

Shannon Court Report December 8th 2005 www.indymedia.ie,
by Court Reporter [Mr Tim Hourigan] Friday, Dec 9 2005, 2:02am
clare / anti-war / news report

Cregan, Harnett and Rice rattle the state.

"Remove that man from court. Use all necessary force" - Judge Mangan has Conor Cregan removed.

"The defendant is trying to bully and intimidate me and the state. Trying to embarrass me" -Inspector Kennedy moans about Niall Harnett insisting on his rights.

"I have other applications to make Judge but I see you're on your way out the door" - Owen Rice's parting shot to Judge Mangan who left the court during Owen's legal submissions.

Defence solicitor Ted McCarthy, who didn't turn up in court to represent his three clients.

Court Reports based on notes of court reporters.

Cases : DPP v Owen Rice

Conor Cregan, Mags Liddy, St.John O'Donnabhain, Niall Harnett.

All cases up for mention before Judge Joseph Mangan presiding with Inspector Tom Kennedy prosecuting

Mr Rice represented himself.

Mr. Cregan represented himself.

Mr. Harnett, Ms Liddy and Mr. O'Donnabhain were supposed to be represented by Mr. McCarthy, and in fact he had arranged for his clients to be excused from attendance. Mr. Harnett turned up anyway to find that his solicitor was absent, and so decided to represent himself.

It was a very busy day in Shannon District Court, which was standing room only, up until about 4pm.

The cases involving Mr. Cregan, Mr. Harnett, Ms. Liddy and Mr. O'Donnabhain were near the top of the list but were put back by the Judge, towards the end.

So, the activists, and their supporters sat through a long day of court, with many a traffic offence, and a couple of cases of confused solicitors.

One solicitor was representing a man from either Lithuania or Latvia, with little English.

His solicitor was entering a plea of guilty on his behalf without ever requesting an interpreter. A member of the public objected to this on the grounds that the man was entitled to an interpreter if he didn't understand what was said in court, but the conscientious lady was told that, once the defendant had a lawyer, then she couldn't argue for him.

Another solicitor was representing a man, who we think was Czech, though she stood up at one point and asked for a Russian translator before finding out that the man being dealt with was another man from Eastern Europe who had a different solicitor. (presumably, if your name is a bit eastern European, it appears to the solicitor like leftovers from a scrabble board and they can't tell you apart.)

At 4:42 pm the case of the four people arrested in relation to the banner drop was called.

The court was informed that Ted McCarthy was supposed to represent three of the defendants but was not in court. Mr. Harnett then told the court that he wanted to dispense with the services of Mr. McCarthy and represent himself until he found another solicitor.

Mr. Harnett informed the court that the Garry Doyle order and order to return property had not been complied with by the Garda Siochana. Mr Harnett said that there was property not accounted for, that had not been receipted and had not been returned by the Garda Siochana, despite prior assurance to do so.

The judge asked Inspector Kennedy to clarify the situation.

The Inspector said that all property had been returned.

Mr Harnett said that the banners, and a penknife had not been returned despite an assurance made on the previous court appearance.

Inspector Kennedy said that these items were needed as evidence.

At this point Mr. Cregan asked how they were relevant to a charge of obstruction.

Insp K: Well, the banner was on the balcony, hanging outside and the defendants were on the balcony, inside, and the items were seized during the arrest...

Mr. Harnett : What's the relevance?

Mr. Cregan: Judge, Inspector Kennedy said on the last date, that he would return ALL property taken on that date, and we'd like him to honour that commitment.

Judge Mangan: Bring a police property application before the court.

Mr. Cregan : Well, judge , my concern is this, you've said that you cannot make two rulings on one, issue, but last time you made a ruling that all the property be returned, and that wasn't complied with, and now you're making a second ruling.

Judge : I've told you to make an application.

Mr. Cregan: Well, can you tell me how to go about doing that?

Judge : I haven't time, go to the courts office.

