



Michael Doyle v The Law Officers of the Crown
Court of Appeal
17th March 2017

JUDGMENT
13/2017

Application for extension of time to appeal

IN THE COURT OF APPEAL OF GUERNSEY

CRIMINAL DIVISION

MICHAEL JOSEPH PETER DOYLE

(“the Appellant”)

V

THE LAW OFFICERS OF THE CROWN

(“the Respondent”)

APPLICATION FOR EXTENSION OF TIME TO APPEAL

Decision of a Single Judge

Sir Richard John Collas, Bailiff, President of the Court of Appeal

Advocate for the Applicant:

Advocate C A Tee

Advocate for the Law Officers of the Crown :

Advocate W Giles

1. The Appellant Michael Doyle, represented by Advocate C A Tee, has applied for an extension of time to give notice of appeal/notice of application for leave to appeal against the decision of the Judge of the Royal Court handed down on 3rd March 2017 wherein he made a confiscation order in the sum of £756,740.40 under Section 2 of The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, as amended (“the Proceeds of Crime Law”). Advocate Giles, on behalf of the Law Officers, has indicated they adopt a neutral position in respect of the present Application.
2. The ground cited by the Appellant is:

“it appeared to Counsel for the Appellant that the time limit for appealing a Confiscation Order is ambiguous under the Court of Appeal (Guernsey) Law, 1961 as amended”.

3. I understand that the issue of ambiguity relates to the question of whether the Confiscation Order is, for the purposes of an appeal, to be treated as a civil matter or as a criminal matter. In respect of the former, the time for appealing is one month as laid down in Rule 3 of the

Court of Appeal (Civil Division) (Guernsey) Rules, 1964 and in respect of the latter is ten days under Section 30 of the Court of Appeal (Guernsey) Law 1961. I assume that the Appellant's Advocate initially proceeded on the basis that the time period was one month but now accepts that it is only ten days. In fact, the Notice of Appeal and the Application for an extension of time were issued on the 14th March, eleven days after the decision was handed down by the Judge of the Royal Court and therefore only one day later than required for a criminal appeal.

4. It is apparent from Section 2 of the Proceeds of Crime Law that the making of a Confiscation Order forms part of the sentencing procedure following a conviction. Section 9 of the Law provides that when making a confiscation order the Court may, if it thinks fit, order that the defendant be imprisoned in default of payment of the amount.
5. Any confusion possibly arises from Section 2 (8) of the Law which provides that the standard of proof required to determine any question arising under the Proceeds of Crime Law as to whether a person has benefitted from criminal conduct or as to the amount to be recovered shall be that of the balance of probabilities, as is applicable in civil proceedings. That provision however does not alter the fact that the procedure for determining whether to make a Confiscation Order and, if so, the quantum of the order, is part of the sentencing process and hence that any appeal arising from a confiscation order is to be treated as a criminal appeal rather than a civil appeal.
6. I therefore agree with the view that has now been reached by the Appellant's Advocate that this is a criminal appeal and hence that the Notice of Appeal/Application for leave to appeal was lodged one day late. It is apparent that by issuing the Notice/Application within 24 hours of the expiry of the time the Appellant, through his Advocate, has acted without delay. Furthermore, it would be unjust in all the circumstances to deprive the Appellant of an opportunity to seek to appeal the decision when the short period of delay is not his fault but that of his Advocate.
7. I therefore grant the application for an extension of time. If the Appellant also wishes me to consider an Application for Leave to Appeal, I will do so upon receipt of any submissions in that regard.

Sir Richard Collas
Bailiff