



District Court Area of CASTLEBAR (& Belmullet), Co. Mayo.

District No 3.

Record No: 2017/180452

BETWEEN

THE DIRECTOR OF PUBLIC PROSECUTIONS

PROSECUTOR/RESPONDENT

AND

STEPHEN MANNING

DEFENDANT/APPLICANT

***UPDATED COVER PAGE FOR NOTICE OF MOTION FOR DISMISSAL / STRIKE OUT**

An Application for Dismissal of Criminal Charges / to Strike Out District Court Case Record Number 2017/180452 DPP v Stephen Manning, under the terms, authorities and reasons as laid out in the following listed documents (in the original application) A – F plus reference works G - J as served on the DPP and as referred-to in the body of this Application / Affidavit / Statement of Truth & Facts, which are presented to the Court in support of this Application and in specific context of ‘new evidence’ that was in the possession of the Prosecution since April 2017 but despite a valid Gary Doyle Order was NOT disclosed to the Applicant/Defendant until March 7th 2022 in Belmullet Court; *noting in addition that: (a) Mrs Noriko Manning passed away on March 25th 2022, and any references to Noriko in the original strike out application should therefore be understood and interpreted accordingly; (b) that Stephen and his special needs son Danny were evicted from their home on March 31st – the very same day this Court had knowingly, calculatedly (and unlawfully) scheduled ‘for trial hearing’; (c) that various ‘Officers of the Court’ affiliated with this case then attempted to deceive and mislead us about the status of that illicit hearing; (d) that we nevertheless attended Belmullet Court on March 31st at 10.00am only to find the Registrar in the process of posting a last-minute cancellation notice, and that; (e) between herself and Garda Inspector David Tiernan, neither could account collaboratively for how and why the hearing was unilaterally cancelled; who had ordered it; when this had happened; nor for the various anomalies, lies and assorted mistruths being delivered to us (yet again) in this regard. (f) That Stephen and Danny are currently effectively homeless, being provided for via the generosity of others, but nevertheless hereby declare their intention to hold all complicit parties fully and lawfully to account – using any and all lawful means at our disposal – for the serial criminal acts being visited upon our family and on associated others under the perverse and insidious guise of so-called ‘Irish justice’.

Signed: Dr Stephen T Manning

May 26th 2022

AN CHÚIRT DÚICHE



THE DISTRICT COURT

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- A. Application to Strike Out & Affidavit of Stephen Manning of February 19th 2018
- B. Application for Guarantees of Fundamental Human Rights & Protections as per the European Convention on Human Rights Act 2003, of February 21st 2018
- C. (i) Statement to Ground & (ii) Affidavit of Stephen Manning dated June 1st 2018
- D. Affidavit No 25 in JR 2018/432 of March 3rd 2022
- E. Suite of Documents as served on Belmullet Court on March 7th 2022
- F. Letter to DPP Catherine Pierse on March 9th 2022 & copied to all parties
- G. Handbook on European Law relating to Access to Justice
- H. INDICTMENT & Petition for a Public Enquiry into State-sponsored criminality
- I. Criminality in the Irish Courts & the absence of the Rule of Law (book/report)
- J. Office of the DPP, Guidelines for Prosecutors 4th Edition – October 2016

AFFIDAVIT OF STEPHEN MANNING / STATEMENT OF TRUTH & FACT

(To further serve as 'Affidavit No 26' in co-joined JR Cases 2017/798 & 2018/432 and for which purposes the paragraph numbering continues sequentially from Affidavit No 25 of March 3rd 2022)

I, Stephen Manning ('STM'), father and husband, special needs carer, sports official, social justice advocate, a member of the Integrity Ireland Association, author-and-publisher, an honest man, and the named Applicant and Defendant in these matters who ordinarily resides at Mountain, Forthill, Ballyhaunis, County of Mayo, aged 18 years and upwards MAKE OATH AND SAY as follows:

629. I say that I am being forced and coerced unlawfully and against my will, to participate in proceedings in Belmullet Court which I know to be fraudulent, vexatious and conceived of malice by several of the named parties involved – and that my participation in the said proceedings is solely and expressly to try to protect myself and my family from further unwanted criminal attentions by so-called 'Officers of the Court' in circumstances where:

- i. My wife Noriko remains **severely ill and** 'on death's door' in critical care in Hospital.
- ii. We are being evicted from our home on March 31st – the same date chosen 'for hearing' in Belmullet Court – with no prospects of accommodation being provided by the State.
- iii. Where I am the sole carer for my special needs son Danny.
- iv. Where I am being unlawfully denied access to attested documents out of the High Court that are needed to advance valid appeals in these matters to the Court of Appeal and to the Supreme Court.
- v. That for several months now, we have been completely stonewalled by the Central Office and by the CEO of the Courts Service in respect of our sincere efforts to secure an appointment to access the Courts.
- vi. That a number of illicit procedures, documentary frauds and other deliberate deceptions and unlawful obstructions continue to be visited upon us and are being variously facilitated, by omission or commission, by assorted named 'Officers of the Court'.
- vii. That a considerable number of the people who are directly or indirectly involved in the illicit advancement of these proceedings are committing clear and obvious criminal acts.
- viii. That all of our valid, lawful efforts to hold those persons accountable 'under the law' have likewise being unlawfully obstructed, ignored or denied whilst those same persons benefit – again unlawfully – from collusive engagements variously with and between the respective 'authorities' including statutory oversight bodies, the Gardaí and the Courts.
- ix. That with the exception of the recent release of CCTV discovery on March 7th 2022, that all of the interconnected matters that served as a basis for JR 2018/432 in the High Court in June 2018, and for the criminal complaints to Gardaí and applications to the

High Court arising, remain pertinent, active and as-yet NOT *lawfully* dealt-with.

