

...
(File number at the Court of Appeal)

Court of appeal of 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)

N^o: (file number at first instance)

...
(Your name)

APPELLANT - Accused

v.

...
(HER MAJESTY THE QUEEN)

RESPONDENT - Plaintiff

APPELLANT'S FACTUM

(Your name)
(Your address)
(Your telephone number)
(Your fax number)
(Your email address)

Appellant

(Your name)
(Your address)
(Your telephone number)
(Your fax number)
(Your email address)

Respondent

The cover of the Appellant's factum must be yellow
(article 71 of the Rules of the Court of appeal of Quebec in Criminal matters).

TABLE OF CONTENTS

Page

APPELLANT'S FACTUM

PART I	FACTS	1
PART II	ISSUES IN DISPUTE	4
PART III	ARGUMENTS	4
	1. ... (title of subject)	4
	2. ... (title of subject)	12
	3. ... (title of subject)	17
PART IV	CONCLUSIONS	21
PART V	AUTHORITIES	22

SCHEDULE I

JUDGMENT APPEALED FROM

Judgment rendered on ... (date), by the Honourable ... (name of judge)
o the (Superior or Court of Quebec), district of -----23

SCHEDULE II

NOTICE OF APPEAL and/or JUDGMENT GRANTING LEAVE TO APPEAL AND THE MOTION REQUESTING IT

Notice of appeal,
... (date of the proceeding) -----31

and/or

Judgment granting leave to appeal, ... (date of the proceeding) -----	31
--	----

Motion for leave to appeal, ... (date of the proceeding) -----	34
---	----

INDICTMENT

Indictment, ... (date of the proceeding) -----	37
---	----

REGULATORY AND/OR STATUTORY PROVISIONS

(List the provisions cited, other than those of the Constitution Act of 1982, the Criminal Code, the Controlled Drugs and Substances Act and the youth Criminal Justice Act; the following may be used as an example)

Article 12 of the Canada Evidence Act, L.R.C. (1985), c. C-5 -----	38
--	----

SCHEDULE III

EXHIBITS

(In chronological order the exhibits of excerpts that are necessary for the consideration of all of the issues in dispute; the following may be used as an example.)

Mike's Restaurant receipt, date February 12 th , 2007 (P-9) -----	39
--	----

Expert ballistics report from Gilbert Desjardins, dated April 12 th , 2007 (P-5) -----	40
---	----

Forensic report from Dr. Andre Lauzon, date May 22 nd , 2007 (P-3) -----	43
---	----

DÉPOSITIONS

(Reproduce the depositions of excerpts there from that are necessary for the consideration of all of the issues in dispute; the following may be used as an example.)

Hearing of March 28th, 2010

Crown's evidence

LUC HAMEL

Examination by Mtre Gladu -----	53
---------------------------------	----

ANDRÉ LAUZON (expert)
Examination by Mtre Gladu ----- 111
Cross-exam. by Mtre Côté ----- 140
Re-exam. by Mtre Gladu ----- 161

GILBERT DESJARDINS (expert)
Examination by Mtre Gladu ----- 168

MARC TARDIF
Examination by Mtre Gladu ----- 201

Defendant's Evidence

DANIEL DUGUAY
Examination by Mtre Côté ----- 216
Cross-exam. by Mtre Gladu ----- 235

ATTESTATION

Appellant's attestation ----- 246

1

APPELLANT'S FACTUM**PART I: FACTS**

(State the facts succinctly)

1. (...)

2. (...)

3. (...)

4 (...)

Sections 71 to 75 of the Rules of the Court of Appeal in Criminal Matters

- Page numbers in Parts I to V must be indicated in the top left corner;
- Parts I to IV must not exceed 30 pages, unless permitted by a judge;
- The next of the argument must have at least one and one-half (1.5) spaces between the lines;
- Quotations must be single-spaces and indented;
- Characters must be in 12-point font size there must be no more than 12 characters per 2,5 cm; using Arial font size 12 is strongly recommended;
- The paragraphs of the argument must be numbered;
- The pages of the argument must be printed only on the left

4

PART II: ISSUES IN DISPUTE

(State concisely the issues in dispute);

5. (...)

6. (...)

7. (...)

PART III: ARGUMENT

(Develop the arguments with respect to the issues in dispute, making specific reference to the schedules.)

1. ... (Title of subject)

11. In her decision on sentencing (*R v. Conway*, 2006 QCCS 1214), 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

12. (...)

13. (...)

