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IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

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THE QUEEN

-v-

ALBERT ERNEST STRONGE

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Before: Morgan LCJ, Deeny LJ and O'Hara J

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DEENY LJ (delivering the judgment of the court)

[1] The application of Albert Ernest Stronge (Stronge) for leave to set aside his pleas of guilty and appeal the convictions based on those pleas and his appeal against the sentence imposed on him were heard by the Court of Appeal on 28 February 2019 and were dismissed. The Lord Chief Justice delivered a short ex tempore judgment setting out the reasons for the dismissal of the appeal against sentence. This judgment sets out the reasons of the Court for dismissal of the application for leave to appeal conviction. That application was made very considerably out of time and therefore the first step for the court to consider was whether time should be extended for the application.

Factual matrix

[2] The appellant is now some 77 years of age. In 2009 he and his sister shared responsibility for their widowed mother, Matilda Stronge.

[3] On 10 February 2009 Stronge withdrew £11,000 from a joint account with his mother in the Progressive Building Society, in which her monies were deposited, by way of cheque made payable solely to himself. On 23 March 2009 he withdrew a further £3,800 from the same account in the same way. On 31 March 2009 he withdrew a further £7,200 from the same account in the same way.

[4] Later in the same year, on 2 December 2009, he withdrew £1,033 from the same account in the same way and £100 cash. On 15 December he withdrew a further £250 by way of a cheque made payable to himself. These six withdrawals became the subject of six counts on an indictment later preferred against him,

alleging that he had dishonestly abused his position contrary to section 1 of the Fraud Act 2006.

[5] His sister had been concerned about and in dispute with the appellant regarding the management of their mother's estate. On 9 October 2009 Mrs Stronge was examined by Dr S. Best, consultant psychiatrist at Craigavon Area Hospital. It seems this was paid for by the appellant's sister, Doris Cunningham, although, coincidentally or otherwise, Mrs Stronge's general practitioner, Dr Gerry Adams, had, at the request of the District Nurse attending Mrs Stronge, sent a referral letter to the local memory clinic. Dr Best was in charge of the local memory clinic.

[6] Having examined Mrs Stronge, Dr Best concluded that she was in the moderate stage of a dementing illness and that she was incapable of handling her financial affairs. He considered that the patient should be referred to the Office of Care and Protection.

[7] Mrs Stronge was admitted to the Glenview Private Nursing Home on 3 November 2009. There was a Care Management Review Meeting held on 17 November 2009 attended by social workers but also by Mrs Stronge's two children and her granddaughter Dr Linda Stewart. Mr Stronge learnt of the opinion of Dr Best at this meeting. He was not given a copy of the report at that time. According to Ms Angela McAteer, a social worker, he then walked out of the meeting refusing to accept the contention that his mother was incapable of managing her affairs.

[8] Mrs Stronge remained in residential care with deteriorating health until her death on 20 April 2011. It is right to note that while there were repeated references to confusion in the medical notes relating to her, an assessment in January 2010 found her capacity was not significantly diminished although she had poor short term memory.

[9] Her children continued to be in dispute about her estate and a challenge to her will remained a possibility. It seems that it was some considerable time after her death before Mrs Cunningham reported these matters to the police. Albert Stronge was interviewed in March and in August 2014. He denied the allegations against him, subsequently set out in the indictment. Nevertheless, he was charged with these matters and subsequently returned for trial.

[10] At arraignment on 6 September 2016 he pleaded not guilty to all six counts in the indictment and a trial date was fixed. His then solicitors, Messrs Greer Hamilton Gailey, instructed Mr Michael Smyth of counsel to appear on his behalf. They instructed Dr Bernadette McGuiness to provide a second opinion on whether Mrs Stronge lacked capacity at the relevant times. She examined the records, although not, obviously, Mrs Stronge and wrote a detailed and careful report. At the prompting of His Honour Judge Lynch QC the two doctors spoke on the telephone before the due trial date of Monday 22 May 2017. They met on that morning. They

reached a consensus that Dr Best's opinion that the lady lacked capacity by October 2009, and thus in December 2009, was correct but that they could not say the same with confidence for the earlier part of 2009. I observe that the lady's physical health had been poor during this year and that she had undergone major surgery in August 2009 which may have caused her mental state to deteriorate by October 2009.

