

COURT OF APPEAL FOR ONTARIO

BETWEEN:

HER MAJESTY THE QUEEN

(Respondent)

- and -

DANIEL PELTIER

(Appellant)

APPELLANT'S / RESPONDENT'S FACTUM
(Select One)

NAME OF LAW FIRM
Address of law firm

Names of Counsel (Include First and Last Names)
Of Counsel for the Appellant / Respondent (select one)

Telephone:

Fax:

Email:

**PART I:
INTRODUCTION**

1. This case is about the [insert a short summary of the main issue raised by this appeal].

**PART II:
SUMMARY OF THE FACTS**

2. The Applicant is an 18 year old Aboriginal male member of the Makwa First Nation. He resides, with his family, on the North Lake Reserve – a small and isolated community in Northern Ontario.
3. On June 17, 2012, the North Lake High School held its graduation ceremony. Later that evening, a number of students, many of whom were under 18 years of age, had a party in the park adjacent to the school. There was alcohol and drug use at the party.
4. The Applicant admits that he traded Oxycodone, a substance found in Schedule I of the CDSA, to a number of students in exchange for alcohol. Approximately half of these students ranged in age from 15 to 17 years old; the other half were 18 years of age or older. He also admits to selling two of the pills for cash to two individuals at the party who did not have any alcohol to trade; neither of these individuals were under 18 years of age.
5. The Applicant admits that he took the Oxycodone from his mother, who is recovering from a serious automobile accident which took place three months ago. The Oxycodone was prescribed to her by a doctor for the chronic pain which from which she suffers.
6. One of the students at the party had an adverse medical reaction to the combination of alcohol and Oxycodone and was rushed to the hospital that night. Fortunately, this

young man recovered, but as a result of the incident, the party and the Applicant's activities came to the attention of the local police.

7. Mr. Peltier acknowledged his wrongdoing and pled guilty at an early juncture, forgoing his right to a trial.
8. On September 30, 2012, the Applicant, Mr. Daniel Peltier, pled guilty to a single count of trafficking of a controlled substance contrary to s. 5(3)(a)(ii) of the Controlled Drugs and Substances Act (CDSA), on the basis of an agreed statement of facts.
9. The Applicant maintains that he does not have a drug or alcohol problem, although he admits to drinking alcohol socially since the age of fourteen. His motivation in selling the Oxycodone was purely financial.
10. Mr. Peltier lives in North Lake with his mother and two younger brothers. His father died when he was 3 years old. Until two years ago, Mr. Peltier was his mother's second oldest son; her oldest son – and Mr. Peltier's older brother by two years – committed suicide at the age of 18. Tragically, suicide, especially among teens, is not uncommon for this under-served community which suffers from chronic unemployment and a general lack of resources. Many of the middle-aged adults who live on this reserve attended residential schools, and the intergenerational impact stemming from this has been noted.

11. At the time of the sentencing hearing, the Applicant was not enrolled in school and had no prospects for employment. He does not have a criminal record.

12.

[This is where you will need to summarize the trial judge's decision, by explaining how Justice Toews decided on each of the four issues. All quotes should be indented and single-spaced (like this paragraph). They must be referenced immediately after the paragraph, noting the page **or** paragraph number of the quote.]

PART III

GROUND'S OF APPEAL

ISSUE ONE: DOES S. 5(3)(A)(II) OF THE *CDSA* VIOLATE THE APPLICANT'S S. 12 *CHARTER* RIGHT?

13. [Insert your firm's argument on this issue. Refer to the explanatory notes, How to Prepare a Factum, for information on how to refer to cases and how to structure your argument.]

ISSUE TWO: DOES S. 5(3)(A)(II) OF THE *CDSA* VIOLATE THE APPLICANT'S S. 15 *CHARTER* RIGHT?

14. [Insert your firm's argument on this issue. Refer to the explanatory notes, How to Prepare a Factum, for information on how to refer to cases and how to structure your argument.]

ISSUE THREE: IS THE INFRINGEMENT JUSTIFIED BY S. 1 OF THE *CHARTER*?

15. [Insert your firm's argument on this issue. Refer to the explanatory notes, How to Prepare a Factum, for information on how to refer to cases and how to structure your argument.]

ISSUE FOUR: DOES S. 5(3)(A)(II) OF THE CDSA VIOLATE S. 35(1) OF THE CONSTITUTION ACT, 1982?

16. [Insert your firm's argument on this issue. Refer to the explanatory notes, How to Prepare a Factum, for information on how to refer to cases and how to structure your argument.]

APPLICATION TO THIS CASE

17. [Insert a concluding statement, summarizing how the preceding arguments support the order you have requested (to grant or deny an exemption to the Appellants).]

**PART IV
ORDER REQUESTED**

18. It is respectfully requested that [Explain what it is that you are requesting – whether you are requesting that the appeal be granted or dismissed.]

ALL OF WHICH is respectfully submitted by

Name of all four counsel

Of Counsel for the Appellant/Respondent **(Select One)**

DATED AT (LOCATION) this ____th Day of **(month)**, **(year)**

APPENDIX A

AUTHORITIES TO BE CITED

[List all the cases and/or statutes that you have referred to in your factum using proper legal citation. Refer to the explanatory notes, *How to Prepare a Factum*, for formatting guidelines.]