

COURT OF APPEAL

**CARMODY CJ
HOLMES JA
GOTTERSON JA**

**CA No 234 of 2014
DC No 129 of 2010**

THE QUEEN

v

**GOODCHILD, Ruth
aka BOWMAN, Ruth**

Applicant

BRISBANE

WEDNESDAY, 4 FEBRUARY 2015

JUDGMENT

HOLMES JA: On 5th of September 2014, the applicant filed an application for an extension of time within which to seek leave to appeal from the decision of a District Court Judge given on 22 March 2013. The applicant had been convicted by a Magistrate of an offence under s 530A(6) of the *Corporations Act* 2001 (Cth), of failing as a company officer to comply with a requirement to deliver the company books in her possession to the liquidator and to tell the liquidator where any other books were.

I would refuse the application for an extension of time. Firstly, the applicant has failed to provide any explanation for the almost 18 month delay between the giving of the decision and her application. Secondly, there is nothing to suggest that the proposed application for leave

to appeal has any merit. The Magistrate had rejected the applicant's evidence that she wrote a letter which discharged her obligations under the statute on 31 August 2009 and posted it about a week later. He found that it was, in fact, written at some later time, probably in April 2010. In reaching that conclusion he noted inconsistency between the terms of the letter and the applicant's evidence that she had not as at August 2009 opened correspondence from the liquidator.

Before the District Court Judge, the applicant sought to adduce fresh evidence in the form of a letter from a Mr Bathe, describing himself as the sales assistant/general manager of a business called "The Laptop Man". In that letter, Mr Bathe said that he had examined the applicant's computer on 8 November 2012 and was able to locate a letter created on 29 August 2009. He provided a printout of the properties of the document, according to which it was titled "KPMG MKY 123 1(1)", was created on 29 August 2009 and was accessed and modified on 6 April 2010. (KPMG was the firm to which the liquidator belongs.) Mr Bathe had not extracted the document.

The District Court Judge noted, firstly, that the document described in the properties printout bore a different number from that on which the applicant had relied before the Magistrate; secondly, that there was no evidence as to the contents of the document located by Mr Bathe; thirdly, that the applicant had not mentioned having written such a letter in telephone conversations with a KPMG employee in March 2010 on the subject of her failure to respond to correspondence from KPMG; and, fourthly, that the applicant could have produced the evidence of Mr Bathe at trial. His Honour concluded that the evidence had no real probative value and could not have affected the outcome of the proceeding. The Magistrate's judgment revealed no error, and the appeal was dismissed.

The applicant's position here has simply been to reiterate that Mr Bathe can give evidence that a document with the title "KPMG MKY 123 1(1)" was created on her computer on 29 August 2009. I do not consider that that evidence would establish that the letter in the form relied upon before the Magistrate was actually sent in August 2009, as opposed, possibly, to

having been edited and sent in April 2010, as the Magistrate found. More importantly, the applicant has identified no error in the learned District Court Judge's reasoning. I would refuse the application for an extension of time.

THE CHIEF JUSTICE: I agree.

GOTTERSON JA: I agree.

THE CHIEF JUSTICE: The order will be the application is refused.