

HIGH COURT
JUDICIAL REVIEW

2010 581 JR

BETWEEN

JOHN RYAN

APPLICANT

AND

**THE GOVERNOR, MIDLANDS PRISON, STATE APPOINTED SOLICITOR NAMELY JOHN HERBERT, GLANMORE SUITE, PARK HOUSE,
ARTHUR'S QUAY, LIMERICK**

RESPONDENTS

JUDGMENT of Mr. Justice John MacMenamin dated 16th day of June, 2010.

1. The applicant, John Ryan seeks to bring judicial review proceedings. Primarily these proceedings are aimed at obtaining the applicant's solicitor's file from his former solicitor who is the second named respondent, Mr. John Herbert. The applicant complains that he has made numerous attempts to obtain this file but has failed. He alleges that he has been misled by the second named respondent who has, he says, assured the applicant's sister that he forwarded the file to the applicant by post. The applicant further complains that the solicitor failed to say when he sent the file other than that it was some weeks ago. The applicant also states that the solicitor informed him on the phone about seven weeks ago that he had sent the file to him.

2. I have already indicated in a very similar ruling in a case brought by the same applicant that the matter in issue is one between the applicant and the second named respondent, that is, Mr. Herbert his former solicitor. I also found that this did not give rise to any potential claim by way of judicial review.

3. The papers which have now been submitted to me contain an additional contention however. It is suggested that the applicant cannot procure the necessary plenary summons form in order to initiate civil proceedings in the High Court. It is said the Governor does not have access to a computer with the internet and therefore cannot assist him in procuring such a form.

4. As a matter of fact there is no provision in the Rules of the Superior Courts permitting the issue of a plenary summons by post. The staff of the Courts Service are not empowered to provide a prisoner with assistance in either the drafting, issue or service of the summons. An applicant must make arrangements to have a document presented personally in the Central Office and pay the fee for issuing it which is presently €125. Consequently, it seems to me that the relief which is being sought against the Governor is futile. The course of action which the applicant should adopt is to draft out the reliefs which he seeks and then instruct either a solicitor or a relative to have this placed in a plenary summons form which can be obtained for that purpose. This can then be filed in the Central Office on payment of the requisite fee. I do not think that this gives rise to any claim in judicial review therefore I will decline the application.