

THE HIGH COURT

Record No. 2016/866 JR

Between

STEPHEN MANNING

Applicant

-v-

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

SECOND (SUPPLIMENTARY) AFFIDAVIT OF STEPHEN MANNING

***Subtitle:** For the purposes of detailing: (A) some of the more serious ‘inconsistencies’ omissions, erasures and inaccuracies in the Prosecution’s evidence in District Court Case No 2-16/40190 DPP vs Granahan & Manning as referred to in Para’s 20, 30, 31, 32, 44, 45: (Subsections 7, 8, 10, 23, 24, 39, 40, 41, 42, 43, 44, 47, 48, 48 & 50); and in Para’s 61, 65, 67-73, 79, 87-91,108-112 of my Grounding Affidavit, and; (B) incorporating details of a High Court Hearing before Justice Paul Gilligan on November 14th last (as per the sub-note at Para 83 in my Grounding Affidavit) which Hearing I assert was conducted in utterly improper and unconstitutional circumstances on the part of Justice Gilligan, said improper acts having been predicated on similar ‘improper activities’ by Judge James Faughnan’s legal team in that case, namely Collins Solicitors of Carrick-on-Shannon & Dublin – as detailed herein.*

1. I am the Applicant in this matter and the 2nd named Defendant in the above entitled proceedings and I make this affidavit from facts within my own knowledge save where otherwise appears and where so appears I believe the same to be true and accurate.

-----**(A)**-----

2. The following observations regarding the written and oral evidence of certain prosecution witnesses establishes beyond any doubt that; (i) key DAR evidence has been either unlawfully erased, unlawfully omitted or unlawfully suppressed in breach of a District Court Order of Disclosure in circumstances whereby this was done after being listened to by certain prosecution witnesses; and (ii) that agents of the State, including persons affiliated with the Courts Service, the DPP’s Office and An Garda Síochána have conspired to advance a knowingly-malicious prosecution based on flawed, contrived and perjured evidence.

3. Evidence of Mr Peter Mooney – Castlebar Courts Service Office Manager.

- I. Mr Mooney's 'statement of evidence' in this case is headed "9th September" but is somehow signed off on "September 2nd" – a week earlier – and the very same day as the Hearing in question. Is this a simple mistake? Or is it an 'inadvertent' indicator of a backdated statement? For the reasons explained below, the Applicant Stephen Manning contends that this statement by Mr Mooney has (almost certainly) been fraudulently backdated for the purposes of endorsing and supporting a criminal conspiracy by agents of the State, to advance a knowingly-malicious prosecution.
- II. Mr Mooney is meticulous for example, in noting the exact times of various alleged events on the day, beginning with him (allegedly) turning on the DAR system at 10.51am and noting that he had 'inadvertently' forgotten to manually turn it on at 10.30am as would be usual and normal procedure when a Judge is sitting. If Mr Mooney's statement is true, this means that exactly 20 minutes of key recordings are now 'inadvertently' (and conveniently) 'unavailable' to the Defence as *prima facie* evidence of what really transpired on Sept 2nd 2015. But as we will see in a moment, it now appears that the DAR was in fact deliberately and unlawfully interfered with.
- III. The sworn evidence statement of; (i) Sgt Gary McEntee notes that, "Court commenced at 10.30am" (as do the statements variously of (ii) Garda Denis Egan, (iii) Garda John Flanagan, (iv) Garda Sean Ryan, (v) Sgt Naomi Di Ris & (vi) Superintendent Joe McKenna). Sgt McEntee further notes that, "Mr Mooney requested that the proceedings were not to be recorded by anyone present." This aligns with my own recollection of events, as well as that of the other named Defendant Mr Colm Granahan and some 20 members of the public present.
- IV. However, this then raises the disturbing question; is it really possible that in a high-profile Hearing such as this, that the experienced Mr Peter Mooney would make a point of reminding everyone else in the Courtroom NOT to record, and yet would simultaneously somehow 'forget' to manually switch on the DAR himself – as per normal procedure?* The Applicant suggests—and intends to prove herein—that this is not a plausible scenario, and that the DAR WAS in fact switched on manually from 10.31am – and that some of the files have since been deleted from the record, in a blatant, premeditated, criminal act.

