

No. 1

SUPREME COURT

Application for Leave and Notice of Appeal

For Office use

<i>Supreme Court record number of this appeal</i>		
<i>Subject matter for indexing</i>		

<i>Leave is sought to appeal from</i>	
<input checked="" type="checkbox"/> <i>The Court of Appeal</i>	<input type="checkbox"/> <i>The High Court</i>

[Title and record number as per the High Court proceedings]

<i>The People (AT THE SUIT OF THE DPP)</i>	V	<i>Barry Doyle</i>
<i>Date of filing</i>		
<i>Name(s) of Applicant(s)/Appellant(s)</i>		<i>Barry Doyle</i>
<i>Solicitors for Applicant(s)/Appellant(s)</i>		<i>Madden & Finucane</i>
<i>Name of Respondent(s)</i>		
		<i>DPP</i>
<i>Respondent's solicitors</i>		<i>OFFICE OF THE DPP</i>
<i>Has any appeal (or application for leave to appeal) previously been lodged in the Supreme Court in respect of the proceedings?</i>		
<input type="checkbox"/> <i>Yes</i>	<input checked="" type="checkbox"/> <i>No</i>	
<i>If yes, give [Supreme Court] record number(s)</i>		

<i>Are you applying for an extension of time to apply for leave to appeal?</i>	<input type="checkbox"/> <i>Yes</i>	<input checked="" type="checkbox"/> <i>No</i>
<i>If Yes, please explain why</i>		

1. Decision that it is sought to appeal

<i>Name(s) of Judge(s)</i>	<i>The President Ryan J ; Birmingham J ; Edwards J</i>
<i>Date of order/ Judgment</i>	<i>8th June 2016</i>

2. Applicant/Appellant Details

Where there are two or more applicants/appellants by or on whose behalf this notice is being filed please provide relevant details for each of the applicants/appellants

<i>Appellant's full name</i>	<i>Barry Doyle</i>
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Original status

<input type="checkbox"/>	<i>Plaintiff</i>
<input type="checkbox"/>	<i>Applicant</i>
<input type="checkbox"/>	<i>Prosecutor</i>
<input type="checkbox"/>	<i>Petitioner</i>

<input checked="" type="checkbox"/>	<i>Defendant</i>
<input type="checkbox"/>	<i>Respondent</i>
<input type="checkbox"/>	<i>Notice Party</i>

Solicitor : Peter Madden			
Name of firm	Madden & Finucane		
Email	PaulMcCann@madden-finucane.com		
Address	11 Ard Caoin, Manorcunningham Co Donegal/88 Castle Street, Belfast, BT1 1HE.	Telephone no.	048 9023 8007
		Document Exchange no.	434 NR BELFAST
		Ref.	PMCC
		Postcode	

How would you prefer us to communicate with you?

<input checked="" type="checkbox"/>	Document Exchange
<input type="checkbox"/>	Post

<input checked="" type="checkbox"/>	E-mail
<input type="checkbox"/>	Other (please specify)

Counsel			
Name	Martin O'Rourke Q.C., S.C.		
Email	martin.orourke@barlibrary.com		
Address	Bar Library Royal Courts of Justice Chichester Street Belfast	Telephone no.	
		Document Exchange no.	
		Postcode	

Counsel			
Name	Donal McGuinness B.L.		
Email	donalmcguinness@me.com		
Address	Distillery Building 145-151 Church Street Dublin 7	Telephone no.	0863813288
		Document Exchange no.	816650, Four Courts, Dublin.
		Postcode	

3. Respondent Details

Where there are two or more respondents affected by this application for leave to appeal, please provide relevant details, where known, for each of those respondents

Respondent's full name	Office of the DPP
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Original status

<input type="checkbox"/>	Plaintiff
<input type="checkbox"/>	Applicant
<input checked="" type="checkbox"/>	Prosecutor
<input type="checkbox"/>	Petitioner

<input type="checkbox"/>	Defendant
<input type="checkbox"/>	Respondent
<input type="checkbox"/>	Notice Party
<input type="checkbox"/>	

Solicitor Seamus Cassidy			
Name of firm	Office of the DPP		
Email			
Address	90 North King Street Smithfield Dublin 7	Telephone no.	01858 8500
		Document Exchange no.	
		Ref.	
		Postcode	

Postcode	D7
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How would you prefer us to communicate with you?

