

**THE HIGH COURT**

**[2006 No. 781 JR]**

**BETWEEN**

**FLORENCE HEALY**

**APPLICANT**

**AND**

**THE DIRECTOR OF PUBLIC PROSECUTIONS**

**RESPONDENT**

**Judgment of Mr. Justice Brian McGovern delivered on the 13th day of March, 2007**

1. This application for judicial review was heard in conjunction with the application of *Vincent Dodd* High Court [2006] No. 782 JR and arises out of the same circumstances. The applicant was in the company of Vincent Dodd and is charged with the following summary offences:-

- (1) Assault contrary to s. 2 of the Non Fatal Offence Against the Person Act, 1997.
- (2) Breach of the Peace contrary to s. 6 of The Criminal Justice (Public Order) Act, 1994.
- (3) Failing to comply with the direction given by a member of An Garda Síochána, contrary to s. 8 of the Criminal Justice (Public Order) Act, 1994.
- (4) Resisting or wilfully obstructing a peace officer acting in the execution of his duty, knowing that he was or being reckless as to whether he was a peace officer acting in the execution of his duty, contrary to s. 19 of the Criminal Justice (Public Order) Act, 1994.

2. The applicant was given leave to apply for judicial review on the 3rd July, 2006 for the reliefs set forth a paragraph D of the statement of grounds and on the grounds set forth at paragraph E therein.

3. Unlike Vincent Dodd this applicant was not charged with road traffic offences. The matters with which she is charged will have to be determined on the basis of oral evidence and any conflict of evidence can only be resolved on the basis of an assessment of the witnesses recollections of events which have now taken place almost four years ago. For the same reasons as set out in my judgment in the *Vincent Dodd* case and on the basis of the legal authorities referred to therein it seems to me that too long a period has now elapsed from the events in question on the 18th May, 2003 to permit their summary disposal without a real and substantial risk of an injustice being done.

4. In my view, while all of the delays cannot be blamed on the respondent a substantial period of time has elapsed on account of the failure of the respondent to clarify, within a reasonable time, the fact that members of An Garda Síochána no longer hold any statements in relation to the complaint by Mr. Dodd to the Garda Complaints Board.

5. In the circumstances and for the reasons set out in the *Vincent Dodd* case I will grant the relief sought by the applicant and restrain the defendant from taking any further steps in the proceedings entitled *Director of Public Prosecutions at the suit of Garda Gerard P. Sweeney v. Florence Healy* in respect of the summary charges set out in the statement granting the application for judicial review.