**Information gleaned from the Courts Service own 'service contracts' and from the operating manuals of Fijitsu Corporation (who installed the DAR system in the Irish Courts); as well as from recorded conversations with employees of the Courts Service suggests that the procedure is that the DAR should be recording at ALL times when the Judge is sitting. That in ALL of the Circuit and Superior Courts that the DAR is programmed to come on automatically at the scheduled time of sitting, and that a second back-up system is also in operation. However, in some District*

Courts, the DAR must be turned on manually by the Court Officer. Mr Mooney asserts that this latter ‘manual system’ is the one he was using that day.

- V. The evidence shows that the DAR system records in ‘FTR’ (*For The Record*) files containing exact 5-minute segments (of approximately 1,921kb on a computer). The start-and-stop times on the day in question, as well as the play-lengths of each file are clearly displayed on the CD itself as well as on the FTR media player. We can see that the last file contains only 1 minute and 15 seconds which indicates that the DAR was manually switched off (probably by Mr Mooney) at 12:22:32secs pm towards the front end of another 5-minute cycle.
- VI. Working backwards from the start of that last file, it is relatively easy to work out that IF the DAR was actually switched on as per normal practice at (or around) 10.30am it would mean that we (the Defendants) should have received a CD from the Courts Service containing 23 files. 22 of them would have been exactly 5 minutes long, and the last one would have been 1min 15secs, totalling 2hrs and 52 minutes.
- VII. In fact, it can be mathematically deduced from the existing files in the possession of the Applicant that **if** the DAR had been switched on as per usual procedure that it would have commenced at exactly 10:31:05am. But Mr Mooney claims in his written statement (and under oath) that he ‘inadvertently forgot’ to switch on the DAR until ‘10.51am’. To be absolutely precise, that particular file which Mr Mooney claims is the first of the day (*‘File 5’ below*) begins at 10:51:07am which, by some amazing stroke of fate is precisely 20:00:02 minutes (or exactly four DAR/FTR files) after the mathematically deduced *real* start time of 10:31.05am.*

**There is a change-over margin between the DAR files of up to 2 seconds.*

List of DAR recordings – including those ‘missing’ from the Courts Service CD

File 1: 10:31:05 – 10:36:06

File 2: 10:36:06 – 10:41:06

File 3: 10:41:06 – 10:46:07

File 4: 10:46:07 – 10:51:07

File 5: 10:51:07 – 10:56:08

File 6: 10:56:08 – 11:01:09

File 7: 11:01:09 – 11:06:09

File 8: 11:06:09 – 11:11:10

File 9: 11:11:12 – 11:16:11

File 10: 11:16:11 – 11:21:11

File 11: 11:21:11 – 11:26:12

File 12: 11:26:12 – 11:31:12

File 13: 11:31:12 – 11:36:13

File 14: 11:36:13 – 11:41:13

File 15: 11:41:13 – 11:46:14

File 16: 11:46:14 – 11:51:14

File 17: 11:51:14 – 11:56:15

File 18: 11:56:15 – 12:01:15

File 19: 12:01:15 – 12:06:15

File 20: 12:06:15 – 12:11:16

File 21: 12:11:16 – 12:16:16

File 22: 12:16:16 – 12:21:17

File 23: 12:21:17 – 12: 22:32
(Final file 1min 15 secs long)

