



**APPLICATION FOR REVOCATION OF JUDGMENT AND
FOR STAY OF EXECUTION OF JUDGMENT
ART. 250 AND 255 OF THE CODE OF PENAL PROCEDURE**

application for revocation of judgment = request for annulling the judgment of guilty rendered by default
application for stay of execution of judgment = request for staying the procedures of the execution of the judgment

We suggest that you consult an attorney for any additional information in what follows, no employee of municipal court being authorized to recommend you, anyhow, to fill these documents

The article 250 of the Code of penal procedure stipulate that:

When a defendant convicted by default was, for a serious reason, prevented from submitting his defence, he may apply for revocation of judgment to the judge who rendered it.

Also, the article 252 of Code of penal procedure mentioned that:

The written application must be filled within **15 days** after the defendant acquires knowledge of the judgment convicting him.

And the article 255 of Code of penal procedure say that:

An application for revocation of judgment does not stay execution of judgment unless the judge so orders upon an application by the defendant.

The tariff of court costs in penal matters (R.S.Q., c. C-25.1 and 367, par. 2 to 13; 1992, c. 61, s.14) provides the following fees for an application for revocation of judgment:

* For the presentation of an application for revocation of judgment: **26 \$;**

* For the presentation of an application for stay of execution of judgment: **26 \$;**

* For the dismiss of an application for revocation of judgment: **35 \$;**

* The fees for the dismiss of the application for revocation of judgment are added to the total of the amount of the fine and the initial fees.

Finally, to be valid, the application for revocation of judgment must be produced with the payment of 26\$ not repayable in **one (1) original and one (1) copy** in the delay mentioned in the article 252 of the Code of penal procedure.

If your license makes the object of a suspension in touch with this offence, you can give evidence, at the same time as the application for revocation of judgment, an application for stay of execution of judgment.

What you should know in order to file an application for revocation of judgment and for a stay of execution of judgment:

- **WHO MAY FILE THIS APPLICATION ?**

Any person who has been declared guilty by default of an offence under a Quebec penal law may ask a judge to quash the judgment on the grounds that he was unable to submit his defence. The application also has a provision for asking a judge to stay the execution of the judgment.

A defendant may be convicted by default when he does not transmit a plea; the total amount due in the prescribed delay; or when he is not present in court for his trial.

The judge can quash a judgment rendered if he is convinced of the seriousness of the reasons why the person was prevented from submitting his defence. He can also, upon request, grant a stay of execution of judgment.

- **WHERE TO FILE YOUR APPLICATION ?**

The application must be filed at the Clerk's office of the courthouse at which the judgment by default was rendered.

- **DEADLINE FOR FILING YOUR APPLICATION ?**

You must file your application within 15 days of the date on which you acquired knowledge of the judgment convicting you. If the **15-day** period has expired, you may apply to be relieved of the consequences of your delay by stating in paragraph 4 of the attached form the reasons for which you were unable to file your application within the prescribed period.

- **WILL THE APPLICATION FOR REVOCATION OF JUDGMENT SUSPEND THE EXECUTION OF JUDGMENT ?**

No. Filing an application for revocation of judgment will not stop the procedures of execution of the judgment. To suspend these procedures, you must ask a judge to stay the execution of the judgment. You may request this by filling the application for stay of execution of judgment.

- **WHAT HAPPENS IF THE APPLICATION FOR REVOCATION OF JUDGMENT IS GRANTED ?**

If the judge grants your application for revocation of judgment, the judgment will be annulled and you will be in the same situation you were in before your conviction by default. The judge may then recommence the trial in order to permit you to present your defence.

- **WHAT HAPPENS IF THE JUDGE GRANTS MY APPLICATION FOR A STAY OF EXECUTION OF JUDGMENT?**

The Court Clerk will do the necessary follow-up with the Société de l'Assurance Automobile du Québec in order to lift the suspension of your driver's licence.

- **IS THERE A COST FOR FILING MY APPLICATION ?**

Yes. You must pay costs when filing an application for revocation of judgment and for a stay of execution of judgment. The payment may be made in cash, by debit card, by certified cheque or money order payable to Cour municipale de Rosemère.

How to fill in the attached form :

You must fill in the necessary information in the top portion and state in the lower portion the facts and conclusions of your application. On the second page, you must fill in the paragraphs “Solemn affirmation”. **(Please note that you cannot make a solemn declaration in front of an employee of the City of Rosemère nor the City of Lorraine)**

- **TOP PORTION :**

1. The application must be filed in the same judicial district and town where the judgment was rendered.
2. Enter the case number as shown on the notice of judgment or on the writ of execution.
3. Enter your full name, date of birth, address and postal code in the space reserved for the applicant.

- **THE FACTS :**

1. Enter the date of conviction, as indicated in the notice of judgment.
2. Enter the date on which you acquired knowledge of the judgment convicting you. If the 15-day period has expired, state the reasons for which you were unable to file your application within the prescribed period.
3. State the reasons for which your defence could not be submitted. The explanation must be convincing and serious.
4. Explain briefly why you contest the merits of the judgment rendered against you.
5. In the application for stay of execution of judgment, fill the point 4 if you wish to ask the judge to stay execution of the judgment. Explain the reasons why you would suffer irreparable prejudice if a stay of execution of judgment were not granted.
6. In the application for stay of execution of judgment, fill the point 5 if you wish to plead urgency to request that the judge order a stay of execution of judgment despite your not having served prior notice of your request on the prosecutor.

- **CONCLUSIONS :**

1. Indicate the objective(s) of your request by checking the corresponding box or boxes.
2. Sign your application for revocation of judgment and stay of execution of judgment.

- **SOLEMN AFFIRMATION :**

Write out the solemn affirmation and have it signed by a commissioner of oaths.

A commissioner of oaths or any person who is member of a professional order. **(Please note that you cannot make a solemn declaration in front of an employee of the City of Rosemère nor the City of Lorraine)**

- **PRIOR NOTICE :**

You must obtain the date and the time for the hearing of your application from the Court Clerk, and indicate the information in the “Prior notice” section.

- **SERVICE OF APPLICATION :**

You must serve notice of your application at the municipal court by paying the established court fees.

Under extenuating circumstances, you may request that a judge grant you dispensation from serving Prior notice of the application for stay of execution of judgment on the prosecutor. (see section 5 of the application)