

SUPREME COURT OF QUEENSLAND

CITATION: *R v Clapson* [2004] QCA 272

PARTIES: **R**
v
CLAPSON, Daron Charles
(applicant)

FILE NO/S: CA No 125 of 2004
DC No 42 of 2002

DIVISION: Court of Appeal

PROCEEDING: Application for Extension (Conviction)

ORIGINATING COURT: District Court at Bowen

DELIVERED EX TEMPORE ON: 2 August 2004

DELIVERED AT: Brisbane

HEARING DATE: 2 August 2004

JUDGES: McPherson and Williams JJA and Dutney J
Separate reasons for judgment of each member of the Court, each concurring as to the order made

ORDERS: **The applicant is granted an extension of time to file a notice of appeal against conviction until 30 April 2004**

CATCHWORDS: CRIMINAL LAW – APPEAL AND NEW TRIAL AND INQUIRY AFTER CONVICTION – APPEAL AND NEW TRIAL – PRACTICE: AFTER CRIMINAL APPEAL LEGISLATION – MISCELLANEOUS MATTERS – QUEENSLAND – PROCEDURE – EXTENSION OF TIME, NOTICE OF APPEAL AND ABANDONMENT – where applicant convicted of burglary, assault occasioning bodily harm and wilful damages – where notice of appeal against conviction not filed within time – where no opposition to extension of time being granted – whether extension should be granted

COUNSEL: H A Walters for the applicant
B G Campbell for the respondent

SOLICITORS: The applicant appeared on his own behalf
Director of Public Prosecutions (Queensland) for the respondent

WILLIAMS JA: This is an application for an extension of time within which to appeal against conviction.

The applicant was convicted on 17 March 2004 after a trial of the offences of burglary, assault occasioning bodily harm and wilful damage. He was sentenced on that date to three years imprisonment.

Mr Bassett of counsel wrote to his instructing solicitors on 24 March 2004 advising that in his opinion the applicant had reasonably arguable grounds for appealing against conviction. He particularised those grounds in the letter. The letter also contained Bassett's opinion that the sentence was not manifestly excessive.

Either that letter was not received, or it was not acted on within the time limited for filing an appeal against conviction. Upon the applicant becoming aware that no notice of appeal had been filed he personally lodged a notice of application for extension of time within which to appeal and a notice of appeal against conviction. Each of those documents was filed on 30 April 2004.

In the circumstances counsel for the Crown has indicated that there is no opposition to an extension of time.

The order of the Court should be that the applicant is granted an extension of time to file a notice of appeal against conviction until 30 April 2004.

MR McPHERSON JA: I agree.

DUTNEY J: I agree.

McPHERSON JA: There will be an order in the terms stated by
Justice Williams.