- VIII. So, if we are to believe Mr Mooney's sworn testimony, then this explains (albeit by an amazing coincidence) how it was that exactly four 5-minute sections of DAR were NOT presented as evidence on the CD presented to the Defence upon Order of the Court. (See files 1-4 above) It also means that by yet another amazing co-incidence, that Mr Mooney must have 'suddenly remembered' to manually switch on the DAR at what would have been the precise time (within a 2-second margin) when one file had ended and another 5-minute cycle was beginning (See file 5 above in bold).
- IX. By yet another amazing coincidence, those 'missing' 20 minutes of recordings (which Mr Mooney HAS taken provisional responsibility for) cover four other applications scheduled before Stephen Manning's that day, and would have demonstrated that the Court was operating absolutely 'as normal' with no unrest or interference from anyone present, and would have covered the first couple of minutes of my own application (as a lay prosecutor) for a criminal summons vs Sgt Peter Hanley, which I say was conducted in 'firm but respectful' tones with Judge Kilraine. The remainder of my discussion with Judge Kilraine which details the specifics of my allegations of serious misconduct on the part of the Judge would have been covered in 'File No 5'.
- X. By Mr Mooney's own questionable account of when he actually switched on the DAR that morning, we SHOULD therefore have received 19 files on the CD from the Courts Service. However, the CD supplied to me by Mr Mooney only contains 18 files, with 'File No 5' conspicuously missing. This 'No 5 File' is arguably THE most important file from my point of view, because it would make a nonsense of the vexatious and contrived allegations against me, and would further demonstrate malicious intent on the part of the Prosecution. This fifth 5-minute section of DAR has therefore also 'gone missing'—this time without explanation and in highly suspicious circumstances—in direct contravention of the Order of the Court!
- XI. That fifth section ('File 5') covered the rest of my opening discussion with Judge Kevin Kilraine and would have demonstrated that I was absolutely professional in my approach; that I had legitimate concerns about what was going on in Court that day; and that Judge Kilraine was NOT dealing with the reasonable questions being put to him and was in fact engaged in legally 'inexplicable' and arguably criminal behaviour. Indeed, in light of subsequent events and evidence, the fact that Judge Kilraine was engaged that day in improper and surreptitious behaviour in collusion with other agents of the State is surely now beyond question.
- XII. As to Mr Mooney's personal culpability; the added fact that Peter Mooney lists specific times such as '10.40am', '10.51am' and '10.53am' in his written statement demonstrates that he was in fact actually listening to some of the supposedly 'non-existent' missing segments of DAR whilst in the process of writing his statement. Either that, or Mr Mooney has a separate private record of the exact times that certain things happened – something both he and Superintendent McKenna have denied under oath on September 6th last. Indeed (and if we are to believe *any* of the

evidence given by the Prosecution) it has been established in Court that other than the questionable written statements delivered to us by the Prosecution nine months after the event, that NO notes or records of any sort were taken even by the 18 members of An Garda Síochána present for almost two weeks – and in some cases not for two more months.

- XIII. The fact that the same detailed theme continues throughout Mr Mooney's statement, with him listing ten specific times (in minutes) from 10.51am to 11.47am throughout his 2-page statement and making specific reference to *verbatim* quotes as well as admitting he knew certain facts (which he had NOT personally witnessed) "*from listening to the DAR*" reinforces our contention that the 'missing' DAR is not in fact 'missing' at all but **has been deliberately excluded from evidence after-the-fact in order to unlawfully prejudice the Defence case**. If so, this would constitute a deliberate attempt to pervert justice on Mr Mooney's part – and on the part of anyone else who was a knowing collaborator in this act of criminal damage.
- XIV. For example, Mr Mooney attributes two quotes in his statement specifically to Stephen Manning placing them "*in inverted commas*" as such. The latter quote can be confirmed verbatim by listening to the DAR as supplied. The first quote however, comes from the missing 'File No 5' which SHOULD be on the CD but which I assert has been deliberately (and unlawfully) omitted or erased from evidence.
- XV. Furthermore Mr Mooney's statement is very detailed and specific in certain regards but omits many aspects of what actually happened that day which would properly inform the Court as to the pertinent facts. This demonstrates a prejudicial bias against the Defendants and a deliberate attempt to knowingly reinforce a malicious prosecution. This, arguably, constitutes an additional attempt to pervert justice.
- XVI. Finally, if Mr Mooney constructed his written statement on Sept 2nd as indicated, then, given that the 'events' of that day continued until around 1.30pm (including the contrived arrival and departure of the Fire Brigade) then it must be assumed that Mr Mooney sat down and played back (at the very least) the acknowledged 1hr and 26.5 mins of the DAR, whilst simultaneously writing down the details of his statement. This would require a lot of starting-and-stopping of the recording and replaying segments to ensure accuracy, which, based on my own personal experience would have trebled the time required to a minimum of 4hrs and 18 mins – (for Mr Mooney to achieve this task on Sept 2nd 2015 as stated). In addition, if (as the Applicant now contends) additional DAR was also deliberately suppressed, then Mr Mooney would have required up to 5.5hrs to complete the task – plus take lunch, which would mean that Mr Mooney could NOT possibly have left work that day until around 7.30pm, and he could NOT then have had time to attend to ANY other business that day. This is NOT a credible scenario. Mr Mooney's statement was therefore NOT constructed on Sept 2nd, but was later backdated. This would constitute yet another attempt to pervert justice.