[11] Mr Smyth and Mr Brown of Greer Hamilton Gailey had consulted with Mr Stronge at some length in March 2017. A further consultation was held in the solicitor's office on Saturday 20 May. Mr Stronge signed a form of authority agreeing to plead guilty to the fourth, fifth and sixth counts on the indictment relating to the three smaller withdrawals in December 2009 if the Crown would consent to verdicts of not guilty in respect of the three larger withdrawals from early 2009. On the Monday morning, there was some interaction between Mr Stronge and his legal advisers. They say that they consulted further with him on that morning, before the re-arraignment, while he asserted there was merely an exchange of greetings. His counsel asked for him to be arraigned in front of the judge and a jury which had been empanelled. Verdicts were entered of not guilty with regard to Counts 1, 2 and 3 but Stronge pleaded guilty to Counts 4, 5 and 6 on the indictment.

[12] Her Honour Judge McColgan adjourned sentencing until 27 June and then imposed a sentence of a fine of £5,000 on each of counts 4, 5 and 6. The appellant was disappointed at the size of the fines, or, he would later say, at the fact of the fines, claiming that he understood he would only have to repay the money taken out by him, £1,383. In any event an appeal against sentence was contemplated. It emerged in the course of the hearing before us that Mr Smyth in fact provided a six page note of advice on appeal in early July. Following that, the necessary notice of appeal was lodged against sentence with a skeleton argument from Mr Smyth.

[13] The matter went into the list and a date was fixed for the appeal hearing in January 2018. Shortly before that hearing was held, Mr Stronge intimated both that he wished to change solicitors and he wished to apply to set aside his pleas of guilty and appeal against conviction.

[14] This Court then adjourned the appeal against sentence. Mr Stronge's new solicitors set out in a chronology furnished to the Court that they had some ten consultations following their instruction on 20 March 2018 and receipt of the papers. An affidavit from the applicant was served on 28 August 2018 and fresh grounds of appeal against conviction were served only on 4 September 2018.

[15] The matter was subsequently listed for hearing before this Court on both conviction and sentence.

The law

[16] As will be apparent, the first and crucial issue for the applicant here was whether the court should extend time to allow him to bring this appeal against

conviction. That issue has been the subject of recent consideration by this court in *R v Brownlee* [2015] NICA 39. The judgment was delivered by Morgan LCJ. He pointed out that the time limit for an appeal pursuant to Section 16(1) of the Criminal Appeal (NI) Act 1980 was 28 days. He went on:

> "[3] The jurisprudence in England and Wales arose initially in relation to applications from co-accused made after successful appeals by others. R v Marsh [1936] 25 Cr. App. R. 49 was such a case where the convictions took place on 10 October 1934 and the applications for the extension of time were lodged on 14, 20 and 21 December 1934 respectively. The court rejected the applications in the following terms:
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> > '… it being the rule and practice of this court not to grant any considerable extension of time unless we are satisfied upon the application that there are such merits that the appeal would probably succeed, we are quite unable to say in this case that there was no evidence upon which these applicants could properly be convicted on some, at least, of the counts of this indictment. We, therefore, do not grant the applications for an extension of time.'
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> [4] R v Hawkins [1997] 1 Cr. App. R. 234 was a case in which an appellant convicted of obtaining by deception sought leave to appeal seven months after the conviction. Lord Bingham approved counsel's description of the court's general practice:
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> > 'He submits that while the Court of Appeal has power to extend the 28 day time limit for applying for leave to appeal, the court has traditionally been reluctant to do so save where the extension sought is relatively short and good reason is shown for the failure to apply in time. In the ordinary run of cases the extension sought is a matter of days and the application is usually made because of some mishap or misunderstanding or administrative delay in the settlement of documents.

> Such indulgence has not traditionally been shown where the defendant, acting on advice has pleaded guilty or where he has taken a conscious decision not to appeal. In our view the submission is well founded and the court should be satisfied that good reason exists for granting leave to appeal out of time in circumstances such as the present'."