- x. That those interconnected matters are laid out and expounded upon at pages 15-26 of the 'Criminality in the Irish Courts' book (as well as on the respective High Court affidavits) listed 'A-Z' accompanied by 96 case law references and quotes as follows:
- A. THE RIGHT OF ACCESS TO JUSTICE
 - B. THE RIGHT TO FAIR PROCEDURES
 - C. THE RIGHT TO A FAIR TRIAL
 - D. THE RIGHT TO A FAIR HEARING
 - E. THE RIGHT TO EQUALITY OF ARMS
 - F. THE RIGHT TO ACCESS A LAWYER
 - G. THE RIGHT TO ADVERSARIAL PROCEEDINGS
 - H. THE RIGHT TO A REASONED DECISION
 - J. THE RIGHT TO BE INFORMED OF PROCEEDINGS
 - K. THE RIGHT TO THE INDEPENDENCE AND IMPARTIALITY OF 'TRIBUNALS' (COURTS)
 - L. THE RIGHT TO LEGAL AID IN CRIMINAL PROCEEDINGS
 - M. THE RIGHT TO BE ADVISED, DEFENDED AND REPRESENTED IN CRIMINAL PROCEEDINGS
 - N. THE QUALITY OF LEGAL ASSISTANCE
 - O. THE RIGHT NOT TO BE SUBJECTED TO 'EXCESSIVE FORMALISM'
 - P. THE RIGHT TO ADEQUATE TIME AND FACILITIES TO PREPARE ONE'S DEFENCE
 - Q. THE RIGHT OF ACCESS TO A CASE FILE
 - R. THE RIGHT TO LEGAL AID IN APPEAL HEARINGS
 - S. THE RIGHT TO AN EFFECTIVE REMEDY
 - T. REGARDING MISFEASANCE & NONFEASANCE
 - U. REGARDING ABUSE OF PROCESS
 - V. THE VOID COURT ORDER
 - W. REGARDING MISCARRIAGE OF JUSTICE
 - X. THE RIGHT TO A PRESUMPTION OF INNOCENCE
 - Y. RIGHT OF THE COURT TO OVERRULE OR OVERTURN DPP DECISION TO PROSECUTE
 - Z. COMPENSATION FOR UNLAWFUL DETENTION

630. That in addition, and compounding the multiple failures and refusals of the various 'authorities' to apply and enforce the law in these matters, that a veritable catalogue of additional assorted frauds, torts and deceits continue to be visited with apparent impunity by persons involved in – or affiliated with – these ongoing interconnected cases.

631. In short, I say that whilst being forcibly made subject to all sorts of criminal malfeasance, nonfeasance and misfeasance at the hands of various agents of the State, that I am at the same

time being denied any proper access to justice as is my right under Articles 38 and 40 of the Irish Constitution; in violation of the following Articles of the European Convention on Human Rights as transposed into Irish law under the 2003 Act:

- **Article 1:** The obligation on member States to respect human rights.
- **Article 5:** The right to liberty and security.
- **Article 6:** The right to a fair trial.
- **Article 7:** No punishment without law.
- **Article 8:** Right to respect for private and family life.
- **Article 10:** Freedom of expression.
- **Article 13:** The right to an effective remedy.
- **Article 14:** Prohibition of discrimination.
- **Article 17:** Prohibition of abuse of rights.

632. That similarly, Articles 41 and 47 of The Charter of Fundamental Rights of the European Union (CRFEU) are being repeatedly violated in these interconnected cases inasmuch as I am being denied; (i) 'The right to good administration' and (ii) 'The right to an effective remedy in the Courts' which places the Irish State – or at least those elements of it that are engaged in these mendacious illegalities, in additional breach of; (iii) the European Council's "Copenhagen Criteria" of June 1993; (iv) the EU's General Data Protection Regulation (GDPR); (v) the EU's Law Enforcement Directive 2016/680; (vi) Articles 1-7 of the EU Convention drawn up on the basis of Article K.3 (2)(c) of the Treaty on the European Union; (vii) the United Nations Convention against Corruption (UNCAC) 2003; and (viii) Article 267 of the Treaty on the Functioning of the European Union (TFEU) (ex Article 234 TEC).

633. In this context, I say that I have made all possible sincere and lawful efforts to arrest the unbridled criminality which is being epitomised in these 'proceedings' in Belmullet – most recently on March 7th last and in the upcoming scheduled trial hearing of March 31st next, where, if I fail or refuse to attend in person on the very same day that we are being evicted (which the Court is fully aware of) that it has been indicated that the State will proceed 'in my absence' regardless, without me being able to mount any defence or present any evidence.

634. I say that given the consequences for my wife and my son if such an occurrence results in more of this officially-sanctioned harassment, stress, anxiety or the necessity to lodge further appeals to prevent the possibility of punitive sanctions or my unlawful incarceration (yet again); and given the total failure of 'the system' to date – now spanning a period of some 15 years –

to simply provide justice to our family; it is clear that we must lodge this application to strike out on the primary basis of the longstanding legal principle that “Fraud Vitiates Everything”, if only to provide to those decent and sincere ‘Officers of the Court’ involved, one final opportunity to simply ‘do the right (and lawful) thing’ here in the traumatic family circumstances that our family find itself in – where the last thing we need right now is any more of this criminal harassment – even in the guise of purportedly ‘legitimate Court proceedings’.

635. The Grounds upon which we make this application to strike out and dismiss the charges and the case against me are, provisionally, as follows, noting that we reserve the right to expound and expand on any and all matters referred-to herein by referring to the documentation listed on page 1 of this document, and to the series of sworn affidavits already ‘on the record’ in the Superior Courts in the co-joined Judicial Review Cases 2017/798 (‘JR No 1’) and 2018/432 (‘JR No 2’) that are directly linked to this District Court Case.

