Neutral Citation: [2013] IEHC 528

THE HIGH COURT

[2013 No. 838 SS]

IN THE MATTER OF AN INQUIRY PURSUANT TO ARTICLE 40.4.2 OF THE CONSTITUTION

BETWEEN

ROBERT GRACKOVS

APPLICANT

AND

THE GOVERNOR OF WHEATFIELD PRISON

RESPONDENT

AND

THE GARDA NATIONAL IMMIGRATION BUREAU, THE GOVERNOR OF CLOVERHILL PRISON AND THE MINISTER FOR JUSTICE AND EQUALITY

NOTICE PARTIES

JUDGMENT of Mr. Justice McDermott delivered on 16th day of May, 2013

1. On 14th May, 2013, following an inquiry into the lawfulness of the detention of the applicant pursuant to Article 40.4.2 of Bunreacht na hÉireann, the court refused an application for the applicant's release and determined that his detention was in accordance with law. The following are the reasons for that decision.

Background

2. The applicant is a Latvian national born on 28th February, 1980. At the time of the initial application made to the court on the morning of 8th May, 2013, he was a prisoner in the custody of the respondent serving sentences imposed by the District Court in respect of warrants issued on 5th February, 2013, 12th February, 2013 and 25th March, 2013. Sentences of nine months, six months and five months imprisonment respectively were imposed on each of the warrants and the sentences were to run concurrently. No issue arises in respect of the lawfulness of these convictions or the warrants upon which the applicant was committed to prison. The challenge to the lawfulness of the applicant's detention is based on events of 8th May, 2013. He was granted "full temporary release" on that date on condition that he accompany officers of the Garda National Immigration Bureau to Dublin Airport pursuant to an order directing his removal from the state. At Dublin Airport he resisted attempts to place him on the aircraft, was arrested and returned to prison where he was detained pending his removal from the state. The applicant's temporary release was purportedly revoked and his imprisonment pursuant to the orders of the District Court was resumed. The hearing was adjourned by consent to Monday, 13th May, 2013, to enable the respondent to file a number of affidavits in response to the applicant's affidavit and the delivery of any further replying affidavits by the applicant. The case proceeded on 13th and was adjourned to 14th May, 2013. The court determined that the detention of the applicant was lawful at the conclusion of the hearing.

The Removal Order

3. On 26th October, 2011, Det. Inspector Ryan of the Garda National Immigration Bureau applied to the third named notice party for a removal order under Article 20 of the European Communities (Free Movement of Persons) Regulations 2006, in respect of the applicant. Article 20(1)(a)(iv) of the Regulations enables the Minister by order to require a citizen of the European Union to leave the state within a specified time where:-

> "In the opinion of the Minister, the conduct or activity of the person is such that it would be contrary to public policy or it would endanger public security or public health to permit the person to remain in the state."

Article 20(1)(c) enables the Minister to impose an exclusion period in a removal order directing that a person shall not re-enter or seek to re-enter the state during the validity of that period. Article 20(1)(d) provides that the Minister shall not, except on grounds of public order, security or public health, make a removal order solely on the basis that the person concerned has served a custodial sentence. Further, a removal order may not be enforced after the expiry of more than two years from the date upon which it was made unless the Minister is satisfied that the circumstances giving rise to the making of the order still exist.

4. Article 20(2) of the Regulations provides that when the Minister proposes to make a removal order, the person concerned must be notified in writing of this proposal. The notification must state the reasons giving rise to the proposal and permit the person concerned to make representations within fifteen working days. The proposed duration of the exclusion period must also be included in the notice. Article 20(3) sets out various matters which the Minister is obliged to take into account in deciding whether to impose an exclusion period. Article 20(3)(b) provides that where the Minister decides to make a removal order, the person concerned must be notified in writing of the decision and the reasons upon which it is based.

5. Under Article 20(4)(a) a person to whom notice of the making of an exclusion order has been issued may, without further notice, be arrested and detained under warrant by an immigration officer or a member of An Garda Síochána in a specified place for the purpose of ensuring his or her departure from the state in accordance with the terms of the order. A person arrested may be placed on an aircraft about to leave the state by an immigration officer or a member of An Garda Síochána and shall be deemed to be in lawful custody while so detained and until the aircraft leaves the state under Article 20(4)(d). Article 21 provides for the review of an exclusion order.

