

**MPEPO v THE PEOPLE (1965) ZR 151 (CA)**

COURT OF APPEAL

DENNISON Acting CJ, DOYLE JA, EVANS Acting J

16th November 1965

**Flynote**

**Criminal procedure - Appeal in general - extensions of time in which to appeal - probability of success of appeal as determining consideration:**

**Headnote**

The Court of Appeal will not grant any considerable extension of time in which to appeal unless it is satisfied that the appeal would probably succeed upon the merits.

Case cited:

*R v Marsh* 25 Cr. App. R 49.

The appellant in Person

*Shoniwa, State Advocate*, for the respondent

**Judgment**

**Dennison Acting CJ:** On this application for an extension of time within which to appeal against conviction and a sentence of eighteen months' imprisonment with hard labour we consider that the applicant has not put forward any reasons to justify an extension in a matter in which he was sentenced on the 15th April and submitted a notice of appeal on the 17th July. The application is refused.

[1] I would add for the information of the applicant that the court has considered all the papers filed in this case in order to assess the merits of the conviction and sentence in view of the principle expressed by Avory, J, in the appeal of *R v Marsh and Others* 25 Cr. App. R 49, at page 52, when he referred to it being the rule and practice of the Court of Criminal Appeal in England:

' 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.'

There is not apparent here any prospect of success on the hearing of an appeal against either the conviction or the sentence ordered for a convict with fourteen previous convictions, ten of them associated with theft in some form or another.

**Judgment**

**Doyle J:** I agree.

**Judgment**

**Evans Acting J:** I agree.