(i) On the basis that ‘Fraud Vitiates Everything’ we will provide to the Court an abundance of documentary, audio and video evidence – plus first-hand witness testimony if required, that a veritable catalogue of frauds underpin this vexatious prosecution, beginning with the now-undeniable fact (based upon the CCTV evidence just released) that the lead complainant’s sworn statement of complaint is self-evidently a malicious fabrication, a deceit and a fraud. This crucial fact – now supported by video and CCTV evidence – creates grounds of ‘reasonable doubt’ as to the probity and legitimacy of this prosecution and reinforces our claim that it is, and always was, “a malicious prosecution” – a persecutive and vengeful act – that was designed & engineered to cause maximum harassment, distress and aggravation to the named Accused.

(ii) Insufficient Evidence. A viewing of the evidence by the parties during court recess at lunchtime on March 7th showed no evidence of any purported ‘assault’ – as I have always claimed – noting that this was the very first time I had seen that footage. There was no physical violence applied, and no physical movement to suggest this. The other parties present watching the footage included a Garda Sergeant and the State Solicitor who were both silent and bewildered by this and could not identify any supposed ‘assault’.

(iii) Prejudice in policing and the prosecution process that violate my Article 40.1 rights and fatally undermines the prosecution’s case. We have in our possession a recording of the exchange between (then) Sgt Gerard (‘Gary’) McEntee and myself and my wife, at our home on July 6th 2017 – just a week after my release from unlawful imprisonment – where Sgt McEntee informs us that Peter Mooney is alleging ‘abusive behaviour and assault’ on April 4th and that CCTV footage exists to substantiate this. Upon being asked if we wished to make statements we replied that we also have a recording of events on the day and will definitely make a statement,

“..if this nonsense goes any further!” I say that Sgt McEntee did NOT return to us to collect any such statement; he did NOT process our criminal complaint about Mr Mooney and others; and the next thing we knew about the alleged ‘event’ was the arrival of summonses on October 16th 2017 (dated ‘October 9th 2017’) – shortly after the lodgement of JR No 1 in the High Court alleging criminal misconduct and malicious prosecution by the DPP as well as gross judicial misconduct by the respective judges involved in the ‘false imprisonment’ case in Castlebar.

(iv) Non Disclosure to me, the named Defendant in this Case. Despite an Order of Discovery on January 17th 2018, that the CCTV footage of April 4th 2017 was at NO time released to us until we viewed it on the Garda laptop in Belmullet Court on March 7th 2022 – over 4 years later and nearly 5 years post-event. That the claims of the prosecution to the contrary can absolutely be demonstrated and proven to be a series of premeditated lies – which in turn were based upon three contrived purported ‘chain of custody’ statements accompanying an otherwise blank CD (which had NO video on it) – and other ‘inconsistencies’ in the sworn statements of those involved in the production and release of that generic shop-bought CD in 2018. This matter was thrashed out in the High Court before Justice MacGrath without any contradiction by the DPP opposition other than to parrot the now proven-to-be-false claim by one Inspector Dermot Butler in the District Court on February 21st 2018, that “Yes Judge. We DID give him the CCTV footage” – an easily-disproven lie that Judge Deirdre Gearty nonetheless accepted without question, and without even viewing our expert-supported, sworn evidence to the contrary. The fact that this issue of ‘Non-disclosure’ was one of the key reasons for lodging JR No 2 in the first place, further solidifies the fact that we were NOT provided with that CCTV footage at the time. (See ‘On Due Disclosure’ p.18)

(v) Abuse of Legal Process and Denial of Fundamental Rights. That we have therefore, been effectively denied access to the so-called ‘evidence’ against us, which, had we seen it at the time, would have allowed us to have the case immediately struck out, and charges brought against Mr Mooney for making a fraudulent complaint statement. Instead, we were forced to embark on a 4-year tortuous Judicial Review journey in the High Court (still ongoing) being *defended* by the DPP, which arguably, was one of the preplanned objectives for lodging these spurious charges against me in the first place; i.e. to tangle us up in endless, costly and time-consuming legal proceedings with NO realistic prospect of ever securing a just outcome.

(vi) Unlawful and Discriminatory Deprivation of Legal Representation in Court. That I have a valid legal aid certificate for this case, but at no time since the commencement of these proceedings have I had legal representation. That in a supplementary affidavit to the High Court in 2018 this ‘legal aid’ issue was also robustly thrashed out whereupon it was agreed that according to Article 6.3.(c) of the ECHR that it is the responsibility of the State – and NOT of the

Defendant – to ensure that adequate legal aid is provided, and that no criminal case can even lawfully *begin* without that service in place. I say therefore that the dozen-or-so attempts to move these proceedings forwards without the said legal representation being secured was-and-is unlawful and highly prejudicial, and is again contributory grounds to strike out.

(vii) Frauds by the Prosecution Designed to Deprive Me of Justice Under the Law. That in an attempt to fraudulently bypass this lawful requirement to legal representation, that Inspector Gary McEntee (the named DPP Prosecutor in these proceedings) signed his name to a fraudulent and perjurious High Court affidavit on July 19th 2018 stating that I had in fact been formally ‘legally represented’ by Cahir O’Higgins Solicitors for a specific, dated time period. This was not true, and I have in my possession as an exhibit in my High Court application to cross-examine Gary McEntee, a letter from Cahir O’Higgins clarifying the truth; i.e. that his firm at NO time agreed to represent me, as well as a recording of the Ballina Courts Service Manager confirming the same while examining the case file in my presence.

(viii) Unlawful Suppression of Important Evidence/Denial of Due Process and Fair Procedures. That the said application to cross-examine Mr McEntee was granted by the High Court but remains unscheduled, despite many approaches to the High Court for a cross-examination hearing date. This in turn prevents the High Court from making any reference to that formally-contested affidavit of Mr McEntee under the respective Superior Court Rules. Naturally, this also means that the said High Court Judicial Review Case 2018/432 can NOT lawfully be advanced, let alone ‘shut down’, ‘abandoned’, ‘dismissed’ nor be reported in the Irish Times as allegedly ‘refused’ until that cross-examination has been completed and a finding ‘on the record’ is made by the High Court. In other words; yet another series of insider frauds designed to obstruct and pervert justice; to interfere with the administration of justice; to try to advance this malicious prosecution in the District Court ‘by any means possible’ whether lawful or not.