[17] The judgment proceeded to deal with some other leading authorities on the topic and derived from them this statement of the relevant principles:

> "[8] From this examination of the authorities we consider that the following principles governing the exercise of the discretion to extend time to apply for leave to appeal can be derived:
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> (i) Where the defendant misses the deadline by a narrow margin and there appears to be merit in the grounds of appeal an extension will usually be granted. This occurs most frequently when the application to extend time for a conviction appeal is lodged immediately after sentencing.
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> (ii) Where there has been considerable delay substantial grounds must be provided to explain the entire period. Where such an explanation is provided an extension will usually be granted if there appears to be merit in the grounds of appeal.
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> (iii) The fact that a person involved in the crime subsequently receives a more lenient sentence will generally not be a satisfactory explanation for any delay in an appeal against sentence. A defendant should take a view about his attitude to the sentence at the time that it is imposed.
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> (iv) A convicted defendant will usually get advice on any grounds for appeal from his legal representatives at the end of the trial. It will normally not be an adequate explanation for considerable delay that the defendant has

sought further advice from alternative legal representatives.

(v) Where the application is based upon an application to introduce fresh evidence the court may extend time even where a considerable period has elapsed as long as the evidence has first emerged after the conviction, the circumstances in which the evidence emerged are satisfactorily explained, the applicant has moved expeditiously thereafter to pursue the appeal and the evidence is relevant and cogent.

(vi) Even where there has been considerable delay or a defendant had initially taken the decision not to appeal, an extension of time could well be granted where the merits of the appeal were such that it would probably succeed."

[18] It can be seen that [8] (ii) and (vi) are of particular relevance in this situation. Could Mr Stronge show substantial grounds to explain the entire period of delay? Was there merit in his grounds of appeal? Were those merits such that the appeal would probably succeed?

[19] In considering these matters the context is important i.e. that Mr Stronge wishes to vacate guilty pleas he entered. Counsel in their helpful written submissions both adverted to my decision in *R v Ralph Phillips* [2006] NICC 4 and for convenience I set out the statement of the law to be found therein.

> "[7] I turn to consider the relevant case law to which I was referred in helpful submissions by Mr Simpson QC with Mr McAughey and Mr John Orr QC who appeared with Mr Doran for the accused. In R v McNally 1954 1 WLR 933, C.A, a case on indictment Lord Goddard CJ stated the matter with customary conciseness.
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> > 'The question whether a plea may be withdrawn or not is entirely a matter for the trial judge. If the court came to the conclusion that there was a question of mistake or misunderstanding, or that it would be desirable on any ground that the prisoner should be allowed to join issue, no doubt the court would allow

> him to do it. For example, it has been known for a prisoner charged with receiving stolen goods to acknowledge that he had received them, and to plead guilty, adding 'but I did not know that they were stolen'. In such a case the trial judge might well allow the prisoner to change his plea but it is entirely within the discretion of the judge.'

It is right to note that at the beginning that there is no question in the instant case of the plea of Ralph Phillips being equivocal. Murder is murder. He pleaded guilty to it in the dock at the Crown Court.

[8] I note also, what I believe to be a thread through the case law, that this is a matter for the trial judge, and his exercise of his discretion is unlikely to be interfered with by an appellate court. That leads me to doubt the correctness of a note in Valentine's Criminal Law of Northern Ireland Folder 1, Section P regarding a case of R v McKee (Crown Court unreported). The following sentence is attributed to the learned County Court judge in that case. "The test to be applied is whether a reasonable independent observer would conclude that there was a reasonable possibility that his [the accused] plea of guilty was not entered voluntarily". It seems to me that the court is not concerned with the appearance of the matter to independent observer but to the exercise of its own discretion in the light of the facts known to the trial judge. Nor do I think the test is correctly expressed as I discuss below.

[9] R v Drew 1985 1 WLR 914 is again a decision of the Court of Appeal in England. Lord Lane follows Lord Goddard in holding, at page 919, that:

> 'An equivocal plea is one qualified by words which, if true, indicate that the accused is in fact not guilty of the offence charged.'

He uses the same example of Lord Goddard but other examples could be given. Without elaborating on the

facts of the particular case I note the dictum of Lord Lane at page 924:

> 'In our judgment only rarely would it be appropriate for the trial judge to exercise his undoubted discretion in favour of an accused person wishing to change an unequivocal plea of guilty to one of not guilty. Particularly this is so in cases where, as here, the accused has throughout been advised by experienced counsel and where, after full consultation with his counsel he has already changed his plea to one of guilty at an earlier stage in the proceedings. The court's consideration of that matter also makes it clear that a judge is not bound to accept the uncorroborated assertions of an accused but must consider any evidence that the plea of guilty was not freely made and decide whether or not it is convincing.'