6. Article 26(1) sets out the manner in which notice is to be effected and provides:-

> "26(1) Where a notice is required or authorised by or under these Regulations to be served on or given to a person, it

shall be addressed to him or her and shall be served on or given to him or her –

(a) by delivering it to him or her, or

(b) by sending it by post in a prepaid registered letter, or by any other form of recorded delivery service prescribed by the Minister, addressed to him or her at the address most recently furnished by him or her or in the case of his or her legal representative, if any, at his or her business address, or in the case in which an address for service has been furnished, at that address.

(2) Where notice under these Regulations has been sent to a person in accordance with para (1)(b), the notice shall be deemed to have been duly served on or given to the person on the third day after the day on which it was so sent."

7. The application for the applicant's removal from the state under Article 20 was made because of his criminal record. He had first come to the attention of An Garda Síochána on 31st October, 2005, and since then had incurred 23 convictions relating to theft, drugs, burglary and Road Traffic Act offences. A number of these convictions related to the same event. At the time of the application it was known that the applicant was serving a sentence of imprisonment in Cloverhill Prison and that the earliest date for his release was 10th December, 2011.

8. The Irish Prison Service was contacted by the Department of Justice and Equality to identify the address at which the applicant intended to reside on his release. This address was given as 44 Parkwood Grove, Old Bawn, Tallaght, Dublin 24. On 13th December, 2011, a letter was sent by registered post to the applicant at that address informing him that the Minister proposed to make a removal order in respect of him for a period of five years and inviting him to make representations. This letter was not returned. It offered the applicant the opportunity to furnish reasons as to why a removal order should not be made against him. It also invited the submission of any letters or documents upon which it was intended to rely.

9. An examination of the case was carried out by officials. Since no facts relating to his private or family life or employment history had been received, they could not form part of the consideration of the file. It was, however, noted that he had appeared before the courts on three separate occasions between 23rd June, 2006 and 22nd December, 2009. It was concluded that the applicant had demonstrated a flagrant disregard for the laws of the state and committed a number of offences suggesting a high propensity to re-offend and a removal order with an exclusion period of five years was recommended on 28th March, 2012.

10. The order was signed on 28th March, 2012, and notified to the applicant by letter of the same date which set out the reasons for the making of the order and notified him of his entitlement to seek a review of its making.

11. It is now accepted by the respondent and notice parties that the applicant was in custody on other matters at the time of the sending of the proposal letter in December, 2011 by registered post to the Tallaght address. Furthermore, the applicant contends that he only lived briefly at that address and was living elsewhere during the years 2010 and 2012 when not in prison. Indeed, he had made an application to the High Court on 13th September, 2010, for bail which was granted on condition that he provide an address to be approved by the Gardaí. He was admitted to bail having furnished an address approved by An Garda Síochána which was other than that to which this letter was addressed. Furthermore, when returned for trial on 18th November, 2010, yet another address was provided. Therefore, the address furnished to An Garda Síochána by the prison authorities was in error. The order of conviction of 12th February, 2013, contains a third address and the warrant of the 25th March, 2013, contains yet a fourth address for the applicant. However, it should be noted that prison records continued to refer to 44 Parkwood Grove, Old Bawn, Tallaght, Dublin 24 as his address, for example, when he was granted temporary release on two occasions in late March and early April, 2012. It is, therefore, accepted that the notice provisions of Article 26(1) concerning the proposal to make the order were not complied with and that the exclusion order was not made in accordance with law.

12. The acknowledgement that the removal order made against the applicant on 28th March, 2012, was fundamentally flawed and could not be relied upon as a matter of law for the removal of the applicant from the state has the further consequence that any action taken on foot of that order was also tainted with illegality.

Temporary Release

13. The applicant contends that on 19th April, 2013, he attended with the Governor of Cloverhill Prison where he was then detained to request temporary release as he was nearing the end of his sentence. It was claimed that when he returned to speak to the Governor a number of days later, he was informed that he would be granted full temporary release on the basis that he would be removed from the state. The applicant claimed that he had no knowledge of the basis for this condition and the Governor was not in a position to provide him with any further information. He was not served with any documentation relating to that order and claimed that this was the first notice he had of his intended removal. The applicant informed his solicitors of this development on or about 29th April, 2013. They made contact on his behalf with the office of the governor and requested a copy of any removal order from Cloverhill Prison, but were informed that the prison did not have a copy of the order and were only on notice of its existence. A letter was sent on 1st May, 2013, to the Garda National Immigration Bureau requesting information regarding any such order and informing them that the applicant was seeking an extension of time to allow him to appeal any such order. No response was received. On 7th May, 2013, the applicant's solicitors were informed that the GNIB were not dealing with this issue and that any removal order sent to Cloverhill Prison would have been sent by the Repatriation Unit in the Irish Naturalisation and Immigration Unit. His solicitors were informed that their letter and all letters relating to removal orders would have been forwarded to the appropriate body.