(ix) Unlawful Suppression of Important Evidence/Denial of Due Process and Fair Procedures. Applications for Discovery of ‘preserved’ phone records that prove further lies by parties to these cases, plus a number of applications for attachment and committal for contempt of the High Court by some of the named parties to this case likewise remain unscheduled and NOT dealt with according to Superior Court Rules. Accordingly, any attempt to claim that any purported ‘High Court documents’ (whether plain-copy, ‘perfected’, ‘attested’ or not) that support the proposal that JR 2018/432 (‘JR No 2’) has somehow been ‘lawfully shut down’ are in themselves, clearly and self-evidently fraudulent and in clear-and-open violation of Superior Court Rules, of the Judges Oath of Office, of Courts Service protocols and procedures, of the law, and of my right to fair procedures.

(x) Defective and Unlawful High Court Order Arising out of the Unlawful Suppression of Important Evidence, the Unlawful Withholding of Documents and Services Due, the Commission of Fraud, and Further Denials of Due Process and Fair Procedures. That the plain-copy order of the High Court dated June 17th 2021 arose in circumstances where neither myself (as the Applicant in JR No 2) nor the opposition DPP made any Motion to the High Court for the listing of the two hearings of May 11th and May 18th 2021 that gave rise to it. This is a standard requirement of Superior Court Rules, without which any such hearings cannot lawfully be scheduled. Neither was I put 'On Notice' of those hearings by the DPP nor by the Courts Service, despite the fact that the DPP's barrister attended the May 11th hearing in person. This appears to be clear evidence of criminal collusion for the purposes of holding unlawful hearings absent the presence of the Applicant or any input from the same. I attended the May 11th hearing simply because I was informed by an alert colleague who saw my name on the Court schedule the night before. Otherwise, I would have missed the sorry spectacle of a High Court judge committing open and flagrant contempt of his own Court and of the Rules of the Superior Courts. Furthermore, the second 'hearing' of May 18th 2021 not only never physically happened, but it is still NOT on the Courts Service database despite being reported upon by the Irish Times that same day. Accordingly, the said plain-copy High Court Order of June 17th 2021 (or any other version of the same) was therefore generated either out of; (a) a non-hearing or (b) out of an illicit hearing, and it is therefore '*void ab initio*'. In short, yet another series of insider frauds, deceptions and abuses of due process upon which the advancement of this District Court Case in Belmullet is directly, explicitly and unlawfully grounded, and predicated.

This series of improprieties and illegalities deprived me of due process and fair procedure under the law. Justice MacGrath failed to deliver an Order and make it public and available to me, and there was no record of any attested Order in the High Court Central Office or on the Courts Service web sites and databases for 2021 and into 2022. I requested evidence of the existence of this attested Order several times in 2021 and 2022 from the Central Office but I received nothing other than a promise (in writing – several times) that I would be notified "as soon as the Order was available for collection". That notification never came! I needed that attested version in order to file appeals to the Superior Courts in June-July 2021 but we could not find evidence of its existence. This delayed my appeals to the Superior Courts by 'running me out of time' which constitutes an illegal deprivation of due process and fair procedure under law.

(xi) That the plain-copy order of the High Court dated June 17th 2021 that was produced in a panic by the Central Office of the High Court on March 3rd 2022 so as to prevent our latest applications for attachment and committal going ahead that day, which was then showcased in Belmullet Court on March 7th as justification for 'carrying on regardless' is a *de facto* fraudulent

instrument for all of the reasons laid out, & on the associated legal principle (for example) that:

- **A void judgment** (void on its face) is one which from its inception was a complete nullity and without legal effect such as when the Court lacked subject matter jurisdiction. A judgment void on its face is subject to be set aside at any time.
- A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court.¹
- Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process.² ..or acted in a manner inconsistent with due process.³
- A void judgment is one which, from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree.⁴
- A void judgment is a simulated judgment devoid of any potency.⁵
- A void judgment has no effect whatsoever and is incapable of confirmation or ratification.⁶
- A void judgment is one which has a mere semblance, but is lacking in some of the essential elements which would authorize the court to proceed to judgment.⁷
- Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed.⁸
- A void judgment, insofar as it purports to be pronouncement of court, is an absolute

¹ *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999).

² U.S.C.A. Const. Amend. 5 – *Triad Energy Corp. v. McNell* 110 F.R.D. 382 (S.D.N.Y. 1986).

³ Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 – *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985).

⁴ *Loyd v. Director, Dept. of Public Safety*, 480 So. 2d 577 (Ala. Civ. App. 1985).

⁵ *Davidson Chevrolet, Inc. v. City and County of Denver*, 330 P.2d 1116, certiorari denied 79 S.Ct. 609, 359 U.S. 926, 3 L.Ed. 2d 629 (Colo. 1958).

⁶ *Lucas v. Estate of Stavos*, 609 N. E. 2d 1114, rehearing denied, and transfer denied (Ind. App. 1 dist. 1993).

⁷ *Henderson v. Henderson*, 59 S.E. 2d 227, (N.C. 1950).

