.c.)]

Argument of the Respondent

Authorities

SCHEDULE I – JUDGMENT UNDER APPEAL

(NO DOCUMENT)

SCHEDULE II (i) – PLEADINGS

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

Amended 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]

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]
Respondent

NOTIFICATION AND FILING OF THE BRIEF

Notification

- The respondent 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 respondent 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.*).