

CANADA

COURT OF APPEAL OF QUEBEC

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]

[S.C. or C.Q.] : [file number]

APPELLANT – Accused

v.

HER MAJESTY THE QUEEN

RESPONDENT – Prosecutrix

MOTION FOR AUTHORISATION TO ADDUCE FRESH EVIDENCE

(Article 683(1) of the *Criminal Code*)

On [date on which the pleading is signed]

**TO THE HONOURABLE JUSTICES OF THE COURT OF APPEAL, THE APPELLANT
RESPECTFULLY SUBMITS:**

I – FACTS

1. On [date on which you appeared], the appellant 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 stood trial for the charges mentioned in the previous paragraph before the Honourable [name of judge] of the [trial court; M.C. or C.Q.] 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 appellant :

a) **Count n° 1** : [indicate the judge's verdict on each count];

b) **Count n° 2** : [...].

4. On [date of sentencing], the appellant was sentenced to :

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

b) **Count n° 2** : [...].

5. On [date that you produced your notice of appeal at the Court of Appeal], the appellant 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 appellant 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]

6. The appellant respectfully asks this honourable Court to adduce fresh evidence, considering the following facts :

6.1 [indicate the new evidence that you wish to produce, along with the circumstances surrounding the discovery of the new evidence];

6.2 [...].

7. The appellant exercised due diligence with regards to obtaining this new evidence because [indicate the reason why the discovery of this new evidence could not have been done earlier].

8. The presentation of this new evidence is important, plausible and susceptible of influencing the result of the trial because [describe the reason why this new evidence is important, plausible and susceptible of influencing the outcome of the appeal].

FOR THESE REASONS, MAY IT PLEASE THE COURT TO :

GRANT this motion;

ALLOW the appellant to [describe the fresh evidence that you wish to present] ;

DEFER the application to the panel of the Court who will hear the appeal, for it to rule on admissibility and, if need be, on the weight of aid fresh evidence;

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]

Appellant

[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]

Appellant

[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 three judges 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-08.

[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 three judges 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 4.33.

PLEASE ACT ACCORDINGLY

LIST OF SCHEDULES

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

SCHEDULE 2: Notice of appeal OR judgment granting leave 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/Quebec] Court on [date of judgment]

[Insert Schedule 1]

SCHEDULE 2

Notice of appeal OR Judgment granting leave 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 AUTHORISATION TO ADDUCE FRESH
EVIDENCE**

(Article 683(1) 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 *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-08 in Montreal; room 4.33 in Quebec City).
- The motion shall be filed at the Office of the Court at least five 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-dauidence/calendrier-des-disponibilites-journees-dauidition-requetes/>).
- The applicant shall reserve a date with the clerk for the presentation of its motion (art. 49 *R.C.a.Q.c.m.*) by calling the Registry of the Court of Appeal (514-393-2022 for Montreal and 418-649-3401 for Quebec City).

Schedules

- The motion 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 four 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.