Mr Cregan made another point but was interrupted. Mr. Cregan asked that he be allowed make his submission without interruption, but the judge told him to be quiet or be asked to leave or even be removed. He told them that he would deal with it later in the day.

At 5:28 Owen Rice was called.

[This is STILL in relation to alleged dangerous driving and public order incidents alleged to have taken place either side of a peace protest in December 2003 which Mr. Rice didn't attend due to his detention in Garda custody]

Earlier in the day Mr. Rice had given the judge a letter from a solicitor, in response to the judge's query about Mr. Rice's statement that Mr. Rice had lodged appeals in the High Court and Supreme Court. Mr Rice told him that the letter confirmed that Mr. Rice had three separate appeals active in the courts in relation to this case. Despite having seen some of the court documents on more than one previous occasion, the Judge said that the letter contradicted information given to the court on a previous occasion that that Mr. Rice had not lodged the appeals. Mr. Rice asked who had given him that information, but the judge didn't reply. Judge Mangan asked on what dates the appeals had been lodged. Mr. rice starting listing the dates in order but was stopped after the first one, as he indicated to the judge the page where the appeal was stamped by the office of the supreme court.

The judge then told Mr. rice that the case would be tried on January 19th. Mr Rice argued that the judge couldn't hear the case until the appeals had been decided, and the judge repeated the trial date. This was repeated twice more, until Mr. rice asked the judge to respect the "stay" of the High Court and stated that the judge would be pre-empting the Supreme court in relation to issues such as the legality of the detention of Mr. Rice on 12th Feb 2004, and rendering the appeals moot.

The judge asked "is there a stay on this case?"

Mr. Rice quoted the court order

" it's the order of Herbert made on 8th March 2004, relating to the Habeus Corpus enquiry under article 40.4 of the constitution of Ireland, and his conversion of that enquiry into a judicial review. In his order of 8th March at point three it said "that the said proceedings hereinbefore, referred, to be stayed until the determination of the application for judicial review, or until further order or until the stay of proceedings shall have lapsed by reason of the applicant's failure to serve an originating notice of motion herein within the proper time"

Mr. Rice then handed up a copy of the originating notice of motion, date stamped as being received within the proper time.

[Reporter notes : this has all been made clear on previous court appearances]

The judge then asked to see the application on which the order was grounded.

Mr. Rice asked the judge to bear with him, while he got it from the file.

When Mr. Rice started leafing through the file, the judge called several more cases, and didn't return to Mr. Rice's case until 6:15.

at 5:51pm the Judge recalled Mr. Cregan and Mr. Harnett, whereupon the defendants repeated that Inspector Kennedy had not honoured the commitment to return all the property of the defendants.

judge : Inspector Kennedy, did you undertake to return everything to these defendants?

IK: Yes, Judge, but everything was returned.

Mr. Harnett : Not the banners or the pen-knife.

IK: Items related to evidence were separate.

There was more argument that the items were supposed to have been returned as promised and that they were not relevant to the charge.

There was an objection to the length of time this was taken and Mr. Cregan objected that anti-war activists cases are always held back to the end of the day. The Judge stated that the court deals with the quicker cases first, and those that are expected to take more time are dealt with later.

Mr. Cregan replied, that if he was allowed to speak and to make his applications, then the case would be more brief.

The argument resumed with Inspector Kennedy repeating that the items were relevant evidence because they were seized in the course of the arrest, whereas the defendants argued that, although taken at the time, the items do not pertain to the charges before the court (obstruction)

Mr. Harnett told the court that he had instructed his solicitor to give a list of property to the Inspector on the previous date, and that the banners were included on the list, and that the undertaking was given that these things would be returned.

The judge ignored this argument and asked if they would adjourn to a hearing on February 9th.

Mr. Cregan then made an application regarding the Garry Doyle order requesting copies of evidence and relevant information, the Inspector and the judge interrupted his application, so it wasn't all heard but it included (amongst other things), copies of the relevant CCTV in VHS format, copies of statements and notes, a list of names of all people who were on the balcony involved in the arrest, a list of CIA operatives or US military overt and covert operatives known by the Garda to be operating at Shannon Airport.