<input type="checkbox"/>	Document Exchange
<input type="checkbox"/>	Post

<input type="checkbox"/>	E-mail
<input type="checkbox"/>	Other (please specify)

Counsel

Name	Thomas O'Connell S.C.		
Email	-		
Address	Law Library, Four Courts Dublin 7	Telephone no.	045-860118
		Document Exchange no.	301109
Postcode			

Counsel

Name	Sean Guerin S.C.		
Email	sean.guerin@lawlibrary.ie		
Address	Distillery Building 145-151 Church Street Dublin 7	Telephone no.	01-8175232
		Document Exchange no.	810186
Postcode	D7		

If the Respondent is not legally represented please complete the following

Current postal address	-
e-mail address	-
Telephone no.	-

How would you prefer us to communicate with you?

<input type="checkbox"/>	Document Exchange
<input type="checkbox"/>	Post

<input type="checkbox"/>	E-mail
<input type="checkbox"/>	Other (please specify)

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

Please set out below:

Whether it is sought to appeal from (a) the entire decision or (b) a part or parts of the decision and if (b) the specific part or parts of the decision concerned

(a) A concise statement of the facts found by the trial court (in chronological sequence) relevant to the issue(s) identified in Section 5 below and on which you rely (include where relevant if certain facts are contested)

(b) In the case where it is sought to appeal in criminal proceedings please provide a concise statement of the facts that are not in dispute

The relevant orders and findings made in the High Court and/or in the Court of Appeal

This appeal is sought with respect to the following specific parts of the decision of the Court of Appeal:

- i. wherein it was held that the learned trial judge was correct in law to find that the prosecution had established that the admissions made by the appellant were not brought about by any inducement, threat, oppression or unfairness;*
- ii. wherein it was held that the trial judge was correct in not withdrawing the admissions from the jury;*
- iii. wherein the Court of Appeal in considering whether the interviews constituted inducements or threats deferred to the trial judge's assessment as he had viewed the audio-video recordings despite there being no dispute as to what was said as the words stated by the Garda were unambiguous and were audio and video recorded and fully transcribed and as a matter of law the words are required to be considered objectively without regard to the intentions of the maker of the statements.*
- iv. wherein the Court relied on the principle in *The People v Madden & Others* [1977] IR 336 in expressing reluctance to upset the findings of the trial Judge where the words used by the Garda could and should have been considered objectively by the appellate court.*
- v. wherein it was held that the interaction between the solicitor and the gardai as recorded in the memo of the gardai was decisive in disproving the appellant's contention that the undisputed contents of prior interviews as recorded constituted inducements or threats;*
- vi. wherein it was held that applying the burden and standard of proof in disproving the effect of an inducement or threats, that the interruption in the interview process and a visit by a solicitor between interview 14 and 15 was, per se, evidence sufficient to establish that the effects of any prior inducements and threats had dissipated;*
- vii. wherein it was held that an alleged "proposal" by the Appellant's solicitor upon his meeting with the gardai was conclusive evidence of the dissipation in the mind of the appellant of any prior threat or inducement by the gardai;*
- viii. wherein it was held that the gardai were not brokering a "deal" between themselves and the Appellant;*
- ix. wherein it was held that the evidence of inducement falls down because the Appellant did not demand confirmation that Victoria Gunnery had been released at the conclusion of interview 15*

in which he first admitted the offence;

- x. *wherein the Court held that the conduct of the Appellant releasing limited information indicated he was not acting under "compulsion of inducement or threat" and whether the Court was applying the correct legal test for inducement or threat;*
- xi. *wherein it was held that the Appellant had reasonable access to a solicitor during his detention prior to admissions being made;*
- xii. *wherein it was held that despite the Appellant's solicitor being excluded from being present during the interviews of the Appellant, and having regard to the content of the interviews this amounted to reasonable access to a solicitor;*
- xiii. *wherein it was held to be relevant that the Appellant's solicitor did not request to be present during the interviews and whether in fact the obligation is on the state to offer this right to the detained person;*
- xiv. *wherein the court held that the effect of a solicitor's presence was hypothetical in the circumstances;*
- xv. *wherein it held that the trial judge did not misapply the law on inducements, threats, oppression or unfairness;*
- xvi. *wherein it was held that the Appellant was not entitled to rely on the Judgement of the Supreme Court in *Damache v DPP [2012] IESC 11*.*
- xvii. *Wherein it held that the trial was satisfactory and that the conviction of the Appellant was safe.*

Relevant Facts not considered to be in dispute

The Appellant was arrested during a search of the Appellant's home at 106 Hyde Road Limerick which was carried out on foot of warrant issued on the 23rd February 2009 under section 29 of the Offences Against the State Act 1939. The warrant was issued by Superintendent Ann Marie McMahon who was in overall charge of the investigation of the murder of Shane Geoghegan.

