

General information on the application for Revocation of Judgment and Stay of Execution

This application is for persons convicted by default of an offence under a Quebec penal law and who wish to ask a judge for cancellation of the judgment on the ground that they were prevented from presenting their defence. The application is also for persons wishing to ask the judge to order a stay of the judgment execution proceedings brought against them.

A person can be convicted by default for failure to comply with a statement of offence within the required time period or for failure to appear in court for his or her trial.

The judge can cancel the judgment rendered if the grounds given for preventing the person from presenting his or her defence are believed to be serious. The judge can also order, on application, a stay of the judgment execution proceedings.

This document is intended to assist the applicant in filling out his application and is only a guide. Please read carefully before completing your application. TAKE NOTICE THE MUNICIPAL COURT EMPLOYEES CAN NOT HELP YOU WITH SAID APPLICATION. You may consult a lawyer for further information.

➤ **WHERE IS THE APPLICATION TO BE FILED?**

The application must be filed at the Municipal court of Saint-Constant located at 147, Saint-Pierre Street, Saint-Constant (Québec), J5A 2G9.

➤ **WHEN DOES THE APPLICATION HAVE TO BE FILED?**

The application must be filed within 15 days after you acquire **knowledge** of the judgment convicting you. If you file the application after that time period, you must explain the reasons for the delay in section 3 of the application.

➤ **WHAT HAPPENS IF THE APPLICATION FOR REVOCATION OF JUDGMENT IS ACCEPTED?**

If the judge grants your application, the judgment will be cancelled and you will be placed in the position you were in before your conviction by default. The judge will then recommence the trial, allowing you to present your defence.

➤ **WHAT HAPPENS IF THE APPLICATION FOR REVOCATION OF JUDGMENT IS REJECTED?**

The guilty verdict will be upheld and the amount stated on the last notice will be due.

➤ **WHAT ARE THE FEES FOR FILING AN APPLICATION?**

Non-refundable fees of \$22 per adult and \$9 for a minor are payable when submitting your application for revocation of judgment. **Fees are payable in cash, by debit card, or by certified check or postal order made out to the City of Saint-Constant.**

➤ **HOW TO FILL OUT THE APPLICATION?**

- ✓ Heading: Enter the file number, your full name and check the city where the offence occurred;
- ✓ Facts:
 - 1: Enter the date of the conviction indicated on the notice of judgment;
 - 2: Specify the date on which you acquired knowledge of the judgment convicting you;
 - 3: If you exceed the 15 days allowed for filling you application for revocation of judgment, explain why it was impossible for you to present you application in the time allotted;
 - 4: Explain why you were unable to appear in court to defend yourself. The reasons for not presenting your defence must be convincing and serious.
 - 5: Explain why you are contesting the merits of the judgment rendered against you;
 - 6: Explain why you wish to be exempt from giving prior notice (if applicable).
- ✓ Conclusion: Indicate the purpose of the application by checking the appropriate boxes.
- ✓ Sworn Statement or Solemn Affirmation: Fill out the section « Sworn Statement or Solemn Affirmation » and have it signed by a commissioner of oaths.
- ✓ Prior Notice: You must obtain from the court clerk the date and time where you application will be heard and enter this information in the prior notice.
- ✓ Service of the application: You must serve your application at least five (5) days before the date of its presentation to the judge.

In certain urgent circumstances, you can ask the judge to be excused from serving your application (see section 6 of the application).

You must be present on the date and time indicated to present your application, in your absence; your request will not be presented. Keep a copy of your application for yourself and have it in hand during the hearing of the application.

C A N A D A

MUNICIPAL COURT OF SAINT-CONSTANT

PROVINCE OF QUÉBEC
DISTRICT OF LONGUEUIL

File number _____

Applicant

c.

City of Saint-Constant

City of Delson

Represented by Me Brigitte Lussier
Respondent

Application for Revocation of Judgment and Stay of Execution
(section 250 and 255 of the Code of Penal Procedure)

TO THE JUDGE OF THE MUNICIPAL COURT, THE APPLICANT STATES THE FOLLOWING:

1. I was convicted by default on _____ in the above file;
(date of judgment)

2. It is only on the _____ that I acquired
knowledge of the judgment in the following manner:

3. I ask that the consequences of my delay in presenting this application within 15 days after the date on which I acquired knowledge of the judgment be cancelled because (explain why it was impossible for you to present your application in the time allowed):

4. I was unable to appear in court to defend myself, for the following reasons (the explanation must be convincing and serious):

5. I contest the merits of the judgment of conviction rendered against me because (describe the nature of your contestation):

6. I ask to be excused from serving on the prosecutor prior notice of the application for stay of execution of judgment for the following reasons:

FOR THESE REASONS, I ASK:

- to be relieved of the consequences of my delay in presenting the application for revocation of judgment;
- to be excused from serving prior notice of the application for stay of execution of judgment because of an urgency;
- that my application for revocation of judgment be allowed;
- that my application for stay of execution be granted;
- to procede immediately with the trial or to have it adjourned to a later date.

At _____ This _____ 20____

Applicant

SWORN STATEMENT OR SOLEMN AFFIRMATION

I, the undersigned _____ residing
at civic number _____ Tel. _____
having been duly sworn in do hereby declare and say (or solemnly declare) the following:

- 1. I am the applicant in the present application for revocation of judgment.
- 2. I attest that the facts given in the application are true.

AND I HAVE SIGNED

Applicant

Solemn declaration

Sworn before me

At _____, this _____

Person authorized to administer the oath

PRIOR NOTICE

TO: Municipal Court of Saint-Constant
Represented by Me Brigitte Lussier
147 Saint-Pierre Street
Saint-Constant, Qc
J5A 0M3

TAKE NOTICE that the present application for revocation of judgment will be presented at the Municipal Court of Saint-Constant sitting at 147, Saint-Pierre Street, Saint-Constant on the _____
_____ at _____, or soon thereafter as the application may be heard.

At _____, this _____

Applicant