⁸ *City of Lufkin v. McVicker*, 510 S.W. 2d 141 (Tex. Civ. App. – Beaumont 1973).

nullity.⁹

- A void judgment is one that has been procured by extrinsic or collateral fraud.¹⁰
- A void judgment or order is one... where the order was procured by fraud.¹¹
- Void judgments generally fall into two classifications, that is, judgments where there is want of jurisdiction of person or subject matter, and judgments procured through fraud, and such judgments may be attacked directly or collaterally.¹²
- When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory.¹³
- Judgments entered... in violation of due process of law, must be set aside.¹⁴
- A “void judgment” as we all know, grounds no rights, forms no defence to actions taken there under, and is vulnerable to any manner of collateral attack. No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not *res judicata*, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen the old wound and once more probe its depths. And it is then as though trial and adjudication had never been.¹⁵

(xii) That until the alleged creation of that plain-copy High Court order of June 2021 that there existed, uncontested, since June-July 2018, three interlinked *valid* High Court orders staying these proceedings in Belmullet. That notwithstanding the full knowledge and awareness of all of the parties concerned, including the respective District Court Judges, the DPP’s agents and Courts Service Staff, that some dozen-or-so attempts were nevertheless made to hold hearings in Belmullet in open defiance of the said High Court Order, including a number of coercive and intimidatory attempts by Gardaí and Judges to force me to participate against my will in knowledge that if I did so, I would myself, be in criminal contempt of the High Court. I say that the repeat, knowing and deliberate violations of that 3rd High Court order of July 5th 2018 demonstrate a collective mindset on the part of those involved of absolute contempt for the law and for the Rule of Law; of no regard for my right to ‘due process’; of dismal personal standards of professional ethics and moral integrity; and of an arrogant sense of licence and

⁹ *Thompson v. Thompson*, 238 S.W.2d 218 (Tex.Civ.App. – Waco 1951).

¹⁰ *Rook v. Rook*, 353 S.E. 2d 756, (Va. 1987).

¹¹ *In re Adoption of E.L.*, 733 N.E.2d 846, (Ill.App. 1 Dist. 2000).

¹² *Irving v. Rodriguez*, 169 N.E.2d 145, (Ill.app. 2 Dist. 1960).

¹³ *Orner v. Shalala*, 30 F.3d 1307, (Colo. 1994).

¹⁴ *Jaffe and Asher v. Van Brunt*, S.D.N.Y.1994. 158 F.R.D. 278.

¹⁵ 10/13/58 *FRITTS v. KRUGH. SUPREME COURT OF MICHIGAN*, 92 N.W.2d 604, 354 Mich. 97.

impunity in their repeated violations of the same. It has been ruled in the European Courts that; *"It is an absurdity for the authorities to be breaking the law in order to (purportedly) enforce it!"*

(xiii) 'Conflicts of Interest' which completely undermine the impartiality, fairness and objectivity of the Prosecution and interfere with due process and fair procedure in this case.

That a number of named individuals who are acting for the Prosecution in this matter carry personal and professional conflicts of interest inasmuch as they have previously been named in valid complaints to the authorities – including criminal complaints to Gardaí and via the Courts – by myself and certain Integrity Ireland colleagues and which incidents and complaints were subsequently made public 'in the overall interests of justice'. There is therefore; (a) a publicly-documented 'history' of illicit acts on their parts as well as, (b) motivation to abuse their positions of trust and authority, to (c) visit further injustices upon those they deem responsible in the form of retributive acts; and I say that this is the main reason why the written statements of some of the State witnesses align very neatly with the false statement of Mr Mooney, but do NOT at all align with the CCTV and video evidence as first viewed by us on March 7th 2022.

(xiv) Inadmissibility of False Evidence & Compromised Witnesses in Court. That should matters move to a full hearing of the Belmullet case, that evidence will be produced in the names of some of the key players and witnesses, that they have a history variously of lying, forging documents, erasing evidence, making false allegations, initiating false arrests, violating procedure, colluding and conspiring against justice, engaging in contempts and frauds upon the Courts, and committing and facilitating other torts and unlawful acts sufficient to demonstrate to the Court that they can NOT therefore be considered 'reliable witnesses' or indeed *bona fide* 'Officers of the Court' inasmuch as they are violating the following legal maxims:

- The 'clean hands' and 'dirty hands' legal doctrines requiring the parties to Court proceedings to have honest motives and intent.
- The '*void ab initio*' rule; where proceedings are rendered 'void from the outset' due to the wrongdoing of any party involved in those Court proceedings – and especially when it is 'Officers of the Court' who are committing errors or violations of law.
- The '*falsus in uno, falsus in omnibus*' rule; meaning "*false in one thing, false in everything*" – the legal principle that a witness who testifies falsely about one matter is not credible to testify about any matter – especially regarding the multiple documented incidents of fraud, perjury, criminal damage and contempt of Court by agents of the DPP.

(xv) The sworn testimony of two independent eyewitnesses who do NOT work for the State who were present prior to and during the alleged incident – as backed up by clear video

footage complete with audio that *exactly* matches the State's CCTV footage – places beyond any doubt, that with the single exception of the complainant Peter Mooney arguably feeling 'insulted' at being informed, quite truthfully and emphatically in a firm but moderate tone, that he was "a liar and a crook", that none of the other allegations contained in his sworn statement are substantiated by the evidence, and most certainly therefore cannot give rise to the charges being proffered by the State. i.e. that unless it is now a criminal offence to tell the truth, or unless the law is being rewritten to pander to the over-sensitivities of morally-compromised individuals who get 'caught in the act', then there are NO charges for me to answer here.

(xvi) The DPP's 'Guidelines for Prosecutors' document further outlines the ethical standards and behaviours required of any-and-all 'Officers of the Court' who purport to represent the DPP as well as a range of obligations on the DPP's agents on the following shortlisted matters, which will be summarised (if required) and forwarded to the DPP and presented in Court as a separate document quoting the respective sections under these headings (abridged) and which have been repeatedly violated by the prosecution in previous hearings in this matter; for example:

CODE of Ethics / Responsibility / Prosecutors Shall:

- a) At all times uphold the rule of law, the integrity of the criminal justice system and the right to a fair trial;
- b) At all times respect the fundamental right of all human persons to be held equal before the law, and abstain from any wrongful discrimination;
- e) Inform the Director of any instances where a public official may have committed a criminal offence or acted improperly in the course of a criminal investigation or prosecution with a view to the Director referring the matter to the appropriate authorities to take any necessary action;
- f) Bring to the Director's attention any instance of which the prosecutor becomes aware where a public official may have engaged in other serious misbehaviour and it is appropriate that the Director should take or initiate action in the matter;
- g) Give due attention to the prosecution of crimes of corruption, abuse of power, violations of human rights and other crimes recognised by international law, in particular offences which may have been committed by public officials.

