

SUPREME COURT OF QUEENSLAND

CITATION: *R v Hill* [2011] QCA 299

PARTIES: **R**
v
HILL, Michael James
(applicant)

FILE NO/S: CA No 240 of 2011
DC No 2421 of 2010
DC No 2430 of 2010

DIVISION: Court of Appeal

PROCEEDING: Application for Extension (Sentence)

ORIGINATING COURT: District Court at Brisbane

DELIVERED EX TEMPORE ON: 25 October 2011

DELIVERED AT: Brisbane

HEARING DATE: 25 October 2011

JUDGES: Margaret McMurdo P and Muir and White JJA
Separate reasons for judgment of each member of the Court, each concurring as to the orders made

ORDERS: **Delivered ex tempore on 25 October 2011:**
The application for an extension of time to appeal against sentence is granted and time is extended for filing the application for leave to appeal against sentence to 31 August 2011.

CATCHWORDS: CRIMINAL LAW – APPEAL AND NEW TRIAL - PROCEDURE – NOTICES OF APPEAL – TIME FOR APPEAL AND EXTENSION THEREOF – where the applicant was sentenced to nine years imprisonment with parole eligibility after four years and five months for offences of burglary whilst armed, burglary with actual violence, two counts of rape and attempted armed robbery with personal violence – where the applicant was sentenced to lesser concurrent terms of imprisonment or convicted and not further punished for six other offences – whether the interests of justice warrant the granting of the application for an extension of time

COUNSEL: The applicant appeared on his own behalf
V A Loury for the respondent

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

THE PRESIDENT: The applicant is serving a sentence of nine years with parole eligibility effectively after four years and five months, for offences of burglary whilst armed, burglary with actual violence, two counts of rape and attempted armed robbery with personal violence. He was sentenced to lesser concurrent terms of imprisonment or convicted and not further punished for six other offences. The sentencing proceeding took place on 24 June 2011. His application for leave to appeal against sentence was apparently not received in this Court's Registry until 31 August 2011, although it was dated by him on 20 July 2011, well within the appeal period.

He states in his application for an extension of time to apply for leave to appeal against his sentence as his reason for why his appeal was not filed in within 28 days that: "On the 20.07.2011 I had my appeal paperwork ready to be collected and had asked to see Sentence Management but it was not collected till the 25.07.2011 making it one day late". Although that does not explain why it was not received in the Registry until 31 August 2011, his explanation for the delay, as counsel for the respondent, Ms Loury, fairly concedes, seems plausible. He is serving a lengthy period of imprisonment. He has given what appears to be a sound explanation for the delay, which suggests he was not at fault for it. If his application for an extension of time is granted he may be able to obtain Legal Aid. He has told the Court he will apply for Legal Aid. In all these circumstances, without making any observations as to his prospects of success in any appeal against sentence, the interests of justice warrant the granting of the application for an extension of time.

I would grant the application for an extension of time and extend time for filing the application for leave to appeal against sentence until 31 August 2011.

MUIR JA: I agree.

WHITE JA: I agree also.

THE PRESIDENT: The order is as I have proposed.