14. In an affidavit, the Assistant Governor of Cloverhill Prison deposed that on 18th April, 2013, the applicant was approved for temporary release with effect from any date after 22nd April. It was stated that this was done "in whole by IPS (Irish Prison Service) Operations Section". An email was received on 26th April indicating that the applicant would be collected on Wednesday, 8th May, 2013 for the purpose of his removal from the state. This was sent by an official of the Operations Section IPS. A fax message dated 7th May, 2013, was sent from "the Arrangements Office, Garda National Immigration Bureau" to the Governor of Cloverhill Prison in respect of the collection of the applicant which notified the Governor that:-

"The Garda National Immigration Bureau have arrangements in place to remove Mr. Robert Grackovs, DOB 28/02/1980…on Wednesday 8th May, 2013, from Ireland on an E.U. removal order (he has been approved for T.R).

He will be collected from Cloverhill by members from G.N.I.B. at approx 2.00pm on 8th May, 2013.

Please have Mr. Grackovs and his property ready for collection."

Written on the fax were the words "Sentenced needs T/R".

The email from IPS dated 26th April also indicated that the applicant would be collected at 2.30pm for the purpose of removal from the state and the Governor was asked to have the prisoner ready with all his belongings at this time to facilitate removal.

15. A copy of the temporary release notice furnished to the applicant set out the terms with which he was obliged to comply. He was approved for full temporary release, that is temporary release that would continue until the expiration of his sentence which was calculated to occur on 26th August, 2013.

16. These conditions included the normal statutory conditions that he be of good behaviour and keep the peace, would not convey messages in or out of the prison, would be of sober habits and would not enter a pub, club or other licensed premises. No garda signing on condition was required. It was, however, required that he:-

> "6. Shall reside at outside state…
>
> 8. Agree not to change address from outside state…
>
> 9. Approved FTR in company of GNIB for purposes of agreeing to comply with deportation process."

The notice also contained a warning that breach of any of the conditions attached to the period of temporary release was an offence under s. 6 of the Criminal Justice Act 1960, and punishable on conviction by imprisonment for a term not exceeding six months. It also contained an acknowledgement that he was aware of these terms and conditions which had been explained to him and he acknowledged receipt of the notice by his signature.

17. On 8th May, 2013, Sergeant Peter Cullen and Det. Garda Donal Ryan of the Garda National Immigration Bureau attended Cloverhill Prison with the intention of escorting the applicant from the prison to Dublin Airport to board a flight for Riga, Latvia, departing at 17.05. The sergeant explained to the applicant that he was going to be taken from Cloverhill Prison to Dublin Airport and placed on a flight to Riga pursuant to the provisions of the removal order. It was also explained to him that if he did not comply with the removal order he would be arrested and lodged at Cloverhill Prison for the purpose of ensuring his removal from the state. Prior to this the temporary release form for his release on full temporary release had been signed by the acting clerk in the general office of Cloverhill Prison, read over to the prisoner and signed by him and his signature was witnessed by another prison officer.

18. Sergeant Cullen states that the applicant agreed to accompany the Gardaí and was driven to Dublin Airport. On the way to the airport the sergeant phoned the applicant's solicitors on his behalf and handed the phone to the applicant so that he could speak to his solicitor. At the airport the applicant and the sergeant waited at the GNIB office at Terminal 1, while Det. Garda Ryan checked in and obtained a boarding card for the applicant's flight to Riga. The gardaí then conveyed the applicant by car to the aircraft. When the applicant was asked to exit the car and board the aircraft, he refused. It was explained to the applicant that if he did not comply with the removal order and leave the state he would be arrested and lodged in Cloverhill Prison for the purpose of ensuring his removal from the state. Sergeant Cullen stated that he got out of the car and attempted to remove the applicant from the car, but was forcefully resisted. As a result of this the sergeant concluded that it would not be possible to enforce the removal order at that time as the applicant would not be allowed to travel to Latvia unescorted due to his forceful resistance to being placed on the aircraft. He arrested the applicant at 5.00pm on 8th May, 2013. He informed the applicant that he was arresting him and taking him to Cloverhill Prison and lodging him there for the purpose of ensuring his removal from the state. A short time after this arrest and before leaving Dublin Airport, the sergeant took a phone call from the applicant's solicitors who inquired as to the present position regarding the applicant. They were informed that the applicant had been arrested and was being conveyed to Cloverhill Prison where he would be lodged and detained.

