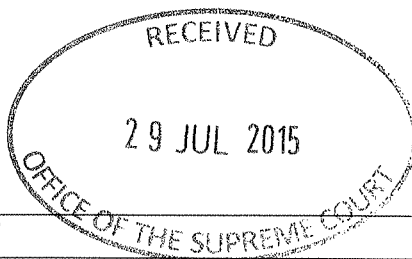


**SUPREME COURT
Respondent's Notice**



Supreme Court record number	40 / 2015
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[Title and record number as per the High Court proceedings]	
The People (at the suit of the DPP) V	Barry Doyle CCA Record No 50/2012 & Central Criminal Court Bill No CC49/2009

Date of filing	30 th July 2015
Name of respondent	Barry Doyle
Respondent's solicitors	Madden & Finucane
Name of appellant	Director of Public Prosecutions
Appellant's solicitors	Chief Prosecution Solicitor

1. Respondent Details

Where there are two or more respondents by or on whose behalf this notice is being filed please also provide relevant details for those respondent(s)

Respondent's full name	Director of Public Prosecutions
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The respondent was served with the application for leave to appeal and notice of appeal on date
16th July 2015

The respondent intends :

<input type="checkbox"/>	to oppose the application for an extension of time to apply for leave to appeal
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<input type="checkbox"/>	not to oppose the application for an extension of time to apply for leave to appeal
--------------------------	--

<input checked="" type="checkbox"/>	to oppose the application for leave to appeal
-------------------------------------	--

<input type="checkbox"/>	not to oppose the application for leave to appeal
--------------------------	--

<input type="checkbox"/>	to ask the Supreme Court to dismiss the appeal
--------------------------	---

<input type="checkbox"/>	to ask the Supreme Court to affirm the decision of the Court of Appeal or the High Court on grounds other than those set out in the decision of the Court of Appeal or the High Court
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<input type="checkbox"/>	Other (please specify)

If the details of the respondent's representation are correct and complete on the notice of appeal, tick the following box and leave the remainder of this section blank; otherwise complete the remainder of this section if the details are not included in, or are different from those included in, the notice of appeal.

<input type="checkbox"/>	Details of respondent's representation are correct and complete on notice of appeal:
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Respondent's Representation

Solicitor			
Name of firm	Chief Prosecution Solicitor		
Email	cca.mailbox@dppireland.ie; Patrick.Geraghty@dppireland.ie		
Address	90 North King Street Smithfield	Telephone no.	(01)8588500
		Document Exchange no.	DX 38
Postcode	Dublin 7	Ref.	
How would you prefer us to communicate with you?			
<input checked="" type="checkbox"/>	Document Exchange	<input checked="" type="checkbox"/>	E-mail
<input type="checkbox"/>	Post	<input type="checkbox"/>	Other (please specify)

Counsel			
Name	Mr Thomas O'Connell SC		
Email	thomas.oconnell@lawlibrary.ie		
Address	Caragh House Prosperous County Kildare	Telephone no.	086-8188629
		Document Exchange no.	DX:301109
Postcode			

Counsel			
Name	Mr Sean Guerin SC		
Email	sean.guerin@lawlibrary.ie		
Address	Law Library Four Courts Dublin 7	Telephone no.	086-8388610
		Document Exchange no.	DX:810186
Postcode			

If the Respondent is not legally represented please complete the following

Current postal address
Telephone no.
e-mail address

How would you prefer us to communicate with you?			
<input type="checkbox"/>	Document Exchange	<input type="checkbox"/>	E-mail
<input type="checkbox"/>	Post	<input type="checkbox"/>	Other (please specify)

2. Respondent's reasons for opposing extension of time

If applicable, set out concisely here the respondent's reasons why an extension of time to the applicant/appellant to apply for leave to appeal to the Supreme Court should be refused

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3. Information about the decision that it is sought to appeal

In Section 4 of the Notice of Appeal under the heading “relevant facts not considered to be in dispute” reference is made to remarks made by the interviewing Gardai to the Appellant in relation to Victoria Gunnery during the course of interviews 10 – 14 inclusive. These remarks were the subject of oral and written submissions at the trial and the appeal and are abstracted from their context to construct a theory of threat or inducement. It is important to emphasise that this aspect of the case was addressed in detail by the Court of Appeal in paragraphs 38 – 48 of its judgment. In paragraph 38 the Court of Appeal stated as follows:

[T]his Court also considers that the Applicants argument based on the selected statements, comments and questions from the transcripts of interview is not made out. This is a matter of interpretation of the exchanges, considered in context. It is of course subject to the reservation above expressed as to the superior opportunity for sense of perception enjoyed by the trial judge. But this Court was invited by the written and oral submissions of the Appellant to conclude from a consideration of the transcripts that the trial judge was in error in his assessment. In paragraph 39 the Court noted that some of the Garda comments are colloquial, to say the least, but there are no threats uttered. Neither is any explicit promise or inducement offered. It follows that any inducement or threat must be an implied one.

