

Potts Lawyers' Guide to writing a Character Reference for QLD Courts

Having a number of character references written and presented at court is very important. It is sometimes the most important piece of evidence for a defendant.

The character reference needs to address the issues that the Defendant's lawyer is trying to emphasize. ie the good work history, the need for a driving licence. the positive changes in a person's life since they got in trouble etc.

A character reference letter from Court does not have to be from an "important" person. It can be from your wife, your child, your friend or someone at your work. Character references can be from any one who has something positive or useful to say.

It is all about using the character reference to explain to the Judge who you really are rather than them just judging you for your offences.

Essential tips for court character references - click on the link for more details.

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1. The character reference for Court should be addressed "To the Sentencing Magistrate" or "To the Sentencing Judge"

Who the character reference is addressed to depends on which Court the defendant is going to.

If the matter is in Queensland in the Magistrates' Court the character reference should be headed "To the Sentencing Magistrate". If it is in the District Court it should be headed "To the Sentencing Judge".

It is important to address a character reference correctly. It tells the Magistrate or Judge that you know that it is not just a general character reference and is aimed specifically at them.

2 . Show that you know what charges the Defendant is pleading guilty to

This does not have to be the specific charges all written out. It can just be something like "I know Tom Smith is pleading guilty to drink driving" or "robbery charges" or whatever it may be.

The Judge then knows that you know what the reference is for. There is no point turning up with a character reference that does not do this. The Judge will just say "what's this worth if they don't know Tom has been drink driving again".

3. Find out if the person has been in trouble for this criminal offence before

There is no point giving us a character reference for Court that says this is "out of character" if they have done it before. We would not use a character reference like this as it would be dismissed as worthless. Be careful discussing the facts of the case in detail unless you have seen the summary of facts being read to the Judge.

4. How long you have known the person.

This is a useful thing to put in a reference as it shows that they have known you long enough to see a change in you. eg "I have known Tom since he was a 12 and first started washing my cars. He has been through a tough time and I have seen him mature greatly over the last 6 months"

5. Include plenty of detail in the character reference

It is very important to explain in detail about the person you are writing the character reference for. An example of this is that a person might say " I have known Tom for 2 years and is a kind person."

Or much better they might say "I have known Tom for 2 years since he first started helping my disabled son who is his neighbour. He constantly helps my son out in many ways and so I have had regular contact with him. He is very generous with his time and I am proud to say I know him as he is one of the kindest people I have met".

Remember the Judge does not know the defendant and they rely on the lawyers and documents such as character references to explain who they are.

6. How you came to meet them.

Again this is information that is useful in assessing how much weight to give to a character reference. You should always be completely truthful in character references. There is nothing worse for a person than to hand up a character reference and it be shown to be untruthful.

7. Your opinion of the defendant's personality.

What do you truly think of the defendant? What qualities do they have that you would want to tell the Judge about if you were having a conversation with him.

8. Any positive things that you can say about their behaviour, activities etc.

Do they do any voluntary work? Do they help look after sick people? Are they the coach of the junior footy team? A character reference for Court is all about giving a context to a persons life. Everyone has some good qualities. It is important to explain them to the Judge.

9. Is it is a driving charge and they will lose their job if they lose their licence?

Make sure you mention that! Especially if you are their employer. Be frank and tell it like it is. "Time's are tough at our work and if Tom does not have his licence then we will try to keep him but it is very likely we will have to let him go."

A character reference is often useful when it spells out what consequences (outside of Court) are going to occur to the defendant. "He will not be able to drive his kid's to the soccer games on the weekend and as I work I can not do it either."

The main penalties people have from losing their licence are personal. It is very hard for most drivers to lose their licence. Spell that out to the Judge.

10. Anything else they think is relevant.

Again this is your chance to say something positive about the defendant. If you write it and give it to the lawyers early then they will have time to ask you to change it if what you are saying would not help or is awkwardly drafted . An example being you might be focusing on their sickness whereas the lawyer wants you to focus on their attempts to get work.

11. Be signed and dated.

It is important that it is signed and dated so that the Judge can know that it was prepared for this case. Also you can put a contact phone number on the reference. This gives the lawyer the ability to say to the Prosecutor "Give them a ring and check what they have written if you want".

12. Get the character references to the lawyer early

It is always useful to get references to the lawyer well before Court as it may alert them to useful information about their client. They serve an important purpose as they can often convey what a person is like to a Court in a way a lawyer can not.

13. How many character reference should you get?

There is no magic number of character references that you should get. The more character references that you get generally the better. Your lawyer can always just choose the ones they want to use.

14. Do not suggest what penalty they should get

Don't fall into the trap of saying what penalty they should get. Judges get annoyed by people who do not know all the details of the case or the rules of sentencing telling them what to do. Just say the positives about the defendant in the character reference and leave it to the lawyer to make the submission on sentencing.

15. If you have any questions about what you are writing in the character reference ring their lawyer

They should be willing to answer your questions as your reference is helping their client.

16. If you can put the character reference on letterhead do so.

It is much better to have a character reference that is on letterhead from a business. It shows that the person who is giving the character reference is employed and can give weight to what they are writing.