THE STRENGTH OF THE EVIDENCE:

- (i) A decision not to prosecute because the evidence is not sufficiently strong could be considered as an aspect of the consideration of the 'public interest'. It can be said that it is

not in the public interest to use public resources on a prosecution case which has no reasonable prospect of success.

(ii) A prosecution should not be instituted unless there is a *prima facie* case against the suspect. By this is meant that there is admissible, relevant, credible and reliable evidence which is sufficient to establish that a criminal offence known to the law has been committed by the suspect. The evidence must be such that a jury, properly instructed on the relevant law, could conclude beyond a reasonable doubt that the accused was guilty of the offence charged.

(iii) In considering the strength of the evidence the existence of a bare *prima facie* case is not enough. Once it is established that there is a *prima facie* case it is then necessary to give consideration to the prospects of conviction. The prosecutor should not lay a charge where there is no reasonable prospect of securing a conviction before a reasonable jury or a judge in cases heard without a jury.it is clear that a prosecution should not be brought where the likelihood of a conviction is effectively non-existent. Where the likelihood of conviction is low, other factors, including the seriousness of the offence, may come into play in deciding whether to prosecute.

(iv) In evaluating the prospects of a conviction, the prosecutor has to assess the admissibility, relevance, sufficiency and strength of the evidence which will be presented at the trial. This involves going beyond a superficial decision as to whether a statement, or a group of statements, amounts to a *prima facie* case. *The prosecutor must consider whether witnesses appear to be credible and reliable.* Accusations of criminal wrongdoing can be unreliable for all sorts of reasons. They can be unfounded or inaccurate without being deliberately manufactured. They may be the result of human error or *they can be made maliciously. Statements cannot therefore simply be accepted at face value and acted upon without considering their credibility.* In evaluating the prospects of a conviction the prosecutor must remember that the onus is on the prosecution to satisfy the jury of the guilt of the accused beyond a reasonable doubt. This burden, which is higher than mere probability, must be borne in mind in considering whether to prosecute.

(v) It is not sufficient if the evidence is likely to go no further than to show on a balance of probabilities that it was more likely than not that the suspect committed the offence but does not go so far as to establish guilt beyond a reasonable doubt. For this reason it is important to know if there is *independent* evidence which supports the complaint. This makes the case stronger than one based on one person's word against another.

(vi) The assessment of the prospects of conviction should also reflect the central role of the

courts in the criminal justice system in determining guilt or innocence.

Questions which arise may include the following:

- a) Are there grounds for believing that evidence may be excluded, bearing in mind the principles of admissibility under the Constitution of Ireland, at common law and under statute?
- c) Does it appear that a witness is exaggerating, or has a faulty memory, or is either hostile or friendly to the accused, or may be unreliable for some reason? Are there any other matters known to the prosecution which may significantly lessen the likelihood of acceptance of the testimony of a witness?
- d) Has a witness been consistent in giving evidence? If not, can the inconsistencies be explained? Does the evidence tally with the behaviour of the witness?
- e) Does a witness have a motive for telling an untruth or less than the whole truth?
- g) What sort of impression is a witness likely to make? How is the witness likely to stand up to cross-examination? Is the witness's background, including previous convictions likely to weaken the prosecution case?
- h) If there is conflict between witnesses, does it go beyond what might be considered normal and hence materially weaken the case? i) If, on the other hand, there is a lack of conflict between witnesses, is there anything which causes suspicion that a false story may have been concocted?
- j) The assessment of the credibility and reliability of evidence is ultimately a matter for the court. However where there are grave and substantial concerns as to the reliability of essential evidence, criminal proceedings will not be appropriate.

636. I say that the above limited quotes from the DPP's Guidelines for Prosecutors outline a range of issues that are now appropriate to reconsider in light of the first viewing by us of the said CCTV footage that has been unlawfully withheld from the Defendant for over 4 years. That it is now clear that there have been so many obvious violations of the DPP's Prosecutor's Code under the remit of the previous DPP Ms Claire Loftus (and/or her agents), that the new DPP incumbent Ms Catherine Pierse, might now reassess the probity and appropriateness of pursuing this vexatious prosecution in circumstances where so many issues of contention have surfaced with the disclosure of that damning CCTV footage.

637. That in addition to the reasons already presented the following quotes from the legal dictionary have a direct and explicit bearing on this Application to strike out or dismiss

inasmuch as they concern the crimes of conspiracy, fraud and collusion which relate specifically and definitively to the initiation and progression of this District Court Case and the affiliated Judicial Reviews JR 2017/798 (No 1) & JR 2018/432 (No 2).

- a) The tort of conspiracy involves the combination of two or more persons with intent to injure another... without lawful justification, thereby causing damage or, to perform an unlawful act, thereby causing damage.
- b) The crime of conspiracy involves the agreement of two or more persons to effect an *unlawful purpose*; it is an offence. An unlawful purpose includes an agreement to commit a crime, or a tort which is malicious or fraudulent, or other acts which are extremely injurious to the public while not being a breach of law.
- c) The combination of a conspiracy charge with the substantive offence might be regarded as leading to the possibility of unfair procedures.¹⁶
- d) A conspirator is a person who commits the offence of *conspiracy*. Everything said, done or written by one conspirator is relevant against each of them, provided it was in the execution of their common purpose.¹⁷
- e) A company (*such as the Courts Service?*)* can in appropriate circumstances commit the crime and tort of conspiracy.¹⁸
- f) Collusion is an agreement, usually secret, for some deceitful or unlawful, purpose. It may amount to the crime or tort of *conspiracy*.
- g) Concurrent wrongdoers are persons who are responsible to an injured party for the *same damage*: [Civil Liability Act 1961 s.11.] This may arise as a result of *vicarious liability*, breach of joint duty, conspiracy, concerted action to a common end or independent acts causing the same damage. The wrong may be a tort, breach of contract or breach of trust.
- h) Each concurrent wrongdoer is liable for the whole of the damage done to the injured party; this provision is not unconstitutional. The 1961 legislation marked an amelioration and rationalisation of the liability of concurrent wrongdoers *inter se* from what had been there before; the solution established by the Oireachtas, far from being irrational or disproportionate, it was in fact fair and just.¹⁹
- i) Satisfaction by any concurrent wrongdoer will discharge the other (1961 Act s.16) as will a

