

COURT OF APPEAL

JERRARD JA
KEANE JA
MACKENZIE J

CA No 260 of 2004

THE QUEEN

v.

GARRY ROBIN FORD

BRISBANE

..DATE 21/11/2005

JUDGMENT

MR D R KENT (instructed by Howden Sagers) for the appellant
MR M J COPLEY (instructed by Director of Public Prosecutions
(Queensland) for the respondent

JERRARD JA: This appeal was listed for hearing today and contained some unusual features. One was that it had been already determined that two grounds of appeal would be argued by counsel on behalf of the appellant, Mr Ford. Those grounds of appeal are the ground which was originally ground 2 of the grounds of appeal, a complaint that the learned trial judge had erred in failing to discharge the jury when requested to by counsel for Mr Ford during the trial. The other ground of appeal to be argued by counsel was a ground which counsel was given leave today to add.

I add that on 3 November 2004, this Court made orders granting Mr Ford his application within which he sought an extension of time to appeal against his conviction and to apply for leave to appeal against his sentences.

Mr Ford wishes to argue in person additional grounds of appeal, those being two grounds of appeal originally drawn, and one ground of appeal which is to be argued, in effect, by leave. He wishes to argue that there was an improper joinder of counts and that the convictions are unsafe and unsatisfactory.

He also wishes to argue that those convictions constitute a miscarriage of justice. There are a number of subgrounds upon which he contends that that miscarriage of justice happened.

It became clear when the matter was called on this morning that the grounds which it is accepted that Mr Ford will argue in person depend, to a large degree, on a considerable quantity of documents which he will require a Court hearing his arguments to read. There is a fair quantity of those.

A plastic bag containing annexure A to an affidavit Mr Ford has already filed in this Court on 1 November 2005 contains some 250-odd pages. Those 250 pages set out specific arguments he has with respect to the evidence of individual witnesses. Then there are a number of pages not wrapped in any container which contain a copy of his intended argument to be advanced on the basis of those documents.

Lastly, there is a brown paper bag containing several hundreds of pages which constitute the documents which are the exhibits to that affidavit which he has filed on 1 November 2005.

To assist the Court, he has already prepared what I will call an annexure to that affidavit listing one by one the numbers of each exhibit to that affidavit and a brief note describing the contents of that exhibit. The brown paper bag contains the actual documents that are described in his helpful annexure.

I think it is unfair to Mr Ford and to the respondent Director to attempt to evaluate his arguments without first reading the documents which he has produced and upon which he will rely. He has explained that it is simply the conditions of his

incarceration which have prevented him from producing those documents for the Court or having copies made of them.

Accordingly, the Court has determined itself that the appeal will be adjourned for hearing over two days on 14 and 15 March 2006, and will require that six copies be made of each of those collections of documents, namely the ones contained in the plastic bag, being annexure A to his affidavit of 1 November 2005; the ones contained in the brown paper bag, being the exhibits to that affidavit and marked Exhibit C; and a copy of his intended submissions to this Court which has been marked today as Exhibit B. The originals will be returned to Mr Ford.

The Court has also been informed that there are some other documents upon which he will wish to rely on the hearing of his own oral argument and grounds of appeal; those being, firstly, a list of questions he prepared for his counsel at trial which he wished his counsel to ask, and secondly, copies of two statements by a witness Appleby with commentary upon the contents of those statements, which commentary Mr Ford had prepared and apparently communicated to his lawyers.

The Court would be much assisted by any steps his current solicitors can take to provide the Court with copies of those three documents which, in turn, will be copied and made available to the Court constituted to hear the appeal conducted on 14 and 15 March next year.

The Court will supply the Crown with a copy of the photocopied documents, but not Mr Ford who will have the originals returned to him.

The Court hearing the appeal will not be constituted by the same three judges who had been listed to hear what would have been the appeal heard today and, instead, will be entirely reconstituted. It may be that any one or more of the three of us will be sitting, but that will be largely a coincidence.

...

JERRARD JA: In any event, it does appear that Mr Ford was given, by order of this Court, an extension of time within which to make an application for leave to appeal against his sentence and the Director of Prosecutions is prepared to respond to such application.

Accordingly, I will add, for the record, that it does appear that Mr Ford has been granted leave to make an application for leave to appeal against his sentence and should be regarded as having done so.

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JERRARD JA: The appeal will now be listed for hearing on 14 and 15 March 2006.