¹ *R. v. Conway*, 2006 QCCS 1214 (paragraphs 11-12).

Appellant's Factum

Argument

14. (...)

15. (...)

16. (...)

27

PART IV: CONCLUSIONS

(State the conclusions sought, including costs; the following may be used as an example)

THE APPELLANT ASKS THE COURT OF APPEAL TO:

ALLOW the appeal;

SET ASIDE the verdict of conviction rendered on ... (date of judgment);

SUBSTITUTE a verdict of;

or

ORDER a new trial;

RENDER all orders required in the interest of justice.

Signed at ... (city), on this ... (day) of ... (month), ... (year)

(Your signature)

... (Your name)
Appellant

PART V: AUTHORITIES

(Provide a list of authorities for the case law and doctrine cited, arranged in the order in which they are cited in the argument and indicating the paragraphs at which they are mentioned; the following may be used as an example)

Paragraphe**CASE LAW**

R. v. Harbottle, [1993] 3 S.C.R. 306	14
R. v. Cinous, [2002] 2 S.C.R.....	19
R. v. Corbert, [1988] 1 S.C.R. 670.....	36
R. v. Brooks, [2000] 1 S.C.R. 237.....	42

DOCTRINE

Tristan Desjardins, L'appel en droit criminel et pénal, Montreal, Éditions LexisNexis, 2008).....	24
--	----

SCHEDULE I

(The page of Schedule 1 is printed on the left hand side:
Article 74 of the Rules of the Court of appeal in Criminal Matters)

Appellant's Factum

Schedule I

Judgment Appealed from, ... (date)

(Attach the judgment that has been appealed)

SCHEDULE II

(The pages of Schedule II are printed on both sides:
section 74 of the Rules of the Court of Appeal in Criminal Matters)

Notice of appeal, ... (date)

(Attach the notice of appeal)



Ministère de la Justice
Canada

Department of Justice
Canada

Canada

Canada Evidence Act (L.R., 1985, ch. C-5)
Last amended on 2008-02-22

Canada Evidence Act

C-5

An Act respecting

Witnesses and evidence

Examination as to previous convictions

12. (1) A witness may be questioned as to whether the witness has been convicted of any offence, excluding any offence designated as a contravention under the Contraventions Act, but including such an offence where the conviction was entered after a trial on an indictment.

Proof of previous convictions

(1.1) If the witness either denies the fact or refuses to answer, the opposite party may prove the conviction.

How conviction proved

(2) A conviction may be proved by producing

(a) a certificate containing the substance and effect only, omitting the formal part, of the indictment and conviction, if it is for an indictable offence, or a copy of the summary conviction, if it is for an offence punishable on summary conviction, purporting to be signed by the clerk of the court or order officer having the custody of the records of the court in which the conviction, if on indictment, was had, or to which the conviction, if summary, was returned; and

(b) proof of identity

L.R. (1985), ch. C-5, art. 12; 1992, ch. 47, art. 66.

SCHEDULE III

EXHIBITS

(The pages of Schedule III are printed on both sides:
Section 74 of the Rules of the Court of appeal in Criminal Matters)

P-9: Mike's Restaurant Receipt, dated February 12th, 2007

(Attach exhibit)

SCHEDULE III

DÉPOSITIONS

(The pages of Schedule III are printed on both sides:
Section 74 of the Rules of the Court of appeal in Criminal Matters)

35

HAMEL (Luc, 35 years old, officer, 60 Côté Street, Blainville), Crown, Evidence in Chief, Cross-Exam.

(Attach the transcript of the hearing)

ATTESTATION OF THE APPELLANT

I, the undersigned, ... (your name), hereby attest that this factum and its schedules are in compliance with the Rules of the Court of Appeal in Criminal Matters and that the originals or paper copies of all the depositions that I have obtained been placed at the disposal of the adverse party, free of charge.

The time requested for the presentation of my oral argument is ... minutes.

Signed at ... (city), on this ... (day) of ... (month), ... (year)

(Your signature)

... (Your name)
Appellant

THIS MODEL DOES NOT EXEMPT THOSE WHO USE IT FROM READING THE RELEVANT PROVISIONS OF THE CRIMINAL CODE, THE RULES OF THE COURT OF APPEAL OF QUEBEC IN CRIMINAL MATTERS, AS WELL AS THE DOCUMENTS ENTITLED "CHECKLIST IN CRIMINAL MATTERS" AND "FREQUENTLY ASKED QUESTIONS (IN CRIMINAL AND PENAL MATTERS)."