¹⁶ Walsh J in *Ellis v O'Dea & Shields* [1990 SC] ITLR (8 Jan).

¹⁷ *R v Blake* [1844] 6 QB 126.

¹⁸ See *Taylor v Smyth* [1990 SC] 8ILT & SJ 298; *Belmont Finance Corporation Ltd v Williams Furniture Ltd* [1979] 1 All ER 118; and *MacCann* in 8ILT & SJ (1990) 197. *Quote in italics added by STM.

¹⁹ *Iarnród Éireann & Irish Rail v Ireland* [1996 SC] 2 ILRM 500 and 3 IR 321.

release which indicates such intention (s.17); however, settlement of a personal injuries action with one co-defendant does not constitute “satisfaction” as against all the defendants.²⁰

j) Fraud is a crime which may involve a false pretence... [Criminal Justice (Theft and Fraud Offences) Act 2001 s.3.]²¹

k) Fraud is also the tort of *deceit*. The Supreme Court has held that fraud must be pleaded with the most particularity; it would not be inferred from the circumstances pleaded, at all events if those circumstances were consistent with innocence.²²

l) Fraud (or fraud on the court) are grounds for setting aside the judgment of a court.²³

638. That my allegations of unlawful collusion and indeed a criminal conspiracy on the part of various named agents of the State in this matter are therefore clearly not without foundation or substance and which proofs thereof are well documented and established in my various applications before the Courts, as well as in several formal complaints and Reports to the respective State authorities and oversight bodies – both statutory and ‘independent’ – complete with irrefutable proofs these past months and years, which have all—in one way or another—either been unlawfully suppressed, obstructed, ignored, denied, undermined or fatally delayed by various officials, authorities, office holders and ‘Officers of the Court’, in blatant albeit often clandestine contravention of all of the principles of natural justice.

639. I say that this latest attempt to force, coerce and intimidate me into participation with these patently-illicit proceedings in the circumstances as laid out above, is just another depressing indicator of the total collapse of ethical standards, of legal integrity and of moral courage amongst those whom the public trust to maintain and administer justice in this State, and I now respectfully ask of the Court, and indeed require under the law, that these spurious charges be dismissed forthwith and that the Court and the DPP’s agents considers the proper, lawful response to those who have attempted to foist this fraud upon the Court; a devious, malicious and vindictive prosecution on an otherwise law-abiding member of the public who is simply trying his best to stand up for his rights.

640. In summary, I am seeking a dismissal and/or strike out on the aforesaid combined grounds, reserving the right to present more such grounds and the evidence supporting as

²⁰ *Murphy & Murphy (infants) v Donohue Ltd & Ors* [1992 SC] ILRM 378. Judgment against a wrongdoer is not a bar to an action against another concurrent wrongdoer (s.18).

²¹ See District Court (Theft and Fraud Offences) Rules 2003 - SI No 412 of 2003.

²² *Superwood Holdings plc v Sun Alliance* [1995 SC] 3 IR 303.

²³ See Credit Union Act 1997 s.173. See Report of the Government Advisory Committee on Fraud (“Maguire Committee”) (1992).

any such grounds or evidence become available to me, noting in particular, the documents listed on page 1 and the following pertinent authorities and Court Rules:

(i) 'Court's Discretion': Sections 3 and 4 of ORDER 38 MISCELLANEOUS MATTERS of S.I. No. 93/1997 - District Court Rules, 1997, states:

3. Provided, however, that if in the opinion of the Court the variance, defect or omission is one which had misled or prejudiced the accused or which might affect the merits of the case, it may refuse to make any such amendment and may dismiss the complaint either without prejudice to its being again made, or on the merits, as the Court thinks fit; or if it makes such amendment, it may upon such terms as it thinks fit adjourn the proceedings to any future day at the same or at any other place.

4. Where the Court is of opinion that the complaint before it discloses no offence at law, or if neither prosecutor nor accused appears, it may if it thinks fit strike out the complaint with or without awarding costs.

(ii) 'Amendments or Dismissal by the Judge': Section 2 of ORDER 12 MISCELLANEOUS of S.I. No. 93/1997 - District Court Rules, 1997, states:

2. A Judge may amend any summons, civil summons, notice or counterclaim by adding or striking out parties or by amending such other defects and errors in any such document as may be necessary for the purpose of determining the real question at issue between the parties. Such amendments may be made in such manner as the Judge directs and upon such terms as the Judge thinks fit. If in the opinion of the Judge, the amendment is one which might prejudice any party to the proceedings in the merits of that party's case, he or she may make the amendment and, if necessary, adjourn the case or may refuse to make any such amendment and, if necessary, dismiss the proceedings.

(iii) 'Application by the Accused for a Dismissal of the Charge': Section 9, Subsection 4 (E) of Criminal Justice Act, 1999, states:

4E.—(1) At any time after the accused is sent forward for trial, the accused may apply to the trial court to dismiss one or more of the charges against the accused.

(2) Notice of an application under subsection (1) shall be given to the prosecutor not less than 14 days before the date on which the application is due to be heard.

(3) The trial court may, in the interests of justice, determine that less than 14 days notice of an application under subsection (1) may be given to the prosecutor.