The Appellant's former girlfriend and mother of his infant child, Victoria Gunnery, was also detained at the same time under a section 29 warrant for withholding information. The infant child had an ongoing medical condition requiring hospital visits. The telephone records indicated the Appellant and Victoria Gunnery remained in daily contact with each other.

Though initially detained and questioned in Dublin, Victoria Gunnery, was later transferred to a Garda station in Limerick close to where the Appellant was detained.

The Appellant's interviews were audio and video recorded and later fully transcribed. The words used by the interviewing Garda are clear, unambiguous and not in dispute.

Over the course of the interviews with the Appellant, various references to the appellant's relationship with Victoria Gunnery and their child were made by the interviewers. During the final interview on the Appellant's second day of detention (25/2/09 interview 10) Garda interviewers revealed to the Appellant that Ms Gunnery was also being detained and they

put certain matters which had been disclosed by Vicky Gunnery to the Appellant. Whilst these matters are not the subject of any criticism, during that interview (10) and the succeeding four interviews on the 26/2/09 (interviews 11-14) the interviewing Garda also included statements and remarks to the following effect:

- That Vicky Gunnery was in custody "for the same offence" arising out of the "same incident" namely the murder of Shane Geoghegan; [Interview 13 page 30][13.30]
- She was in custody the same amount of time as the defendant; [10 page 8]
- She had done nothing wrong [10.8];
- She was being detained because of the defendant [10.8];
- She was suffering hardship and deprivation [10.9] [14.16];
- Because of Victoria's detention their child was suffering hardship and was being deprived of it's mother which was the defendant's fault [10.9] [14.16];
- That unless he confessed his family difficulties were going to get worse [10.9] [10.11] [10.13];
- That the defendant was failing his daughter as a father by not confessing [10.8] [10.12];
- That he should "come clean and tell the truth" for "everybody's sake" [14.13];
- That he should "do the right thing...tell the truth" and "don't keep Vicky away from the young one longer than she has to be...for the sake of your child." [13.32].
- That unless he confessed he'd never get to see the child again [10.12];
- That he would not get to see his other children (by a different mother - Anita) [10.11];
- Unless he confessed he was going to end up in hardship regarding his family [10.13];
- In return for a confession the Gardai would put in a good word to Vicki Gunnery to help the defendant's position vis-à-vis his family [10.19].
- That Vicki's detention was not what the Gardai wanted but caused by the defendant's lack of confession [13.20-21];
- That the defendant's lack of confession as causing Vicki to be detained and away from her child and that if he confessed she would be released – so he should do the right thing. [13.32];
- That Vicki would be released when the Gardai had no reason to detain her i.e. when the defendant confessed [memo];
- "Do you see what you've brought your family and friends down to? Barry look at me. Do you see what you've brought your family and friends down to? Your child without their mother because of you, because of you. Your child has no mother for the last few days because of you." [10.7]
- "Your ex girlfriend now, the mother of your child, is now in a station cell very similar to yours lying on a mattress very similar to yours, eating the same food as you and no visits and I tell you to take a mother away from her child like that, that's your fault; that's not out fault, That's your fault...." [10.7]

During Interview 14 the Appellant requested to consult with his solicitor but despite such requests the interview continued without consultation and although no specific admissions were made by the Appellant the thrust of the questioning during the remainder of that interview was to persuade him to surrender his right to silence and confess to the offence.

Interview 14 ended at 1835 hours on the 26/2/09. By this time the Appellant had made no admissions. He had been detained for 3 days and interviewed in excess of 21 hours in total.

The Appellant's solicitor, Michael O'Donnell arrived at the station at the request of the Appellant. Mr O'Donnell had a brief consultation with the Appellant. He then made an approach to Detectives Hanley and Phillips for an 'off the record' discussion with Detectives Hanley and Phillips. A hand written memo of the verbal exchanges between Mr O'Donnell and Detectives Hanley and Phillips was prepared by the detectives in the early hours of the morning of the 27/2/09. Amongst other matters this records that Victoria Gunnery would not be released "before" the defendant confessed to the murder in an interview. The inferences, implications and meaning of that memo and the intention behind its creation are matters

that are in dispute.