4. Evidence of Joe McKenna – Garda Superintendent.

- i. Superintendent Joe McKenna notes that *“the District Court commenced at 10.30am”*. This corresponds with a normal schedule and with the recollections of myself and Mr Granahan and a number of members of the public present. It contrasts however with Mr Mooney’s (backdated) statement that Court actually commenced at 10.40am.
- ii. Supt. McKenna’s written statement is overtly biased, prejudiced and tendentious, and contains wholesale exaggerations, several serious ‘inaccuracies’ as well as a number of outright lies including specific allegations of things allegedly said and done by myself and Mr Granahan. The conveniently ‘missing’ files – and especially ‘File 5’ (whose prior existence HAS been acknowledged in Mr Mooney’s statement) – would prove this.
- iii. Supt. McKenna lists one particular allegation that I used a specific derogatory word to personally insult a solicitor present. If true, this would neatly fit the Prosecution’s requirements of the Defendant’s use of ‘insulting language’. Interestingly, Solicitor Rory O’Connor’s statement repeats the exact same allegation verbatim. Unfortunately for Mssrs McKenna and O’Connor, the recordings prove otherwise.
- iv. Supt. McKenna’s account of the events of the day are so detailed (in certain respects) that it is NOT credible that he was NOT listening to an audio recording at the time he was composing his written statement some 12 days later. Pages 1 & 2 of his 4-page statement for example go into great detail about the specifics of my application which would have been contained in the suspiciously absent ‘File 5’ (10.51 – 10.56am). Asked under cross-examination if he had listened to the DAR Supt McKenna said ‘NO’. Asked if he then had his own private recording of the events of the day, he again answered ‘NO’. He tried to explain this exceptional attention to detail to his own ‘personal gift’ of ‘remarkable recall’ – but apparently, he could only ‘remarkably recall’ information (and fabrications) which would support the prosecution’s case. For example, Supt. McKenna stated (incorrectly) that Mr Granahan and myself were NOT using microphones; that he didn’t know how many Gardaí were present (even though he was the supervising Officer); that he also *“didn’t know”* why Sgt Hanley wasn’t present despite being summoned; that he couldn’t (or wouldn’t) recite his Garda Oath (even in general terms); that he didn’t know that Judges must act within the law and the Constitution; and that he had NO recollection whatsoever of anything untoward occurring on the part of himself, his colleagues or of the Judge that day.
- v. In reading Joe McKenna’s written statement, it is clear that there is an uninterrupted continuum in his supposed ‘recollections’ which align exactly with the sequence of events as recorded on the DAR. It is patently obvious that Supt. Joe McKenna WAS listening to a recording of the events when writing his statement, supposedly on September 14th 2015. Clearly, Supt. McKenna has perjured himself on several occasions which is a criminal offence, and is arguably also complicit in a deliberate attempt to pervert justice regarding the missing segments of DAR.

