



THE COURT OF APPEAL

[231/2018]

The President

Whelan J.

McCarthy J.

BETWEEN

THE PEOPLE AT THE SUIT OF THE DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT

AND

CHRISTOPHER DUNNE

APPELLANT

JUDGMENT (Ex tempore) of the Court delivered on the 15th day of October 2018 by Birmingham P.

1. This matter was brought back before the Court at the instigation of the Probation Service. What is before the Court is an application for a revocation of a suspended sentence.
2. The position is that on 27th November 2014, this Court, on an appeal, imposed a sentence of eight years' imprisonment with the final three years suspended.
3. The position then is that on 25th May 2017, Mr. Dunne was released and that was with the expectation that he would reside at Priorswood House in Coolock.
4. Initially, matters went well. He secured a place on a community employment scheme and there was some reason for optimism. However, in July 2017, there were a number of positive tests for opiates and cocaine. There was an amount of going back and forth with Priorswood House, but the stage was reached, following further positive tests when Mr. Dunne was asked to leave Priorswood House. This was after one occasion when he was said to be under the influence of drugs at the house.
5. It had been a condition of his suspended sentence that he keep the peace and be of good behaviour, but unfortunately, that has not happened. On 15th December 2017, he was remanded in custody. He subsequently received a ten-month sentence on 18th January 2018 and a seven-month sentence on 27th April 2018.
6. These recent prison sentences were in respect of three offences, including one of theft, one of robbery, and one of possession of an offensive weapon committed in October, November, and December 2017. The fact of the failure to comply with the terms of the suspended sentence is not in dispute. It is acknowledged by Mr. Dunne on his behalf that that is the situation, but Counsel on his behalf says that such is the depth of his addiction and his difficulties that it would be appropriate, if reactivating, not to reactivate the sentence then in full.
7. The Court hears what is said in that regard but, nonetheless, it is of the view that when sentences are suspended that that has to have meaning. In this instance, there has been a very fundamental failure to comply.
8. It seems to the Court that the appropriate course of action is to activate the sentence in full. The one matter that the Court does have regard to is the fact that Mr. Dunne has been in custody since December 2017 and since 18th January 2018 was serving sentence, and yet it is only now, when the sentences have expired, that the question of activation is before the Court for a decision.
9. It seems to the Court that the appropriate course of action is to activate the suspended sentence in full, but to date the activation from 18th January 2018. We pick that as the date when he received a sentence and it must have been obvious to all that he was going to be spending a significant amount of time in custody. That seems to the Court to meet the justice of the situation.