Mr. Cregan continued to object that he had a right to make these applications in order to prepare his defence, but was told to sit down, and when he continued his objection, the judge ordered that he be removed from court "using all necessary force!! - -em... all reasonably necessary force", whereupon three members of the Garda Síochána seized him and removed him from the court.

Mr. Harnett stayed in court, and enquired about the Garry Doyle order and if it would be complied with before any hearing date is set.

The Judge told him that he would make a general Garry Doyle order, that Mr. Harnett could list the things that he wanted to request, and if, at the trial, the Gardaí have refused to provide these things, then it will 'colour' the case if the judge rules it was unreasonable to refuse.

Mr. Harnett seemed perplexed by this and replied that it had been his understanding that the Inspector had agreed, and that the judge had ordered that these things be returned, and that as a court of record, the registrar would have a copy of the order made, and that the order should specifically mention those items.

The Judge said that he had no record of the order.

"Is that a failure of the court then?" asked Mr. Harnett.

Judge "Not necessarily"

Mr. Harnett said that he didn't understand how these orders could be made, and that the defendants and their solicitor could leave the court believing that they would be

complied with, only to find that the orders are later considered void, forgotten, ignored, or not recorded.

The judge, prosecutor and defendant then discussed a hearing date, with arguments that January would not suit as one defendant had exams then and that the defendants would like their property returned, as promised, before any hearing, which was set for February 9th.

Inspector Kennedy complained that "this is an effort to bully me and the state side on this matter, and an attempt to embarrass me. The defendant insists on these nonsensical items..."

Judge : "They may be nonsensical to you Inspector, but they may not be to the defendants"

Niall Harnett : The undertaking was to return all property.

Judge : Does the state allege that the defendants were in possession of the items?

Insp K: Yes.

Niall H: Where is that alleged in a charge, in writing?

The judge and the inspector ignored that question and set the hearing for Feb 09th.

At 6:15pm, the judge returned to Mr. Rice, asking "have you found that application". Mr. Rice, having found it in about 30 seconds when asked 30 minutes earlier, handed up the documents, along with two copies of the notice to appeal and a letter to the court clerk.

Mr. Rice started to make applications, and the judge interrupted, asking if Mr. Rice would be happy if another judge, who would be sitting in January, was to hear the case.

Mr. Rice said that this sounded like an application by the judge to his own court, but the judge said it was merely a question.

Mr. Rice did not answer, and continued with his legal application, until interrupted again, and the judge said "I don't want you leaving this court in the same manner as Mr. Cregan, it would give me no pleasure to do so. Would it be enough to make you happy if another judge were to hear this case?"

OR: No

Judge :Are you seeking anything from the High Court other than to have me disqualified from the case"

[interruptions and repetitions]

OR: I can't answer that in a single word or sentence.

Judge: You want the case adjourned behind the Supreme Court decision?

OR: Yes.

Judge: When? [and interrupts OR's answer]

Judge : I'm asking you when you want it adjourned to, 2 months? 4 months?

OR: I'm asking you again to delist the case until such time as the Supreme Court has ruled. It will be relisted after that.

Judge: So will we leave it on the list for January 19th?

Owen Rice: No.

Inspector Kennedy : Yes.

Owen Rice : I have another application to make, and also I notice you have failed to disclose to me, the person you said has provided information to this court that no appeals were lodged by me in the supreme court arising from these proceedings. Please make this disclose now Judge Mangan.

The judge started to tidy away his gear.

OR: "If you will not make this disclosure, I am putting it on the record that this statement is a false assertion by yourself, Judge, relating to the record of this case, and is exactly contradictory to the information put on record, here by myself, on several occasions, including the last occasion you refer to. And I object to that judge. I have other applications to make Judge but I see you're on your way out the door"

at this point the judge simply walked out of the court.