



HIGH COURT OF AUSTRALIA

Public Information Officer

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STATE OF QUEENSLAND v PETER ROBERT STEPHENSON
SCOTT WILLIAM REEMAN v STATE OF QUEENSLAND
STATE OF QUEENSLAND v TIMOTHY JAMES WRIGHTSON

Three former police officers who wished to sue the State of Queensland after performing dangerous undercover work were all entitled to have the time in which they could bring action extended, the High Court of Australia held today.

Mr Stephenson, Mr Reeman and Mr Wrightson all worked in covert drug investigations, which put them in life-threatening situations. All claim that after returning to ordinary duties they developed psychiatric conditions and could no longer cope with police work. The police service provided for retirement on medical grounds, which is more financially advantageous than resigning. However, by the time the steps for retirement on medical grounds were completed in 2001, more than three years had elapsed. After the expiry of the three-year limitation period fixed by section 11 of the *Limitation of Actions Act*, they instituted proceedings in the Supreme Court. Each sued the State in negligence for damages for personal injury. The State pleaded the time bar in each case and applied for summary judgment. Each man applied for an extension of time under section 31 of the Limitation Act. Section 31(2) provides that, where a material fact of a decisive character relating to the right of action was not within the means of knowledge of the applicant until a date (“the relevant date”) during the last year of the limitation period, the court may extend the limitation period so it expires one year after that date.

In the case of Mr Stephenson, he began suffering severe depression in mid-1997, so the limitation period fixed by section 11 expired by mid-2000. He retired on medical grounds on 23 February 2001 and instituted an action in the Supreme Court on 20 December 2001. When the State pleaded the time bar, Mr Stephenson applied under section 31 for a backdated extension to 20 December 2001. He thus had to show that a material fact of a decisive character relating to the right of action was not within his means of knowledge before the relevant date of 20 December 2000. Mr Wrightson had the same relevant date while the relevant date for Mr Reeman was 22 July 2001. The Supreme Court dismissed applications for extensions of time by Mr Stephenson and Mr Reeman but granted Mr Wrightson’s application. The Court of Appeal allowed Mr Stephenson’s appeal, dismissed Mr Reeman’s appeal and upheld the trial judge’s decision in relation to Mr Wrightson. The State appealed to the High Court in relation to Mr Stephenson, and applied for special leave to appeal in relation to Mr Wrightson, with the application argued as on appeal. Mr Reeman also appealed.

The police officers all succeeded, with the High Court, by a 4-1 majority, dismissing the State’s appeal and special leave application and allowing Mr Reeman’s appeal. The Court held that the fact that a material fact was within the means of knowledge of the applicant before the relevant date is insufficient of itself to block recourse to section 31(2). To prevent a successful extension application, the material fact must have a decisive character. Whether the decisive character is achieved by the applicant becoming aware of some new material fact, or whether the circumstances develop such that facts already known acquire a decisive character, is immaterial. Since the Supreme Court had found in each case that it was not until the applications for retirement on medical grounds had been granted that the requirements of a material fact of a decisive character had been satisfied, the High Court held that section 31(2) had been satisfied.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court’s reasons.*