

**COURT OF APPEAL**

**MARGARET McMURDO P  
MUIR JA  
GOTTERSON JA**

**CA No 79 of 2012  
DC No 1932 of 2005**

**THE QUEEN**

**v**

**ROBERTS-O'KEEFE, Bronwyn**

**Appellant**

**BRISBANE**

**DATE 13/06/2012**

**JUDGMENT**

**THE PRESIDENT:** The applicant, Bronwyn Roberts-O'Keefe, was sentenced on 17 January 2012 to an effective term of three years imprisonment with a parole release date set at 16 January 2013 (that is, after serving 12 months imprisonment) for the offence of stealing as a servant on divers dates between 1 January 2004 and 31 May 2005. She was also sentenced to one month concurrent imprisonment for the offence of fraud committed between 30 September 2006 and 5 October 2006. She has applied for an extension of time to apply for leave to appeal against her sentence.

By way of explanation for the two month delay in pursuing her appeal rights, she states that she was unable to access legal assistance whilst in prison. She made inquiries from prison officers about the appeal procedure but this was thwarted by transfers to several different areas at Wacol Prison. Despite multiple requests to see a legal officer, she claimed she was unable to get an appointment. In early March she was transferred to the Helena Jones Centre

where prison officers advised her to contact Legal Aid. She claimed she rang Legal Aid several times but was unable to obtain advice. Finally, on 4 April 2012 an officer at Legal Aid advised her that she would need to apply for an extension of time. She then took steps to bring this application.

She also claims that she was severely assaulted in 2007 whilst a hospital patient in Sydney. She suffered serious head injuries requiring ongoing treatment and rehabilitation. Her short and long term memories have been severely adversely affected. She says that details of her head injuries were placed before the sentencing Court by way of reports.

In resisting this application, the respondent makes the following submissions, particularly emphasising the applicant's lengthy criminal history across three States commencing in 1970 and continuing up until 1999. She has previously applied for an extension of time within which to appeal her Queensland sentences and has appealed from sentences imposed in Victoria in 1990 and in New South Wales in 1997. The respondent contends that in these circumstances her explanation for the delay is not compelling. Furthermore, the respondent contends, she has no viable prospect of success if an extension of time were granted. Her extensive criminal history for offences of dishonesty tells against her. She has previous convictions for stealing as a servant in 1973, 1992 and again in 1995. She is a recidivist offender. Personal deterrence, retribution and protection of the community would ordinarily be important sentencing considerations in a case where the applicant misappropriated over \$42,000 in 52 transactions from her employer's trust account, none of which was recovered. She failed to appear in the District Court. After her arrest, the matter was listed for trial but she pleaded guilty at some point prior to the trial commencing. The fraud offence related to her failure to pay accommodation charges and other expenses at a hotel, amounting to \$818.15. She entered an early plea of guilty to that count in the Magistrates Court. The applicant's counsel at sentence submitted that the range was three to four years imprisonment.

It may well be that the respondent's contentions as to the merits of this application are correct. The respondent, however, also notes that the primary judge in his sentencing remarks took into account that the applicant had suffered a head injury in 2007 and was hospitalised and that this had affected her memory and would make her time in prison more difficult. This does suggest that the applicant's explanation for her failure to pursue her appeal rights within time may have some truth. Brain damage may also affect whether principles of denunciation and deterrence are applicable in sentencing the applicant. Without ascertaining whether there were any reports placed before the sentencing judge as to the applicant's head injury and without reading these reports with the benefit of a full Appeal Record, it is not possible in this case to determine whether the applicant has any viable prospects on appeal. In these circumstances, although there are grave doubts whether the application for leave to appeal is meritorious, the interests of justice warrant this Court adopting a cautious approach and granting the applicant an extension of time. For those reasons, I would grant the application for an extension of time to apply for leave to appeal against sentence until 13 April 2012.

**MUIR JA:** I agree.

**GOTTERSON JA:** I agree.

**THE PRESIDENT:** That is the order of the Court.