

SUPREME COURT OF QUEENSLAND

CITATION: *R v Anderson* [2006] QCA 315

PARTIES: **R**
v
ANDERSON, Angus
(applicant)

FILE NO/S: CA No 152 of 2006
DC No 3573 of 2005
DC No 2656 of 2000

DIVISION: Court of Appeal

PROCEEDING: Application for Extension (Sentence)

ORIGINATING COURT: District Court at Brisbane

DELIVERED EX TEMPORE ON: 25 August 2006

DELIVERED AT: Brisbane

HEARING DATE: 25 August 2006

JUDGES: McMurdo P, Wilson and Atkinson JJ
Separate reasons for judgment of each member of the Court, each concurring as to the orders made

ORDER: **1. Application for extension of time to apply for leave to appeal against sentence is granted**
2. Time to file application is extended to 9 June 2006

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 wishes to apply for leave to appeal against his sentence but filed his application less than two weeks late – where applicant claims that he was unaware of the time limit for filing sentence applications, had no legal representation and was still in shock from sentence – where applicant now seeks an extension of time in which to apply – where respondent does not oppose application for extension of time – whether this Court should grant an extension of time

COUNSEL: Applicant appeared on his own behalf
M J Copley for respondent

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

THE PRESIDENT: This is an application for an extension of time within which to apply for leave to appeal against sentence. The applicant pleaded guilty on 27 April 2004 to two counts of forgery, four counts of uttering, two counts of fraud, two counts of fraud with a circumstance of aggravation, one count of attempted fraud, one count of stealing, and one count of stealing with a circumstance of aggravation. The offences occurred between January and October 2002 and were committed during the operational period of a suspended sentence. The applicant was sentenced to 18 months imprisonment on the 2002 offences to be served cumulatively on the activation of 12 months of the previous partially suspended sentence, with a recommendation that he be eligible for parole on 29 April 2007. He filed his application in this Court on 8 June 2006, less than two weeks late.

By way of explanation for the delay in filing the application, he states that he was unaware of the 30 day time limit in which to lodge an appeal, he had no legal representation at this time and was still in shock from the sentence and the subsequent transfer to Borallon Correctional Centre. Were the extension of time granted, he proposes to pursue his application on a number of bases largely related to the excessiveness of the sentence imposed but also on the way his case was presented in court.

Whilst counsel for the respondent, Mr M J Copley, expresses some misgivings about the merits of the applicant's proposed application for leave to appeal against sentence, he concedes

that the delay in the filing of the notice has not been great and that without a full transcript of what occurred at the sentence hearing it is impossible to assess the merits of the case. Mr Copley very fairly does not oppose the granting of the extension of time.

Mr Copley's concession is rightly made in the circumstances. I would extend time to apply for leave to appeal against sentence in this matter until 9 June 2006.

...

WILSON J: Can I say that I agree with the President that time should be extended. I think, with respect, she may have referred to the plea being entered on 27 April 2004, which is what appears in the Crown submission, but I think it is 2006.

ATKINSON J: I also agree.

THE PRESIDENT: The order is as I have given.
