

**THE HIGH COURT****[2016 No. 3 SSP.]****IN THE MATTER OF THE CONSTITUTION AND THE MATTER OF AN APPLICATION FOR HABEAS CORPUS BY CHRISTOPHER DUNNE  
AT PRESENT IN CUSTODY IN MIDLANDS PRISON****JUDGMENT of Mr. Justice White delivered on the 15th of September 2016**

1. Christopher Dunne (the applicant) has applied to the court in writing challenging the legality of the committal warrants upon which he has held.

2. The applicant was sentenced on 25th July, 2014, at Naas Circuit Court to five years imprisonment for an offence of burglary, the final year of the sentence being suspended. Subsequently, on 29th June, 2015, the applicant was sentenced on three separate bill numbers in the Criminal Courts of Justice.

3. He was sentenced to three years for theft and unlawful use of a mechanically propelled vehicle. The sentences were ordered to be served consecutively to the sentence imposed on 25th July, 2014, at Naas Circuit Criminal Court. Separately he was sentenced to three years imprisonment for possession of certain articles with intention that they be used in connection with other offences and no insurance.

4. On another separate indictment, he was sentenced to three years and six months for criminal damage, , and five years and six months for threatening to kill or cause serious harm to be served consecutively to the sentence imposed on 25th July, 2014, in Naas Criminal Court with the final eighteen months of the sentence suspended.

5. The applicant has exhibited these warrants to his application and has submitted as follows:-

(i) That the various Registrars who signed the committal warrants are not lawfully authorised to be nominated signatories as they are not nominated as such by the County Registrar nor is the person who nominated them named in the committal warrant. Furthermore that it is not established that any such nominee is authorised by the County Registrar.

(ii) He submits that the seal of the court is absent from the committal warrants.

(iii) That the warrant are void as they are not authenticated by a seal and signature of the County Registrar.

(iv) Failure to cite the name of the County Registrar as not being in compliance with s. 56(2), (3) and (4) of the Courts (Supplemental Provisions) Act 1961.

6. The relevant rule is O. 4, r. 1 of the Consolidated Circuit Court Rules.

7. The rule states:-

"1. The Court shall have for use in each County an embossing Seal or, in circumstances in which the Office has multiple locations, embossing Seals with an appropriate inscription, as directed by the Minister, specifying the name of the Circuit in connection with which it is to be used. Such Seal shall be placed and retained in the custody of the County Registrar. It shall not be necessary that any Decree, Order, Warrant or other document shall be signed by the Judge.

2. Every document requiring under any provision of statute or statutory instrument, rule of law or any other Order of these Rules to be issued under Seal of the Court shall be authenticated by the Seal of the Court pressed thereon and the signature of a person mentioned in sub rule (4).

3. Every document requiring authentication other than one referred to in sub rule (2) and every Decree, Order and Warrant shall be authenticated by the signature of the person mentioned in sub rule (4).

4. The persons who may authenticate the impression of the Seal of the Court on a document mentioned in sub rule (2) or a document mentioned in sub rule (3) are

(a) the County Registrar or

(b) such person or one of such persons as may for such a period as may be specified be nominated for that purpose by the County Registrar or

(c) where any business of the office of the Court in the county is specified in accordance with section 14 of the Court and Court Officers Act 2009, as business that shall be transacted in a combined court office established under that section, and for the purposes of such business:

(i) the combined court office manager appointed under section 19 of that Act for that combined court office; or

(ii) a member of the staff of the Courts Service employed in that combined court office under section 21 of the Courts and Court Officers Act 2009 as may, for such period as may be specified be nominated for that purpose by the combined court office manager concerned on behalf of the County Registrar."

8. Section 14 of the Courts and Court Officers Act 2009, states:-

"(1) Notwithstanding any other enactment, the Courts Service may establish a combined court office in accordance with this section and section 16.

(2) In establishing a combined court office under subsection (1), the Courts Service shall—

(a) designate two or more court offices to be constituent court offices of that combined court office, and

(b) specify the business of the constituent court offices that shall be transacted in the combined court office.

(3) The Courts Service shall, as soon as may be after a combined court office is established, publish notice of that fact and of the matters referred to in subsection (2) relating to that office in *Iris Oifigiúil*, but failure to so publish shall not affect the validity of the establishment of the combined court office concerned."

9. Section 19 of the Act states:-

"Notwithstanding any provision of any other enactment, where a combined court office is established under section 14, the Courts Service shall appoint—

(a) a member of its staff, or

(b) a county registrar,

to be the manager of that combined court office."

10. Section 21 of the Act states:-

"There shall be employed in a combined court office such and so many members of the staff of the Courts Service as the Courts Service shall from time to time determine."

11. The practice of the Circuit Criminal Court is that once an accused person has either been convicted after trial or sentence after pleading guilty is subject to the issue of a committal warrant in respect of each indictment. The original warrant with the seal embossed is sent to the Governor of the Prison to which the accused is committed.

12. The relevant offices at Naas and Dublin are combined court offices and a member of staff of the Courts Service employed in that combined court office can be nominated by the combined court office manager to authenticate the seal of the court.

13. Section 56 of the Courts (Supplemental Provisions) Act 1961, has no relevance as it relates to the continuance in office of a County Registrar, for one year after reaching the age of 65.

14. The applicant is in legal detention serving a sentence of imprisonment imposed by the Circuit Criminal Court.