19. Sergeant Cullen states that the applicant was then brought to Cloverhill Prison, a prescribed place of detention for the purposes of the Regulations and lodged there. He completed and endorsed a warrant pursuant to the European Communities (Free Movement of Persons) Regulations 2006, which he handed to the prison officer which was produced to the court in the course of this application.

20. Following his re-committal to prison on 8th May, 2013, by Sergeant Cullen, the applicant was found to be in a very agitated state and was placed in an observation cell for his own safety. The following morning the Assistant Governor spoke to him. The applicant informed him that he had refused to board the plane. The Assistant Governor explained to the applicant that this was the reason that he was returned to Cloverhill Prison and informed him that his temporary release had been revoked. It is now accepted that the entire course of events in relation to the attempted removal of the applicant from the state on 8th May, 2013, following his discharge on temporary release, his arrest and his re-committal to prison was unlawful. Consequently, his continued detention pending execution of the removal order was unlawful. If that were the only basis upon which his detention continued, the applicant would be entitled to an order for his release.

Continued Detention

21. However, there are still in existence a number of warrants directing the applicant's imprisonment to serve sentences lawfully imposed following convictions in the District Court. The applicant contends that he should have the benefit of the full temporary release granted to him on 8th May, 2013, until the expiration of his term of imprisonment unless he fails to observe one or more of the lawful conditions of that temporary release, in which case it may be revoked and he will be guilty of a criminal offence under s. 6 of the Criminal Justice Act 1960. Counsel for the applicant invites the court to regard conditions 6, 8 and 9 as set out in the temporary release notice as surplusage, because having regard to the unlawfulness of the removal order they could not be regarded as lawful conditions. It is contended, therefore, that the temporary release should continue until the end of his sentence with the remaining conditions applicable.

22. The temporary release notice does not contain a signing on condition, or an address within the state at which the applicant is obliged to live and consequently, there is no basis upon which his temporary release could be supervised in any meaningful way. It should also be noted that no challenge by way of judicial review seeking to quash the temporary release decision or any conditions thereof or its revocation, has been made in the course of these proceedings by either party.

23. The Criminal Justice Act 1960, as amended, and the Regulations made thereunder allow for the temporary release of offenders in the exercise of a prison governor's discretion. The purpose of the legislation is to facilitate rehabilitation and/or provide a discretion to allow for temporary release on a humanitarian basis. This is a wide discretion, and regard must be had in its exercise to the rules of natural and constitutional justice and the prisoner's rights under the Constitution, the European Convention on Human Rights and the law of the European Union. There is no specific provision in the Criminal Justice Act 1960, providing for the imposition of a condition that a prisoner leave the state as a condition of being granted full temporary release. To impose such a condition upon an Irish citizen

would be a gross violation of his constitutional rights. In this case, the Governor coupled the offer of full temporary release to the applicant with conditions 6 and 8 that he should reside outside the state and not change his residence from outside the state without limitation of time. In addition, under condition 9, temporary release was only approved in the company of officers of the GNIB on the basis that he agreed to submit to and comply with the removal process. The court is satisfied that this temporary release order would not have been made if the applicant had not agreed to comply with the conditions set out in the notice. It was clear, therefore, to the applicant that the balance of his sentence would not have be served by him and that he would be free to leave the prison if he accompanied the officers of the GNIB to the airport and left the state immediately after his release from prison. The granting of temporary release was directly linked to the execution of the removal order.

The Lawfulness of the Conditions
24. The question arises as to whether the granting of temporary release for that reason and in those circumstances was lawful.