I also note the decisions of R v Cantor [1991] Crim. L. R. 481 and the passage at Blackstone 2005 D11.56-58. R v South Tameside Magistrates' Court ex parte Rowland 1983 3 All ER 689 was a case of a defendant pleading guilty before the magistrates' court. But I note that the Court of Appeal endorsed the following advice from the clerk to the magistrates:

> 'that to allow a change of plea was a matter for our absolute discretion, and that once an unequivocal plea had been entered the discretionary power should be exercised judicially, very sparingly and only in clear cases.'

[10] This is not, in my view, a case of the type dealt with by the Court of Appeal in England in R v Turner 1970 2 All ER 283 at 284B-D and 285. For completeness, however, I draw attention to the fact that decision must now be looked at in a very different light in the light of the decision of the Court of Appeal in England in R v Goodyear 2005 EWCA Crim. 88. I also draw attention to Attorney General's

Reference (No. 1 of 2005) Rooney and Others [2005] NICA 44. The Court of Appeal in England has altered the practice which had prevailed there for over 30 years by the decision in Goodyear. The Northern Ireland practice had always allowed for freer access between counsel and judges than R v Turner contemplated. The Court of Appeal in Northern Ireland in R v Rooney has adapted the approach in R v Goodyear in the light of experience and practice here in Northern Ireland to ensure that advice about sentencing from a judge is done in a recorded and open fashion. It seems to me that if it is now proper for the accused to hear the judge's view of a likely sentence on a plea of guilty from the judges own mouth, the communication of that view by counsel can scarcely constitute a persuasive ground for the grave step of vacating a plea and guilty on indictment e.g. R v McNeill 1993 NI 46. In the instant case counsel gave their advice to the accused in the proper discharge of their duty. It is an intrinsic part of the duty of counsel to warn a client of the likely consequences of carrying out his instructions so that he may make an informed judgment for himself as to whether he wishes to pursue that course. To do otherwise might be to deny to the accused person the benefit of the knowledge and experience of counsel. It might constitute an abdication of responsibility. That is so of the solicitor instructed on behalf of an accused person also. I observe that it may seem inevitable, in the light of Rooney that accused persons will often ask their counsel for their opinion on what their sentence is likely to be if they are convicted after an unsuccessful contest. No doubt counsel will carefully acquaint themselves with the relevant maxima, cases and factors before expressing an opinion to their clients.

[11] R v Phillips 1982 74 CAR 199 involved a recidivist who was facing seven counts on an indictment at St Alban's Crown Court. His solicitors had carefully discussed the matter with him and concluded that he was not guilty of counts 1 and 6 and so should plead not guilty but was guilty of the other counts. The prosecution were informed of this and accepted this position. On the morning of the arraignment however the solicitor's representation

consisted only of a clerk of 18. The accused pleaded guilty to counts 1 and 6. This was obviously a mistake but it was not cleared up at the time and was pursued by way of an appeal to the Court of Appeal who quashed the two convictions mistakenly pleaded to. R v William Colin John Lees (2000, unreported, Higgins J) was an unusual case in which the accused had been subject to both gross misrepresentation and overt pressure by his counsel. Mr Justice Higgins concluded that in the light of that the accused did not have the freedom of choice to which he was entitled and that his position in the event of the pleas of guilty was misrepresented to him and that the application to vacate the pleas must be granted.

[12] The defence in their skeleton argument contend that the defendant was deprived of a genuine choice as to plea "as per Turner" in that the pressure of time and circumstances in which he found himself caused him to enter a plea. The reference to circumstances was the indication of a likely minimum if he pleaded guilty. As I have indicated it must be looked at afresh in the light of R v Goodyear which preceded and the Attorney General's Reference in Northern Ireland which immediately succeeded the events with which I am dealing.

[13] In approaching this matter the court will bear in mind the accused's right at common law to a fair trial and under Article 6 of the European Convention of Human Rights. However, while the need to prevent the conviction of the innocent will be regarded as of the first importance, the court should place in the balance the need for criminal cases to be resolved within a reasonable time, a principle again to be found since Magna Carta and in the European Convention. Re-trying somebody who has pleaded guilty obviously militates against that. Furthermore victims, their families and witnesses have all a legitimate interest in a plea of guilty not being set aside lightly or for a slight reason. I take into account the decision of the Court of Appeal in R v White 2000 NI 172. See also S (an infant) v Recorder of Manchester [1971] AC 481 and R v Dodd & Ors [1982] 74 CAR 50.