Following the exchanges between Mr O'Donnell and the interviewing Garda and after a brief further consultation with the Appellant, Mr O'Donnell left the station and interview 15 commenced at 1943 hours and finished at 2105 hrs. The Appellant made admissions almost as soon as this interview commenced. Interview 16 followed and commenced at 2209 hours finishing at 2339 hours, during which the Appellant made further admissions.

The Appellant had the following access to a solicitor before making admissions on the 26/2/09 in interview No. 15 at 19.43:

- A two minute telephone consultation with Sarah Ryan 24/2/09 @ 09.55 (before any interview).
- A nine minute consultation with Mick O'Donnell Solicitor on 24/2/09 @ 11.05 (after conclusion of interview No. 1).
- A two minute consultation by telephone on 26/2/09 @ 5.15pm with Mick O'Donnell.
- A 25 minute consultation on 26/2/09 @ 16.52 with Mick O'Donnell. At least some of this was taken up negotiating with the Gardaí about the release of Vicki Gunnery.

Apart from the nature of the charge, no disclosure was made to the Appellant's solicitor in advance of interview disclosing even in general terms the nature of any evidence against the Appellant. Furthermore, between interviews no details were provided to the Appellant's solicitor regarding the content of the preceding interviews. Although no specific request for legal representation during the interviews was made it was accepted in evidence that there was a longstanding and inflexible policy to refuse representation during interview and that had a request been made in the instant case it would have been refused.

5. Reasons why the Supreme Court should grant leave to appeal

Reasons in law why the decision sought to be appealed involves a matter of general public importance/and/or why it is in the interests of justice that the appeal is heard-

1. The fair administration of justice requires that the Court ensures that any confessions obtained while an accused is in Garda custody are obtained voluntarily. It is contended in this case that the cumulative effect of the content and the manner in which the interviews were conducted was such that the admissions made could not be considered voluntary.

The content of the questioning of the Appellant by the Garda incentivised a confession by relating the appellant's admission with the release of Victoria Gunnery and the alleviation of her distress and that of their infant child.

This was designed to and did undermine the accused's right to silence.

2. An accused has a right to reasonable access to a solicitor while in custody but the extent of that right has not been precisely defined. Specifically, whether a suspect is entitled to legal representation in this jurisdiction during police interviews requires clarification by the Supreme Court and is a matter of general public importance.

The denial of access to independent legal representation at a key moment in the criminal process, namely during investigative interviews, is a denial of the accused's constitutional right to a fair trial in due process of law and of the accused's fair trial rights under the European Convention on Human Rights.

At the time of the questioning of the Appellant in the investigation concerned, it was the immutable practice of the Garda that a suspect could not have his solicitor present during interviews. Moreover, apart from the general nature of the alleged offence, no information was provided by the Garda to the solicitor, pre-interview, concerning matters germane to the allegations which may have informed a solicitor's advice to the detainee during his legal consultation. Following interview no information, even in summary form, was ever provided by the Garda to the solicitor regarding the content of the interview.

In the circumstances, while the Appellant, who was at the time just twenty-three years of age, had some out-of-interview access to his solicitor (as set out above), this could not be considered reasonable. This amounts to a denial of his Constitutional right to a trial in due process of law and to his fair trial rights under Art.6 of ECHR.

The lack of reasonable access to a solicitor when combined with the Garda approach during questioning constituted an unlawful infringement of the accused's right to silence.

Had a solicitor been permitted to be present during the interviews, the obvious psychological imbalance created between the interviewers and the Appellant by the conditions and circumstances of an under-caution interview would have been substantially redressed. Furthermore, the psychological pressures, threats and inducements which are self-evident from the transcripts of the interviews would not have been permitted to occur.

The presence of a solicitor during the interviews would have permitted legal advice in a meaningful way outside the interview room. In the absence of any awareness on the part of the Appellant's solicitor as to what precisely was going on during these interviews, he could not be properly informed about matters that required his advice. The analysis of the interviews it is submitted illustrates that the exclusion of solicitors from the interview process leads in some cases but most certainly in this case to the creation of an inequity in the interview process, to the creation of inappropriate pressures, a degradation of the interrogation process and ultimately a manifest unfairness and or oppression of the Appellant and /or other persons in custody.

