

000-00-000000-00
(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)

HER MAJESTY THE QUEEN

APPELLANT - prosecutrix

v.

...
(Your name)

RESPONDENT - accused

RESPONDENT'S FACTUM

(The name of Crown Prosecutor)
(His address)
(His telephone number)
(His fax number)
(His email address)

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

Appellant

Respondent

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

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SCHEDULE I – JUDGMENT APPEALED FROM

No document
(This document is included in the appellant's factum)

SCHEDULE II – PROCEEDING AND REGULATORY

PROCEEDINGS

(If applicable, list the proceedings pertinent for appeal and which were not already included in the appellant's factum).

REGULATORY AND/OR LEGISLATIVE PROVISIONS

(If applicable, list the provisions invoked, other than those of the Constitution Act, 1982, the Criminal Code, the Controlled Drugs and Substances Act, and the youth Criminal Justice Act.)

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SCHEDULE III

EXHIBITS

(In chronological order, list the exhibits of excerpts there from that are necessary for the consideration of all of the issues in dispute and that were not included in the appellant's factum; the following may be used as an example.)

Plan of cottage, drawn on March 28, 2008 (P-10) 29

DEPOSITIONS

(Reproduce the depositions of excerpts there from that are necessary for the consideration of all of the issues in dispute and that were not included in the appellant's factum; the following may be used as an example.)

Hearing of March 28, 2010

Crown evidence

LUC HAMEL

Cross-exam. by Me Côté..... 30

ATTESTATION

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RESPONDENT'S FACTUM

PART I: FACTS

(State your position with respect to the appellant's statement of facts and, if necessary, state any other facts deemed relevant.)

1. (...)

2. (...)

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-hand corner;
- Except where a judge has permitted otherwise, Parts I to IV must not exceed 30 pages in length;
- The text 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

PART II:**ISSUES IN DISPUTE**

(Succinctly state your position with regard to the issues in dispute the appellant raises, and list any other issues you intend to raise, including those not accepted or considered by the court of first instance.)

5. (...)

6. (...)

7. (...)

8. (...)

PART III: ARGUMENT

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

1. ... (title of subject)

10. 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 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

11. (...)

12. (...)

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

13. (...)

14. (...)

15. (...)

PART IV: CONCLUSIONS

(State the conclusions sought succinctly, including with respect to costs; the following may be used as an example.)

THE RESPONDENT ASKS THE COURT OF APPEAL TO:

DISMISS the appeal;

UPHOLD the conviction entered by the trial judge on ... (date of judgment);

MAKE any order that justice requires.

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

(Your signature)

... (Your name)
Respondent

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.)

Paragraph(s)

CASE LAW

R. v. Harbottle, [1993] 3 S.C.R. 306	11
R. v. Cinous, [2002] 2 S.C.R.....	12
R. v. Corbert, [1988] 1 S.C.R. 670.....	15
R. v. Brooks, [2000] 1 S.C.R. 237	24

DOCTRINE

Tristan Desjardins, L'appel en droit criminel et pénal (Montreal: LexisNexis, 2008).....	16
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SCHEDULE I – JUDGMENT APPEALED FROM

(NO DOCUMENT)

SCHEDULE II – PROCEEDING AND REGULATORY

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

SCHEDULE III

EXHIBITS

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

P-10: Plan of cottage, drawn on March 28, 2008

(Attach the exhibit)

SCHEDULE III

DEPOSITIONS

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

HAMEL Luc, Crown, Evidence, cross-exam

(Attach the transcript of the hearing)

ATTESTATION OF THE RESPONDENT

I, 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 had transcribed from recordings or stenographer's notes are at the disposal of the adverse party, free of charge.

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

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

(Your signature)

... (Your name)
Respondent

THIS MODEL DOES NOT EXEMPT THOSE WHO USE IT FROM READING THE RELEVANT PROVISIONS OF THE CRIMINAL CODE AND THE RULES OF THE COURT OF APPEAL OF QUEBEC IN CRIMINAL MATTERS. YOU ARE ALSO INVITED TO READ THE SECTIONS OF THE WEBSITE: "FREQUENT ASKS QUESTION" AND "AIDE-MEMOIRE".