[14] I draw the following conclusions from my consideration of the authorities:

(1) If a plea of guilty is in fact equivocal the court would normally not receive it in the first place or would vacate it on application.

(2) If the plea is unequivocal, the court still retains a discretion to permit the plea of guilty to be vacated and a plea of not guilty entered, before sentence is passed.

(3) The discretion must be exercised judicially, taking into account any relevant considerations and excluding any factor which is irrelevant.

(4) The discretion will only be exercised very sparingly, particularly on a trial on indictment or where the accused had legal representation.

(5) The discretion could be exercised, inter alia, where the accused had pleaded guilty mistakenly or due to misrepresentation or where his will was overborne so that his plea was not entered voluntarily. (R v Phillips; R v White; R v Lees).

(6) The trial judge has a discretion to determine what submissions or evidence he or she requires in order to exercise their discretion judicially. If the instructions put forward by an advocate in submissions on behalf of an accused seeking to vacate a plea of guilty have been shown to the previous advocate or legal advisor of the accused who either does not dispute them or proposes qualifications which are accepted by the accused, then it is likely that no sworn evidence need be called. If, however there is a material conflict of evidence or other good reason the court may resolve the matter by hearing sworn evidence. (R v Dodd; R v McComish & Donegan [1996] NI 466)."

[20] In that case I declined to vacate the plea of Ralph Phillips. Ms Karen Quinlivan, who appeared with Mr Mark McGarrity for the applicant, properly conceded that the plea of guilty here was not equivocal.

[21] Of particular relevance therefore is the view expressed by the courts that a discretion to vacate an unequivocal plea would be exercised only "very sparingly", particularly in a case on indictment or where the appellant was legally represented, two factors which apply here. It could be done when the accused had pleaded guilty due to misrepresentation or where his will was overborne so that his plea was not entered voluntarily.

Evidence

[22] Ms Quinlivan, in commencing her submissions, acknowledged that by an oversight Form 7 had not been served on behalf of Mr Stronge seeking leave to call him in support of his appeal, although an affidavit had been served. As the merits of the case are relevant to the exercise of the court's discretion to extend time, the court granted the application to call him.

[23] The thrust of the case being made on Mrs Stronge's behalf as to the merits of the appeal involved a detailed criticism of his former solicitor and counsel. It was contended that the solicitor had failed to make sufficient efforts to ensure the attendance of Mrs Stronge's general practitioner Dr Adams. A variety of criticisms were made of counsel.

[24] Mr Stronge gave evidence before the court, adopting his earlier affidavit and was cross-examined by Mr David McDowell QC, who appeared with Mr Ian Tannahill for the Crown. The case he was making of complaining of being misled by his then legal advisors depended on his own credibility. That credibility did not survive his oral evidence before this court. We found him to be a wholly unconvincing witness. He seemed prepared to give whatever answer was convenient at that moment in time in response to the questions that were being put to him.

[25] It suffices to give a few illustrations of some of the frailties in his evidence.

[26] We observe that much of what he said in the affidavit and indeed in his oral evidence was of no great matter e.g. the duration of the consultation he had on 20 May. It does seem that his solicitor was absent for about 15 minutes during his consultation with counsel. But we can see no detriment or prejudice to the appellant in that regard.

[27] In his affidavit, at paragraph 32, he referred to the re-arraignment on 22 May and said this:

> "When I heard it said in court that part of the charge I was accepting was that I had abused my position, I was totally shocked. I had not anticipated that I would be accepting that I had dishonestly abused my position."

[28] This is a surprising contention on his part. He is a graduate and retired grammar school teacher. He is not some very young person or very old person nor someone of low intelligence or no education. In any event, as Mr McDowell pointed out he had been arraigned before and he had been in the possession of the papers for a long while before May 2017.

[29] When asked by his counsel whether he asked to reverse his plea when consulting with Mr Smyth and Mr Brown after the re-arraignment he admitted he had not done so. In fact, while there is some small dispute about exactly what passed at that consultation, on his own case Mr Stronge did not raise any complaint about his having pleaded guilty to these charges under the Fraud Act. The only discussion was about the extent of the fine.

[30] He had been critical of his counsel for allowing their consultant to speak with the prosecution's consultant but admitted in examination in chief that that suggestion had in fact come from Judge Lynch in court.