25. In The *People (Director of Public Prosecutions) v. Alexiou* [2003] 3 I.R. 513, it was submitted to the Court of Criminal Appeal that it was unlawful to attach a condition that an offender leave the jurisdiction when imposing a suspended sentence. It was submitted that this intruded on the executive power of the Minister for Justice, Equality and Law Reform to deport which was exclusively conferred upon the Minister pursuant to the provisions of s. 3 of the Immigration Act 1999. This submission was rejected. In considering the conditions that may be attached to suspended sentences, the court relied upon the summary of criminal court practice set out in *Sentencing Law and Practice (2000)* (Thomas O'Malley) and stated:-

> "Later in the same chapter he (the author) observes at p. 337:-
>
> > 'Any practice that may have existed in the past of suspending sentences on condition that an offender who was an Irish citizen went elsewhere, usually to England, would no longer be legally or politically tolerable.'
>
> As a general statement concerning a practice that was not altogether unusual many decades ago, that is undoubtedly correct. He then went on to observe at p. 337:-
>
> > 'Foreign offenders are, however, occasionally banned from entering the state for a specified period, usually as a condition of bind over or a suspended sentence. To describe this as a deportation is not strictly accurate, as deportation is an executive power…more common practice, however, is for non-nationals to be bound over on the condition that they leave the state immediately, often for a specified minimum period.'

This is undoubtedly what sentencing courts do from time to time. Different considerations obviously arise in relation to citizens and European Union nationals."

26. Later in the judgment the Court stated:-

> "However, for the purposes of this case it may be said that conditions which are attached to suspended sentences usually reflect either something which the accused is bound to do in any case, such as to be of good behaviour and observe the law, or something which he has told the court he intends or wishes to do. This approach undoubtedly reflects a prudent concern on the part of the courts to avoid the risk of imposing a condition which would be tantamount to imposing a penalty not envisaged by the law. This could arise in the case, for example, of a non-national who was habitually resident in the state and in which he has worked for many years and raised his family. Where the only penalty prescribed by law was a fine or imprisonment, a suspended sentence conditional on such a person leaving the state against his express wishes, could be considered so extraneous to the penalties imposed by law and beyond the discretionary powers of sentencing vested in a trial judge. If in such a case, the nature of the offence appeared to the judge to be one which called in question the appropriateness of the accused being permitted to reside in the country, then he would have available to him the statutory power to make a recommendation to the Minister for Justice, Equality and Law Reform that he be deported. It would then be for the Minister, in his executive discretion to decide on that matter."

The court also noted that different considerations arise where an accused has little or no connection with the country and is required as a condition of a suspended sentence to return to his home country. The advantage of such an order is that it may eliminate the risk that the offender might commit further offences in this country or be a further burden on the taxpayer. The court was clearly mindful of the limitations of the use of this device in the case of European Union citizens because of their rights to free movement within the member states of the community. The court made clear that the declared intention of the accused to return to his own country as soon as he was free to do so was crucial to the making of such an order and noted the prudence of limiting the period of exclusion.

27. The prison authorities were attempting to offer a similar type of facility to the applicant who initially signalled his eagerness to avail of an opportunity to be released from custody. While the duration of conditions 6 and 8 may seem open-ended in time, in fact they could only apply until the sentence expired. Unfortunately, what the prison authorities did not realise at the time of the granting of this temporary release, was that the order embodied in condition 9 was seriously flawed. The full temporary release order was predicated upon compliance with that condition, albeit with the consent of the applicant, however ill-informed. The applicant could never have been obliged to comply with the defective order. Consequently, the court is satisfied that the granting of temporary release was also tainted with the illegality of the defective order insofar as it could not and would not have been granted had that defect been known to the Governor. The court cannot regard conditions 6, 8 and 9 as mere surplusage to the granting of temporary release since the evidence is clear that it was granted solely for the purpose of implementing the removal order.

28. On his return to prison after his arrest at the airport, the applicant's temporary release was purportedly revoked. The court is satisfied that the whole temporary release process was tainted will illegality, including its purported revocation. It is clear that the applicant could never have been regarded as a person who was unlawfully at large and subject to arrest under s. 7 of the Criminal Justice Act 1960, for refusing to board the aircraft at Dublin Airport by reason of a breach of condition 9. It is equally clear that he could not have been convicted of an offence of breaching a condition under s. 6 of the Act because the court is satisfied that the granting of temporary release in these circumstances was voidable by reason of the central illegality of the whole process - the defective removal order.

Recommittal to Prison
29. The next question is whether the illegal committal of the applicant to prison entitles him to be released notwithstanding the existence of the warrants in respect of the sentences which he is now serving.