The Court of Appeal rejected that there was any such implied threat or promise.

At paragraph 48 the Court held that the learned trial judge was entitled to find on the evidence that the prosecution had established that the admissions made by the Appellant were not brought about by any inducement or threat.

It is important to point out that Ms. Gunnery’s arrest was lawful and legitimate and it was never suggested otherwise by the defence. Indeed during the trial defence Counsel conceded that there was no issue with the legitimacy of extending Ms. Gunnery’s detention and by implication they were not impugning the propriety and lawfulness of her arrest in the first instance. Ms. Gunnery gave evidence in chief at the trial capable of incriminating the Appellant.

As regards the Appellants access to his solicitor the court of appeal correctly ruled at paragraph 69 of the judgment :

The Appellant had access to his solicitor for as much time and on as many occasions as he or his lawyer requested, in which circumstances it is hard to see how he can say that there was oppression because of the inadequate legal advice available. The solicitor, Mr. O’Donnell, did not ask to be present for the interviewing by the Gardai. No doubt, had he asked for that facility, it would have been refused but that simply did not happen and it was not the understanding at the time that a lawyer was entitled to be present. That, however, does not make the detention of the Appellant retrospectively unconstitutional on the basis of a hypothetical refusal of a request that was not made.

4. Respondent's reasons for opposing leave to appeal

If leave to appeal is being contested, set out concisely here the respondent's reasons why:

In the case of an application for leave to appeal to which Article 34.5.3° of the Constitution applies (i.e. where it is sought to appeal from the Court of Appeal)-

- * the decision in respect of which leave to appeal is sought does not involve a matter of general public importance
 - * it is not, in the interests of justice, necessary that there be an appeal to the Supreme Court
1. The question of the voluntariness of the admissions made during interview 15 and subsequent interviews was primarily a question of fact and the learned trial judge applied the correct legal principles to his assessment of those facts.
 2. The Appellant had reasonable access to his solicitor and before the making of admissions in interview 15 he had approximately 25 minutes with his solicitor. Furthermore as the court of appeal noted at paragraph 9 of its judgment :

Then interview 15 began, but it was interrupted after a few minutes by a phone call from the solicitor who wanted to speak with his client, which then happened. Thereafter, the interview recommenced. Mr. Doyle now answered the questions put to him regarding his role and confirmed that he was the person who shot Shane Geoghegan.
 3. Neither Mr. Doyle nor his solicitor made any request that the solicitor be permitted to be present at the interviews and in particular interview 15.
 4. As regards the *Damache* point the Court of Appeal correctly held on the evidence that the Appellant did not raise the issue of lawfulness of his arrest and subsequent detention in the course of the trial. In fact, he not demur when the lawfulness of the arrest was asserted (paragraphs 157 and 158 of the judgment), nor did the Appellant challenge the lawfulness of the search warrant at the trial.

5. Respondent's reasons for opposing appeal if leave to appeal is granted

1. The issue of voluntariness of the admission was primarily a question of fact and inference and there was sufficient evidence to support the trial judge's finding that they were voluntarily made.
2. The Appellant did not challenge either the lawfulness of the search warrant or his arrest at the trial and consequently he is not entitled to benefit retrospectively from the decision in *Damache*.

As regards ground 2 the Respondent relies upon *People v Cronin (No. 2)* [2006] IESC 9; *People v Patchell* [2014] IECCA6; and *Sean Connolly v The DPP* – Decision of the Supreme Court delivered by Mr. Justice McMenamin on the 26th of March, 2015.

Name of counsel or solicitor who settled the grounds of opposition (if the respondent is legally represented), or name of respondent in person:

Mr Thomas O'Connell SC and Mr Sean Guerin SC

6. Additional grounds on which decision should be affirmed

Set out here any grounds other than those set out in the decision of the Court of Appeal or the High Court on which the Respondent claims the Supreme Court should affirm the decision of the Court of Appeal or the High Court:

N/A

Are you asking the Supreme Court to:

depart from (or distinguish) one of its own decisions?

Yes

No

If Yes, please give details below:

make a reference to the Court of Justice of the European Union?

Yes

No

If Yes, please give details below:

Will you request a priority hearing?

Yes

No

If Yes, please give reasons below:

Signed:



Chief Prosecution Solicitor
90 North King Street
Dublin 7
Solicitor for the respondent

Please submit your completed form to:

The Office of the Registrar to the Supreme Court
The Four Courts
Inns Quay
Dublin

And:

Madden & Finucane
80 Castle Street
Belfast
BT1 1HE