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**Cases that may be of assistance**

*Gumley, Re an application for bail* [2009] QSC 435: Most unusual application for bail granted, the applicants mother was terminally ill. The Court granted bail for a 15 day period, as one of the conditions the applicants father had to be with her the whole time and had to provide an undertaking to the court to notify the court of anything she did that was outside the scope of her bail undertaking.

**--- Delay as a factor ---**

[*Sica v DPP* (Qld) [2010] QCA 18](https://archive.sclqld.org.au/qjudgment/2010/QCA10-018.pdf) Discuss delay (al length \*giggle\*), it is a consideration, however it is not itself reason to grant bail. Where the crown case is weak, then the consideration has more merit.

**--- unacceptable risk ---**

*Williamson v Director of Public Prosecutions* [2001] 1 Qd R 99; [1999] QCA 356

**- Risk of reoffending, what can be used to deal with the risks of re-offending**

**- This case states that no grant of bail is without risk**

**- What can be put in place to reduce the risk.**

Per Tomas JA at paragraph 21 of his judgment in *Williamson v Director of Public Prosecutions* [2001] 1 Qd R 99; [1999] QCA 356

"No grant of bail is risk-free. The grant of bail however is an important process in civilised societies which reject any general right of the executive to imprison a citizen upon mere allegation or without trial. It is a necessary part of such a system that some risks have to be taken in order to protect citizens in those respects. That does not depend on the so-called presumption of innocence which has little relevance in an exercise which includes forming provisional assessments upon very limited materials of the strength of the Crown case and of the defendant’s character. Recognising that there is always some risk of misconduct when an accused person or for that matter any person, in a free society, one moves to consideration of the concept of unacceptable risk”

**Principals of bail generally**

*Landsdown v ODPP* (Qld) [2013] QMC 19

[64] “A risk is unacceptable and the relevant sense if the chances and consequences of it occurring are too high for it to be reasonably and responsively taken by a public official with the personal safety of others or their property.”

**Successive applications**

[36] Grants of bail may be varied or revoked under s 30(1) of the Act if necessary or desirable in the interests of justice. (cf r 26, Criminal Practice Rules 1999).[37] A second application for bail was allowed in *R v Edwards* (1989) 1 Qd R 139 after an earlier one had failed because additional information emerged regarding weaknesses in the prosecution case (see r 25(4), Criminal Practice Rules 1999).[38] The applicant in *Shelley v DDP* (2001) QCA 34, was permitted to reapply on the basis that the period of time spent in custody since his first application had been refused was treated as a material change because the time already served was likely to exceed the duration of a custodial sentence imposed for the offence (see also *AP V DPP* (Q) ([2008] QSC 236). [39] However, the traditional insistence on a significant change in the circumstances between successive bail applications underlines the need for an applicant to adequately prepare and properly present supporting evidence on the initial attempt (*Fisher v DPP (*Q) (2011) QCA 054).

**Strength of the Crown Case**

*Carew v The Office of the Director of Public Prosecutions* [2014] QSC 1 - His Honor Judge Bryne quoting Sica 'where, as here, the prosecution case is not irresistible, the burden, though substantial, is less difficult to satisfy'.

The police facts as expounded in the objection to bail affidavit if accepted without challenge, provides a solid foundation for the case against the applicant. However, the applicant challenges the police version of events ... The applicant submits the Crown case in this matter is not so irresistible as to be irrefutable thus the threshold for the Applicant to have shown cause is satisfied.

**Flight of a foreign National**

*Almotared v DPP (Qld*) [2008] QCA 95 The court considered the surrender of a foreign nationals passport reduce the risk of flight to that of a citizen residing in Queensland. The difference in Almotared is the applicant was a university student, on a scholarship and assurances of the applicant’s country of origin (Saudi Arabia) that they would not issue a passport. However, in Almotared the applicant had purchased a return flight at the time of the charge.