

THE HIGH COURT

[2016 No. 3 JRP]

MARK KENNEDY

Applicant

And

GOVERNOR OF LIMERICK PRISON, DIRECTOR OF PUBLIC PROSECUTIONS

Respondents

JUDGMENT of Ms. Justice Stewart delivered on the 9th day of June 2016.

1. This is a prisoner application for an order of leave to commence judicial review proceedings by way of *certiorari*. The applicant seeks to quash a decision of the District Court sitting at Thurles to find the applicant guilty of a number of offences. The applicant appears to be held in Limerick Prison on foot of a number of sentences, including those at issue in this case. The convictions in question are:

- Six months imprisonment for an offence contrary to s2 of the Non-Fatal Offences Against the Person Act 1997; and,
- Five months imprisonment for an offence contrary to s2(1) of the Criminal Damage Act 1991

2. The applicant submits two grounds for his application: bias and breach of natural justice due to the exercise of improper jurisdiction

3. The applicant alleges that a conflict of interest arose in his case when Garda/Prosecutor Declan O'Carroll entered the plea in the District Court. This plea was entered in relation to the operation of s.99 (9) of the Criminal Justice Act 2006. The offence that gave rise to the applicant's original suspended sentence was not disclosed. The applicant has also failed to outline the nature of the alleged bias, what the relationship is between the involved parties and how exactly the alleged conflict of interest could have affected the trial in question.

4. The applicant's argument that a breach of natural justice occurred rests on an allegation that the trial judge failed to inform him of his right to elect for a trial on indictment in front of a jury. Presumably, the applicant makes this argument in relation to his conviction under the 1991 Act, as trial on indictment is not available under s2 of the 1997 Act. While District Court decisions are reviewable by the High Court, the High Court respects the work that the District Court carries out. As outlined by the Supreme Court in *Tracey v. Burton* [2016] IESC 16, there is a strong public interest in ensuring that court time is put to efficient and effective use. Thus, this Court does not act on unsubstantiated allegations that have no *prima facie* merit to them. Not only would that waste multiple courts' time, but it would put financial and administrative strain on an already overworked system. In order to proceed with this argument, the applicant would need to produce some form of evidence that gives weight and substance to his claims. A mere assertion is insufficient to ground such an application.

5. The application in this case is of very low quality, in terms of the legibility of the documents submitted, the substance of the legal arguments put forward and the information about the broader circumstances of the applicant. For this reason, the Court is not satisfied that any arguable grounds have been made out and the application for leave to seek *certiorari* is denied.