3. The admissions made in those circumstances were therefore made as a result of breaches of the requirement of fundamental fairness which is a matter of general public importance and the interests of justice require that the meaning of reasonable access to a solicitor and the conduct of Gardai during interviews with detained persons is considered and clarified.
4. The above issues have been comprehensively addressed by the US Supreme Court in *Miranda v Arizona* 384 U.S. 436 and resolved in favour of a detained person's right to have a legal adviser present during police interview. Support for the application of the *Miranda* judgement in this jurisdiction may be found in the judgement of the Supreme Court in **DPP v Gormley and DPP v White [2014] IESC 17** although the factual circumstances in those appeals did not enable the Supreme Court, in those cases, to reach a binding decision on the specific right of a suspect to have a solicitor present during police interview.
5. The safety of the conviction in the present case depends upon the lawfulness of the interviews conducted in the absence of a solicitor. Accordingly, this case presents the Supreme Court an opportunity to determine the meaning of reasonable access to a solicitor and whether the denial of access during interview infringes the detained person's constitutional rights at any subsequent trial.
6. Appeal ground no. 27 in the Appeal to the Court of Appeal challenged the entry to the applicant's home at 106 Hyde Road Limerick on the 24th February 2009 on foot of a search warrant issued under Section 29 of the Offences Against The State Act 1939. Following *Damache*, the Appellant submitted on appeal but not at trial that the warrant issued by her was unlawful, the Appellant's arrest under Section 4(3) of the Criminal Law Act 1972 and subsequent detention under section 50 of the Criminal Justice Act 2007 were consequently unlawful. The trial Court proceeded on the basis that the arrest and detention were lawful and that position was expressed to be the case by the prosecution
7. It was contended in the appeal that the admissions made during this period of unlawful detention ought to have been excluded as evidence in the trial. Though this issue was not raised during the trial, it was included in the Notice of Appeal filed. The Court of Appeal refused to consider this ground of Appeal as the Appellant had at no stage taken any issue with the lawfulness of his arrest during the course of the trial. There have been a number of decisions of the Court of Appeal and Court of Criminal Appeal in

¹ Exhibit 28; Day 14 03/02/12 Evidence of Sergeant Swann

² Transcript of Evidence , voir dire 17/01/12 Page 27 line27.

Ireland that consider the circumstances where it is appropriate for an appellate court to consider a matter that was not argued at the trial. Those decisions are inconclusive and at times conflicting. The manner in which the Court of Appeal interpreted those decisions in the present case as advocated by the DPP was to exclude entirely from consideration on appeal, a matter that was not raised during the trial and therein referred to as "Damache- lawfulness of the arrest and allegedly tainted confessions". While as a general principle, there is a need for finality of issues in the criminal process at the time of trial, the constitution reserves the Supreme Court as the Court of final appeal and nominated the Court of Appeal as an appellate court in the criminal process. The interests of justice should permit the examination and application of a matter of law in circumstances such as the present case: The decision of the Supreme court in In Damache v DPP [2012] IESC 11 was handed down eight days after the conclusion of the trial. The issue arising is the breach of a constitutional right occurring at a critical time in a criminal investigation. The issue raised was which was entirely a matter of law and was properly raised as a ground of appeal before the conclusion of the appeal process and at the earliest opportunity as Damache set a new precedent. It is a matter of general public importance that the scope of the appellate courts in the criminal process is defined.

6. Ground(s) of appeal which will be relied on if leave to appeal is granted

Please list (as 1, 2, 3, etc) concisely:

- 1. the specific ground(s) of appeal and the error(s) of law related to each numbered ground**
- 2. the legal principles related to each numbered ground and confirmation as to how that/those legal principle(s) apply to the facts or to the relevant inference(s) drawn therefrom**
- 3. The specific provisions of the Constitution, Act(s) of the Oireachtas, Statutory Instrument(s) and any other legal instruments on which you rely**
- 4. The issue(s) of law before the Court appealed from to the extent that they are relevant to the issue(s) on appeal**

Grounds of Appeal

- 1. That the Court of Appeal erred in dismissing grounds 1-7 of the Appeal and upholding the trial Judge's finding that the admissions made by the Appellant were admissible in evidence.*
- 2. That the Court of Appeal erred in holding that the Appellant was not entitled to rely on the decision of the Supreme Court in Damache v DPP [2012] IESC 11 (which was decided 8 days after the conclusion of the trial) for the purposes of challenging the lawfulness of the arrest of the Appellant because a challenge had not been made by the defence to his arrest during the trial.*

Legal principles

With respect to ground No1:

The admissions made by the Appellant during the interviews with the Gardaí ought to be excluded on the grounds that:

- they were involuntary in that they were made as a result of a combination of threats, inducements and oppression;
- further and alternatively, they were made as a result of breaches of the Accused's constitutional right of reasonable access to legal advice; and
- further and alternatively, they were made as a result of breaches of the requirement of fundamental fairness.

