

APPLICATIONS REFUSED

Frank Richards

22 September 2003
(BF) Martin CJ
[2003] NTCCA 8

This was an application for an extension of time in which to bring an application for leave to appeal against an order partly restoring a suspended sentence. The applicant was originally sentenced to 12 months imprisonment to be suspended after serving two months after being found guilty of supplying a commercial quantity of cannabis. An operational period of 18 months was fixed. During the operational period the applicant committed the offence of stalking one of the police officers involved in the drug offence investigations. He was convicted of that offence and sentenced to six months imprisonment. In addition six months of the suspended period of 10 months was restored

The application for leave to appeal was filed about one month out of time.

The applicant applied for leave to appeal against sentence on the grounds that the restoration of six months of the suspended sentence (i) was manifestly excessive, (ii) failed to take into account the totality principle, (iii) gave too little weight to mitigatory circumstances which had arisen since the suspended sentence was imposed and (iv) did not take into account the defacto penalty suffered by the applicant when the court refused to grant him an adjournment so that he could attend to his business affairs.

The applicant applied for bail pending the outcome of the application. The *Bail Act* only allows bail to be granted to appellants, ie those who have a right of appeal or those who have been granted leave to appeal. Accordingly the court heard both applications together. At the conclusion of the hearing on 12 September 2003, the court reserved its decision. On 22 September 2003, the court refused to extend time in which to bring the application for leave to appeal. As leave to appeal was refused, so was the application for bail.

The applicant did not apply to have his application reheard by the Court of Criminal Appeal pursuant to s.429(2) of the *Criminal Code*.