30. In *The State (Murphy) v. Kielt* [1984] I.R. 458, the Supreme Court held that a person released on temporary release is entitled to be at liberty as long as he complies with the conditions of his release. It is difficult to see how temporary release, if lawfully granted in this case, could have been revoked because of a breach of condition by the applicant. However, I cannot disregard the reality that the applicant was returned to prison having been released, on a basis that was entirely flawed. This is in contrast to the *Murphy* case where no such issue arose.

31. In *M. v. Governor of Mountjoy Prison* [2011] IEHC 336, the applicant was granted temporary release for the purpose of travelling with members of GNIB to the airport for the purposes of being removed from the state in similar circumstances. However, events intervened and due to no fault of the applicant his lawful deportation became impossible, as a result of which he was returned to Ireland and lodged in prison to complete his sentence. Charleton J. considered that the applicant had been granted temporary release for a particular purpose which had not been fulfilled and which was not his fault. It was canvassed in argument whether the detention of the applicant might be made lawful, by revocation of the temporary release. Charleton J. expressed the view that he did not know whether the decision in *Murphy* was always applicable even where no fault in fulfilling the conditions of a temporary release order is alleged and made no ruling in that regard, though he did note that an applicant would have an entitlement to make representations on any alleged breach of the temporary release order before being returned to prison to serve out the balance of the sentence. The question of whether a temporary release order could be revoked for non-fulfilment of a condition without fault on the part of the applicant was left open.

32. The *M.* case may be distinguished from this case in that the temporary release decision made in *M.* was considered to be lawful but the condition accepted by the applicant became impossible for him to perform through no fault of his own. In that case the court was satisfied that it was fundamentally unfair to require the applicant to serve the balance of his sentence since he had the expectation that he would not have to serve it if he complied with the condition in the temporary release notice and accompanied Gardaí to the airport, boarded an aircraft and flew out of the country. In this case the process was tainted from the outset. Quite apart from the reluctance of the applicant to comply with the condition when brought to the airport, the incorrect operating assumption that there was a lawful removal order undermined the lawfulness of the entire temporary release process.

33. It is now acknowledged that the applicant was arrested unlawfully on 8th May at Dublin Airport and unlawfully returned to the prison for detention pending removal from the state. On 9th May his temporary release was revoked and he resumed serving his sentence. The applicant was absent from the prison based upon a fundamental error of law that he could be granted temporary release on foot of a removal order that was defective. The prison authorities now regard his temporary release as revoked. That decision is not challenged in these proceedings. However, the court regards the entire temporary release process engaged in, as fundamentally flawed. As a result of these events, the applicant found himself recommitted to Cloverhill Prison on 8th May, and was subsequently transferred to Wheatfield Prison on 9th May.

34. In considering the present lawfulness of the applicant's detention, the court must have regard to the existence of valid warrants under which he is presently detained. In *The State (McDonagh) v. Frawley* [1978] I.R. 131, O'Higgins C.J., stated that Article 40.4.2 should only be applied in post conviction inquiries where there has been "such a default of fundamental requirements that the detention may be said to be wanting in due process of law". He noted that other legal defects attaching to a conviction of sentence or conditions of detention fell to be investigated "under other forms of proceedings". It is the primary duty of the prison Governor to ensure that those committed to his custody pursuant to valid warrants serve the sentences imposed upon them by the courts.

35. The fact that the applicant is now physically in the custody of the Governor of Wheatfield Prison arises from his illegal arrest and return on 8th May. However, I am not satisfied that this vitiates lawful custody. There is ample authority for the proposition that although a person may be arrested or detained for a period which is unlawful, that detention may be rendered lawful by the occurrence or existence of other events. For example, *In Re ÓLaighléis* [1960] I.R. 93, the Supreme Court determined that even if an arrest was invalid, the subsequent detention was rendered lawful when the applicant was given information which made it clear to him why he had been arrested. This was subsequently applied by the Supreme Court in *The People (Director of Public Prosecutions) v. Walsh* [1980] I.R. 294. Thus, how the applicant came to be in Cloverhill Prison is not now the issue. The fact is he was lodged there and received back into the custody of the Governor who held warrants for his imprisonment in respect of a number of sentences imposed by the District Court. The currency of those sentences had been illegally interrupted and when faced with that reality, I am not satisfied that there is any lawful reason why the applicant should not be expected to serve out the remaining part of the sentences that he was directed to serve. I am, therefore, satisfied that in the unusual circumstances of this case, the applicant's continued detention pursuant to those warrants is in accordance with law. The Governor may, of course, consider him for temporary release in the future on the basis of any lawful conditions that he considers appropriate.