

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]

No.: 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 LEAVE TO APPEAL FROM A CONVICTION ON A GROUND THAT
INVOLVES A QUESTION OF FACT**

(Section 675(1)(a)(ii) 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], judicial district of [name of district], regarding file number [file number] of the [trial court], on the following counts:
 - (a) **Count No. 1:** [insert the text of the offence];
 - (b) **Count No. 2:** [...].
2. On [date on which you stood trial], the applicant stood trial on the counts mentioned in the first paragraph before the Honourable [name of judge] of the [trial court] at the [name of city] Courthouse, judicial district of [name of district].
3. On [date of judgment], the trial judge found, as it appears in the judgment attached hereto (**Schedule 1**), the applicant:

- (a) **Count No. 1:** [indicate the judge's verdict on each count];
 - (b) **Count No. 2:** [...].
4. The trial lasted for [precise the duration of the trial] days.
5. On [date of sentencing], the applicant was sentenced to:
- (a) **Count No. 1:** [sentence imposed for each count];
 - (b) **Count No. 2:** [...].

[OR]

At the time of drafting of this motion, the sentence had not yet been imposed.

6. The present file does not contain confidential information.

[OR]

The present file 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 – GROUNDS OF APPEAL

7. The applicant seeks leave to appeal the conviction on the following grounds:
- 7.1 The trial judge erred by concluding that [...];
 - 7.2 The trial judge erred by concluding that [...].
8. The applicant will ask the Court of Appeal to:
- (a) **ALLOW** the appeal;
 - (b) **SET ASIDE** the conviction entered by the trial judge on [date of judgment];
 - (c) **SUBSTITUTE** an acquittal in the judgment rendered by the trial judge;
- [OR]
- ORDER** a new trial;
 - (d) **ISSUE** any order required in the interest of justice.

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

[OR]

At trial, the applicant was not represented by counsel;

10. 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 this motion for leave to appeal;

AUTHORIZE the applicant to appeal the judgment rendered on [date of judgment] by the Honourable [name of judge] of the [trial court] in file number [name of city].

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], criminal and penal prosecuting attorney.

[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 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 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 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.

DO GOVERN YOURSELF ACCORDINGLY

LIST OF SCHEDULES
IN SUPPORT OF THE MOTION FOR LEAVE TO APPEAL

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

SCHEDULE 2: (if applicable) Confidentiality order issued by the Honourable [name of the judge] of the [Superior/Quebec] on [date of order]

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 4: [inclure dans les annexes tout acte de procédure produit au dossier de première instance pertinent à l'étude de la requête]

SCHEDULE 5: [inclure dans les annexes tous les éléments de preuve pertinents à l'étude de la requête]

SCHEDULE 6: [inclure dans les annexes la transcription de toutes les dépositions pertinentes à l'étude de la requête]

SCHEDULE 7: [inclure dans les annexes le texte de toutes les dispositions législatives et réglementaires invoquées (dans les deux langues officielles, si disponibles) autres que celles énumérées ci-dessous]

[Provisions in the following statutes 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 the Honourable [name of the judge] of
the [Superior/Quebec] on [date of judgment]

[Insert Schedule 1]

SCHEDULE 2

[If applicable] Confidentiality order issued by the Honourable
[name of the judge] of the [Superior/Quebec] on [date of
order]

[Insert Schedule 2]

SCHEDULE [3]

[description of the schedule]

[Insert Schedule]

No.: C.A.: [leave empty]
[SC or CQ] ([indicate file number(s) in first instance])

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

[YOUR NAME]

APPLICANT – Accused

v.

HER MAJESTY THE QUEEN

RESPONDENT – Prosecutrix

**MOTION FOR LEAVE TO APPEAL FROM A CONVICTION ON A
GROUD THAT INVOLVES A QUESTION OF FACT**

(Section 675(1)(a)(ii) of the *Criminal Code*)

On [date on which the pleading is signed]

Applicant

[ORIGINAL or COPY]

[your name]
[your address]
[your phone number]
[your fax number, if applicable]
[your email address]

REMARKS

Format

- Pleadings shall be drafted on a good quality white letter paper (21.5 cm by 28 cm) (s. 18 para. 1 of the *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 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 (s. 18 para. 2 *R.C.A.Q.C.M.*);
- The margins shall be no less than 2.5 cm (s. 18 para. 2 *R.C.A.Q.C.M.*);
- All pleadings shall be signed by the party or that party's counsel (s. 18 para. 3 *R.C.A.Q.C.M.*);
- Motions shall not exceed 10 pages, excluding the designation of the parties and the conclusions sought (s. 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 (s. 9 para. 1 *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 (s. 9 para. 2 *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 (s. 48 *R.C.A.Q.C.M.*). Persons empowered to administer oaths 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 prior to its presentation date. In all cases, the time limits are calculated excluding Saturdays (s. 50 *R.C.A.Q.C.M.*). The rules define "working day" as the following: weekdays, Monday to Friday, excluding the holidays enumerated at section 18 of the *Code of Penal Procedure*, CQLR, c. C-25.1 (s. 2 *R.C.A.Q.C.M.*).
- The dates available to present a motion before the Court, a justice or the clerk can be found on the Court's website (<http://courdappelduquebec.ca/en/rolls/calendar-available-hearing-days-motions-presentable-before-the-judge-in-chambers-or-a-panel-of-three-judges/>).

Schedules

- The motion for leave to appeal shall be accompanied by all documents necessary for its adjudication (pleadings, judgments including reasons, exhibits, depositions, minutes, laws and regulations, or extracts of these documents, etc.) (s. 47 *R.C.A.Q.C.M.*).
- The schedules may be printed on both sides of each page.

Service

- If the applicant is the accused and is not represented by counsel, service shall be effected by the clerk who shall send the motion for leave to appeal to the respondent (s. 23 para. 1, 26 and 50 *R.C.A.Q.C.M.*).

Filing

- The motion for leave to appeal shall be filed at the Office of the Court of Appeal within 30 days from the judgment (s. 23 (*R.C.A.Q.C.M.*)).
- The motion shall be filed at the Office of the Court:
 - in 5 counterparts (1 original and 4 copies) if the applicant is not represented by counsel (s. 25 *R.C.A.Q.C.M.*);
 - in 4 counterparts (1 original and 3 copies) if the applicant is represented by counsel (s. 25 *R.C.A.Q.C.M.*).
- NOTE regarding the schedules: The applicant may file the schedules in only 2 counterparts, namely, the original and one copy.

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 OF THE COURT, WHO MAY REFUSE IT OR REQUIRE MODIFICATIONS IF THE PLEADING DOES NOT COMPLY WITH THE APPLICABLE LEGISLATION.