



THE COURT OF APPEAL

Record No. 27/2017

**Mahon J.
Edwards J.
Hedigan J**

BETWEEN

THE PEOPLE AT THE SUIT OF THE DIRECTOR OF PUBLIC PROSECUTIONS

PLAINTIFF/RESPONDENT

- AND -

DARREN WELDON (NO. 2)

DEFENDANT/APPELLANT

JUDGMENT (*ex tempore*) of the Court delivered on the 27th day of June 2018 by Mr. Justice Mahon

1. In this case the conviction appeal was allowed earlier this morning, and the Director now seeks a re-trial on the basis that it is in the public interest that this should be done.
2. Mr. Hartnett for the appellant has raised issues of unfairness and oppression. He has advised the court that the appellant was initially charged in October 2014 and waited for a trial for approximately two years, that he was convicted on the 15th December 2016 and that it then took fourteen months for the appeal to be heard and a judgment delivered approximately five months later.
3. He also has emphasised the fact that the appellant has been in custody for approximately nineteen months or the equivalent of over half the net custodial sentence that was imposed on him if he was required to serve it in full.
4. He also has emphasised the delays that we are all aware of in awaiting a re-trial and also the fact that this delay as it was would be unduly harsh for the appellant who has no previous convictions and who will have to spend a considerable further period awaiting a re-trial and then the outcome from such a re-trial and possibly an appeal from that re-trial.
5. The appeal in this case was allowed in relation to just one strand of the evidence which was heard by the trial court. A specific error was identified by this court in relation to that single matter. It is undoubtedly the case that the error that was identified is capable of being rectified or avoided on a re-trial. The charge is a serious one. The delays which have been highlighted by Mr Hartnett are unfortunate but that is part of our system and is largely due to a lack of judges. It is difficult to organise trials and appeals any more quickly than occurs at present.
6. So, for the reasons outlined and the fact that the error identified by this Court is capable of being rectified or avoided on a re-trial the Court will order a re-trial. We will admit the appellant to bail on the following conditions:-
 1. His own bond of €100 with no lodgment.
 2. An independent surety bond of €1,000. €1,000 to be frozen in the Permanent TSB O'Connell Street, in Dublin of Mrs. Patricia Weldon, of 4, Robert Emmet Close, Dublin 8 and approved by consent by the Court of Appeal on the 29th June 2018.
 3. He is to reside at 4, Robert Emmet Close, Dublin 8.
 4. He is to maintain a curfew between the hours of 12 midnight and 7 a.m.
 5. He is to sign on at Kilmainham garda station between the hours of 9 a.m. and 9 p.m.
 6. He is not to associate with any persons charged or connected with the scheduled offence before the Special Criminal Court.
 7. He is to surrender his passport to An Garda Síochána. It is already in the possession of Det. Sgt. Boyce and he is to undertake not to apply for travel documents.
 8. He is not to contact, direct or indirectly, any proposed prosecution witnesses.
 9. He is to be of good behaviour and keep the peace.
 10. He is to attend the Special Criminal Court at Court 11, CCJ, on the 29th June 2018 at 10.30 a.m. and each subsequent adjournment thereafter until the case is disposed of.
 11. He is to provide a mobile phone number and be contactable on that number to Det. Sgt. Padraig Boyce within twenty four hours of his release.