[31] On 5 July he wrote an e-mail to his solicitor, with a link to a website dealing with appeals in the United Kingdom, saying the following:

> "Peter
>
> According to this you can appeal against both whether you pleaded guilty or not, unlike in a Magistrates' Court. Does this apply to NI also?
>
> Have you been in contact with Michael Graham?
>
> Bert Stronge"

[32] This e-mail, to which Mr Brown replied on the same day saying that he was getting in touch with Mr Michael Graham of Messrs Cleaver Fulton and Rankin, solicitors, is really fatal to the application to extend time. First of all, by as early as 5 July 2017 the applicant is aware that he can appeal his conviction even though he pleaded guilty. However, he takes no meaningful step towards that until he instructs new solicitors in March 2018 and the actual grounds of appeal are only lodged in September 2018.

[33] Secondly, he was already contemplating changing solicitors at that stage as this exchange shows but again did not choose to do so for eight months after the expiry of the time limit for appealing against conviction.

[34] Mr Stronge claimed that his counsel had told him that he would only have to repay the sum of £1,383 and that there would be no other penalty. Mr Smyth denies this in his affidavit. This most unlikely claim is exposed in various ways. He wrote

an e-mail to his solicitor on 7 July 2017 making various criticisms of his then counsel, criticisms which have not been borne out before this court. It is of signal significance that in that e-mail of complaint he makes no allegation that counsel had misled him about the consequences of his pleas. When asked about this by the court his only reply was that he should have done so.

[35] When asked in examination in chief the reasons for his delay in appealing against conviction he replied that he had written a letter to the Police Service of Northern Ireland complaining that they had failed to investigate his complaints against his sister's family. They replied saying that they considered there was no cause for further action in that regard, particularly in the light of his own pleas of guilty. The applicant then said that he concluded he had no choice but to go to another firm to appeal against conviction. The attitude of the police to his complaints is entirely irrelevant to the validity of his pleas and cannot excuse his delay.

[36] Counsel rephrased the question as to why he had not asked his present lawyers to appeal against conviction. His answer was that he did not wish to confront them and that he was under medication. The Court was subsequently given his medical records, and it appears he was under medication for blood pressure and for depression. But we were given no grounds for thinking that any of these prescription drugs would have led to confusion on his part or justify in any way the very prolonged delay here in taking action.

[36] In cross-examination, Mr Stronge admitted that he had been cautioned when interviewed by the police on two occasions in 2014. He admitted he had been in the Magistrates' Court seven times including his return for trial. Mr McDowell was pointing out to him that he was therefore quite familiar with the charges to which he ultimately pleaded guilty. He agreed with counsel that his purported reason for not asking to appeal conviction at an earlier stage was because he had a dislike of treading on his solicitor's toes. Counsel then went on to draw attention to a very assertive attitude on the part of the appellant. In one letter he had accused a doctor of "fraud", for which we can see no basis. Counsel drew attention to the fact he accused a further doctor of "fraudulent reports", again without any evident grounds. He clearly knew what fraud meant but was also clearly unafraid to criticise others. He had complained to the Police Ombudsman about the inaction of the Police Service of Northern Ireland. He had threatened proceedings against various parties. He had been in dispute with his mother's solicitor Mr JP Hagan of Portadown. He had been willing to do his own internet searches and make assertions based on those. In answer to counsel's questions about his claims now in the light of his pleas of guilty on re-arraignment before a judge and jury he admitted: "It seems very strange I know".

[37] Ms Quinlivan was given the opportunity to draw to the court's attention, after her client had concluded his evidence, she not having re-examined, any matters that might assist her case and she took that opportunity. We have taken into account her

submissions about the pre-sentence probation officer's report in which Mr Stronge denied that he had behaved dishonestly and her detailed examination of the affidavits of Mr Brown and Mr Smyth which had been filed for the assistance of the Court. But we did not consider that these submissions altered the view that we had formed of the appellant's complete lack of credibility.

Conclusion

[38] There was an unequivocal plea of guilty by the applicant for leave to appeal. He appealed against sentence only, although he was aware by as early as 5 July, within 28 days of sentencing, that he could move to set aside his plea of guilty. He took no steps to do so until instructing Messrs Hart Coyle and Collins in March 2018. The Court having heard him considers that there are no merits in his complaints about the representation he received from his former solicitor and counsel. Their reputations emerge unscathed from this appeal.

[39] Furthermore, no explanation of any satisfactory kind has been given for the very substantial delay in the case. Applying the principles of law set out above we refuse to extend time and we dismiss the appeal against conviction.