With respect to ground No2:

*Under the Constitution the Supreme Court is described as the Court of final appeal and, under Article 34.4.6 it is its decision that shall in all cases be final and conclusive. The decisions made in the trial court are subject to review by the Court of Appeal and by the Supreme Court. Where there is a right of appeal provided by law, finality cannot attach to the decision of a court that is subject to that appeal unless and until the appeal has concluded. The Court of Appeal incorrectly excluded from its consideration a matter, which was properly raised by Counsel before the criminal case against the Appellant had been concluded. It would be grossly unfair if a the matter of the warrant could not be raised on appeal in circumstances where the Applicant was not aware of and could not have anticipated the outcome of **Damache v DPP [2012] IESC 11**. On the other hand, the DPP were fully aware of all the arguments that were made in the Supreme Court in Damache and knew that a decision was shortly due to be delivered in the matter but chose not to mention them to the defence or to the trial judge, choosing instead to expressly state to the Court that the arrest was lawful.*

Name of solicitor or (if counsel retained) counsel or applicant/appellant in person:

Martin O'Rourke Q.C., S.C.; Donal McGuinness B.L.

7. Other relevant information

Neutral citation of the judgment appealed against e.g. Court of Appeal [2015] IECA 1 or High Court [2009] IEHC 608

The People (At The suit of the Director of Public Prosecutions) v Barry Doyle [2015] IECA

References to Law Report in which any relevant judgment is reported

R v Smith [1959] 2QB 35, R v Zaveckas [1970] 1 All ER 413; People v Hoey [1987] 1 IR 63, People (DPP) v Pringle (1981) 1 Frewen 57 @ 84-85; People v McCann [1998] 4 IR 397; People (DPP) v Healey, [1990] 2 IR 73; Lavery v Member in Charge, Carrickmacross Garda Station [1999] 2 I.R. 390; ; People (DPP) v Buck [2002] 2I.R. 268.

Miranda v Arizona 384 U.S. 436; Magee v UK (2001) 31 EHRR 35; Salduz v Turkey 27/11/08; Cadder (Appellant) v Her Majesty's Advocate (Respondent) (Scotland) [2010] UKSC 43; People (DPP) v Shaw [1982] Ir 1; Damache v DPP [2012] IESC 11; The People (DPP) v Barry O'Brien [2012] IECCA 68; DPP v A.D. 2012 IESC 33; The people (DPP) v Cunningham [2012] IECCA 64, DPP v Gormley and DPP v White [2014] IESC 17

8. Order(s) sought

Set out the precise form of order(s) that will be sought from the Supreme Court if leave is granted and the appeal is successful:

- The admissions made by the Appellant were inadmissible in evidence and/or ought to have been withdrawn from the Jury.
- The Appellants arrest on 24th February 2009 and subsequent detention was unlawful.
- The conviction of the Appellant for the murder of Shane Geoghegan in the Central Criminal Court on the 15th February 2012 is quashed.

What order are you seeking if successful?

Order being appealed:

set aside

vary/substitute

Original order:

set aside

restore

vary/substitute

If a declaration of unconstitutionality is being sought please identify the specific provision(s) of the Act of the Oireachtas which it is claimed is/are repugnant to the Constitution

If a declaration of incompatibility with the European Convention on Human Rights is being sought please identify the specific statutory provision(s) or rule(s) of law which it is claimed is/are incompatible with the Convention

The failure to permit the Appellant's solicitor to be present during interview was a denial of his rights to a fair trial as required under Article 6 of the European Convention on Human Rights.

Are you asking the Supreme Court to:

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

Yes

X

No

If Yes, please give details below:

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

Yes

X

No

If Yes, please give details below:

Will you request a priority hearing?

Yes

X

No

If Yes, please give reasons below:

Signed: Madden Finucane

(Solicitor for) the applicant/appellant

Please submit your completed form to:

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

together with a certified copy of the Order and the Judgment in respect of which it is sought to appeal.

This notice is to be served within seven days after it has been lodged on all parties directly affected by the application for leave to appeal or appeal.