

SUPREME COURT OF QUEENSLAND

CITATION: *R v Martin, Anderson & Anderson* [2010] QCA 77

PARTIES: **R**
v
MARTIN, Henry Allan
(applicant)
ANDERSON, Gregory Paul
(applicant)
ANDERSON, Bradley Thomas
(applicant)

FILE NO/S: Appeal No 330 of 2009
Appeal No 332 of 2009
Appeal No 333 of 2009
DC No 206 of 2009
DC No 238 of 2009
DC No 857 of 2009
DC No 858 of 2009
DC No 863 of 2009
DC No 864 of 2009
DC No 865 of 2009

DIVISION: Court of Appeal

PROCEEDING: Sentence Applications

ORIGINATING COURT: District Court at Toowoomba

DELIVERED EX TEMPORE ON: 31 March 2010

DELIVERED AT: Brisbane

HEARING DATE: 31 March 2010

JUDGES: Muir and Fraser JJA and Applegarth J
Judgment of the Court

ORDERS: **1. The applications for leave to appeal against sentence of Henry Allan Martin and Gregory Paul Anderson be dismissed;**
2. The application for leave to appeal against sentence of Bradley Thomas Anderson be granted and the appeal be allowed, but only to the extent that the parole eligibility date of 2 October 2010 be set aside and a parole eligibility date of 2 September 2010 be substituted.

CATCHWORDS: CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – OTHER MATTERS – where primary judge erroneously calculated parole eligibility date – whether Court can exercise discretion to rectify parole eligibility date

COUNSEL: The applicants appeared on their own behalf
B J Power for the respondent

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

MUIR JA: In these matters Mr Henry Martin, Mr Gregory Anderson and Mr Bradley Anderson appeared unrepresented. It emerged in the course of the hearing that none of the applicants for leave to appeal against sentence intended to pursue their applications.

Accordingly, in the case of Henry Allan Martin and Gregory Paul Anderson, the order of the Court will be that the applications for leave to appeal against sentence be dismissed. In the case of Bradley Anderson, however, it appears that as a result of an erroneous calculation by the learned primary Judge, the parole eligibility date was mistakenly set at 2 October 2010 instead of 2 September 2010. Counsel for the respondent has taken the Court through the process by which that error was made. He accepts that it is appropriate that the sentence be varied to correct the error.

Accordingly, the order of the Court in Mr Bradley Anderson's application is that the application for leave to appeal be granted and that the appeal be allowed, but only to the extent that the parole eligibility date of 2 October 2010 be set aside and a parole eligibility date of 2 September 2010 be substituted.