5. Vincent Deane – Mayo State Solicitor acting directly for DPP Claire Loftus.

- i. Mr Deane declared to the Court on Sept 6th that he had downloaded and listened to the DAR audio recordings ‘without any trouble’. Mr Deane therefore was fully aware that several of his prosecution witnesses were absolutely perjuring themselves under oath in their written statements and were actively contributing, by their lies, omissions, exaggerations and/or fabrications – to the commission of a criminal act; that of being complicit in the advancement of a vexatious, politically-motivated prosecution against two members of the public (acting as lay prosecutors) who had verbally objected to the commission of unlawful activity by a District Court Judge.
- ii. The added fact that statements were only taken from (or by) State-affiliated persons which included several persons who had been named by me in previous formal complaints, adds extra weight to my contention that this whole shabby exercise was utterly contaminated from start to finish, and it has only been by happenstance and sheer determination that we have uncovered the truth.

Prosecution Witnesses etc	‘History’ with Stephen Manning (STM)
<i>Peter Mooney, Courts Service</i>	<i>Multiple instances of ‘official’ deception, unlawful obstruction, collusion etc spanning several years.</i>
<i>Joe McKenna, Garda Superintendent</i>	<i>Had been placed ‘under citizen’s arrest’ by STM on Sept 2nd 2015 and had failed to act on several formal complaints about his colleagues and superiors.</i>
<i>Sgt Naomi Di Ris</i>	<i>The (supposed) initiating investigator in this matter, had been placed ‘under citizen’s arrest’ by STM in May 2015 and was present in Court on September 2nd 2015.</i>
<i>Thomas Walsh, Solicitor</i>	<i>Had been ‘fired’ by STM in 2009 due to his failure to complete a simple file-collection task in a RIRB case.</i>
<i>Nicola Daly, Solicitor</i>	<i>Works for Patrick Duecan Solicitors under Solicitor James Ward – the latter who was involved in the failed TUSLA prosecution of myself and my wife.</i>
<i>Dermot Morahan, Solicitor</i>	<i>Acted for George Collins (2nd cousin to Enda Kenny) in three cases we took in the Circuit and High Court, and has had several complaints registered against him.</i>
<i>Rory O’Connor, Solicitor</i>	<i>‘Volunteered’ to be a prosecution witness in this case and then perjured himself under oath. Has expressed considerable animosity towards STM and the I-I project.</i>
<i>Various other local Gardaí</i>	<i>Some would have been embarrassed at the coverage generated by I-I activities in the local Courts and could therefore have cause to see STM prosecuted – lawfully or not.</i>
<i>Garda Mark Walcan</i>	<i>(Not a prosecution witness) but was one of the two Gardaí involved in the incident that led to the forwarding of malicious reports to TUSLA. Garda Walcan took witness statement(s) in this case.</i>
<i>Mayo State Prosecutor Vincent Deane</i>	<i>Was reported by STM in 2012 for ‘improper interference’ in our civil case vs George Collins.</i>
<i>Claire Loftus, Director of Public Prosecutions</i>	<i>The subject of a serious criminal complaint to An Garda Síochána in 2012 for alleged conspiracy to pervert justice.</i>

6. As explained in the main Grounding Affidavit, much of this clandestine and conspiratorial activity on the part of the Prosecution has only been ‘inadvertently’ uncovered by Mr Granahan’s request for a ‘Gary Doyle Order’, and the fact that the FULL original recordings would contradict in large and essential parts, the evidence of the key prosecution witnesses.

7. I respectfully submit to this Honourable Court that the Prosecution fully intended to charge and convict myself and Mr Granhan based solely on the knowingly-contrived witness statements of agents and affiliates of the State, and that this intention alone demonstrates criminal intent and malice on the part of the DPP, which in turn constitutes serial breaches of the law and the Constitution; and renders this Honourable Court in a moral and Constitutional position where it absolutely MUST, by all of the recognised standards of decency and truth, grant the reliefs sought by this Applicant, beginning with the immediate discontinuance and striking out of *District Court Case 2-16/40190 DPP vs Granahan & Manning* – and the Ordering of a criminal investigation into the events documented herein.