(4) If it appears to the trial court that there is not a sufficient case to put the accused on trial for

any charge to which the application relates, the court shall dismiss the charge.

641. I say that the only domestic Court with the authority and jurisdiction to deal with these contiguous matters is the Supreme Court, and, until it has ruled upon the validity of that fraudulent order, that it would be a travesty for these proceedings to be further ambulated.

642. I say that in light of my longstanding intention – which has been unlawfully blocked by the Courts Service and other colluding parties – to pursue appeals in both the Court of Appeal and in the Supreme Court about the legitimacy and validity of that fraudulent purported ‘Order’ of Justice Michael MacGrath of June 17th 2021; and, in additional light of the contents of the ‘Suite of Documents’ as served on the Court and on the DPP’s agents on March 7th last; that it would be highly ‘contemptuous’ (in the literal term) and most certainly not technically ‘lawful’ for this District Court to attempt to move these proceedings forwards whilst fully aware of all of the outlandish acts of obstruction and obfuscation being visited on this named Defendant for the purposes of advancing a malicious prosecution, and I state and declare my sincere belief that the only right / legal / moral and lawful course of action for this District Court is to strike out or dismiss these proceedings forthwith.

Court Precedents

Chaffers v. Goldsmid [1894] 1 Q.B. 186.
Dawkins v. Prince Edward of Saxe Weimar (1876) L.R. 1 Q.B.D. 503.
Addis v. Crocker [1961] 1 Q.B. 11.
Willis v. Earl Beauchamp [1886] 11 P.D. 59.
Sugg v. Legal Aid Board [2009] I.E.H.C. 348.
Goodson v. Grierson [1908] 1 K.B. 764.
Sun Fan Chan v. Osseous Ltd. [1992] I.R. 425, at 428.
Supermacs Ireland Ltd. v. Katesan (Naas)Limited [2004] 4 I.R. 273.

General Notes Accompanying

The Office of the DPP defines its mission as being “to provide on behalf of the People of Ireland a prosecution service that is independent, fair and effective”

In the Irish criminal justice system the investigation of criminal offences is the function of the Garda Síochána.

On Due Disclosure: The constitutional rights to a trial in due course of law and to fair procedures found in Articles 38.1 and 40.3 of the Constitution of Ireland place a duty on the prosecution to disclose to the defence all relevant evidence which is within its possession. That duty was stated by McCarthy J. in DPP v. Tuite [1983] 2 Frewen 175, as follows: “The Constitutional right to fair procedures demands that the prosecution be conducted fairly; it is the duty of the prosecution, whether adducing such evidence or not, where possible, to make available all relevant evidence, parol or otherwise, in its possession so that if the prosecution does not adduce such evidence, the defence may, if it wishes, do so.”

In DPP v. Special Criminal Court [1999] 1 IR 60, Carney J. (at p.76, in a passage subsequently approved by the Supreme Court at p.81) defined relevant material as evidence which “might help the defence case, help to disparage the prosecution case or give a lead to other evidence”. Keane C.J. in Michael McKevitt v. DPP (Unreported, Supreme Court, 18 March 2003) stated that: “the prosecution are under a duty to disclose to the defence any material which may be relevant to the case which could either help the defence or damage the prosecution and that if there is such material which is in their possession they are under a constitutional duty to make that available to the defence”.

The prosecution is therefore obliged to disclose to the defence all relevant evidence which is within its possession. A person charged with a criminal offence has a right to be furnished, firstly, with details of the prosecution evidence that is to be used at the trial, and secondly, with evidence in the prosecution’s possession which the prosecution does not intend to use if that evidence could be relevant or could assist the defence. The extent of the duty to disclose is determined by concepts of constitutional justice, natural justice, fair procedures and due process of law as well as by statutory principles. The limits of this duty are not precisely delineated and depend upon the circumstances of each case. Further, the duty to disclose is an ongoing one and turns upon matters which are in issue at any time

Article 6 of the European Convention on Human Rights also guarantees a person charged with a criminal offence the right to a fair trial and: “to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him”. The Convention provides guidance concerning the minimum rights of accused persons as they are guaranteed throughout Europe and has been incorporated into Irish domestic law by the European Convention on Human Rights Act 2003

The prosecutor’s duty to disclose is subject also to the right of accused persons to information in criminal proceedings as conferred by European Union Directive 2012/13/EU of 22 May 2012. The date for transposition of the Directive was 2 June 2014. The rights in question include the right to information about the accusation under Article 6 and the right of access to the materials of the case under Article 7. As the Directive does not distinguish between proceedings on indictment or summary proceedings, the rights conferred by it apply equally to both types of criminal proceedings.

Signed

Dr Stephen Manning, Mountain, Forthill, Ballyhaunis, Co. Mayo, F35 KP94

Thursday, March 17th 2022

(Service by email March 17th – 21st)

Criminal Justice (Public Order) Act, 1994

Threatening, abusive or insulting behaviour in public place.

6.—(1) It shall be an offence for any person in a public place to use or engage in any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or being reckless as to whether a breach of the peace may be occasioned.

(2) A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding 3 months or to both.

Non-Fatal Offences Against the Person Act, 1997

Assault.

2.—(1) A person shall be guilty of the offence of assault who, without lawful excuse, intentionally or recklessly—

- (a) directly or indirectly applies force to or causes an impact on the body of another, or
- (b) causes another to believe on reasonable grounds that he or she is likely immediately to be subjected to any such force or impact,

without the consent of the other.

(2) In subsection (1) (a), “force” includes—

- (a) application of heat, light, electric current, noise or any other form of energy, and
- (b) application of matter in solid liquid or gaseous form.

(3) No such offence is committed if the force or impact, not being intended or likely to cause injury, is in the circumstances such as is generally acceptable in the ordinary conduct of daily life and the defendant does not know or believe that it is in fact unacceptable to the other person.

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both.