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8. As to the related matter referred to in Para 83 of my Grounding Affidavit – that of the ‘highly questionable’ Defamation Case recently taken out by Judge James Faughnan that names myself and four others in circumstances that are borderline ridiculous, and which, certainly in my own case is clearly another spurious and even insidious attempt to misuse the Courts to try to ‘punish’ outspoken individuals such as myself and others, and to try (by hook or by crook it seems) to shut down the *Integrity Ireland* project – or indeed, any other group or association which threatens to expose what is happening in our Courts.

9. Justice Paul Gilligan has been assigned to hear this High Court case, and I believe it is pertinent to note a few issues in relation to the ‘progress’ of that case to date in light of the general allegations of serial, routine wrongdoing (on the part of some of our Judges) as contained in my Grounding Affidavit, and especially in context of the specific allegations made against some of our more senior Judges, which in turn, suggests that ‘the problem’ with our judiciary may not reside exclusively in the Lower Courts, but may indeed already be contaminating the probity and integrity of the Superior Courts.

10. For the advices of this Honourable Court, I list here briefly some of the issues arising out of the Hearing before Justice Paul Gilligan on Thursday November 17th last:

- i. That at the previous Hearing of November 10th, that all four Defendants were briefly ‘heard’ by Judge Gilligan and were directed to return on November 17th at 10.30am.
- ii. That in the interim, Collins Solicitors (Elaine O’Toole, Conor Bowman SC & Maura McNally JC) ‘served notice’ on me by email (but apparently NOT the other three Defendants) that ‘we’ had to be in Court before Judge Gilligan on Monday 14th. The email stated that the attachments (which included a fourth affidavit of Judge James Faughnan) had also been dispatched ‘by post’. Ten days later and those documents

have still not arrived, and I have yet to have sight of any hard copy which could easily have been 'served' by Collins Solicitors at Monday's High Court Hearing.

- iii. Accordingly, two other Defendants and myself came to the Four Courts on Monday 14th at considerable cost and personal inconvenience, only to be told by Judge Gilligan that the matter was adjourned until Thursday 17th. Judge Gilligan refused to be drawn on questions by another Defendant and in a belligerent tone, warned the Defendant that he would NOT be allowed to speak over him on Thursday either.
- iv. On Thursday 17th all four Defendants were at Court No 3 and we were advised by the Usher to take a seat at the front, facing the Judge. Judge Gilligan then took his seat and immediately addressed me stating, *"This matter doesn't concern you Dr Manning – so there is no need for you to be sitting there. Please move to the body of the Court!"* This direction confused me not only because of Judge Gilligan's forceful demeanour, but because I am the 4th-named Defendant and it was Judge Gilligan himself who had directed me to be there. We had received NO notices that contradicted this, so I tried to explain (in a polite tone), *"Yes Judge, I will of course move to the back, but will I have a chance to address the Court before we leave?"* But Judge Gilligan would NOT allow me to finish that sentence, and he became increasingly belligerent, intimidatory and aggressive, threatening to have me removed / thrown out / to *"get out of my Court"* etc., before he rose in an extremely vexed state and exited to his chambers. I left the Court so as to avoid any more controversy, but I thought that Judge Gilligan's demeanour and behaviour was simply atrocious and inexcusable for a man in his position.
- v. First-hand reports of the rest of proceedings suggest that the two remaining Defendants were NOT afforded due process; they were NOT allowed to read out their own affidavits – nor even properly refer to the contents therein; and Judge Gilligan eventually told one of the Defendants that he too would be thrown out if he interrupted him again. Judge Gilligan then read out the affidavit(s) of Judge James Faughnan in their entirety (including one which we have NOT been served with) and then 'arrived at a decision' without any further input from the Defendants.
- vi. Somewhat interestingly, that 'decision' was to enforce injunctions against the two Defendants, but NOT against me personally nor *Integrity Ireland* – leaving the hugely pregnant question of why then am I being named in this ridiculous defamation case – which apparently will still continue in spite of a very robust defence on affidavit – which has NOT even been challenged? I say that the obvious answer is that this whole vexatious exercise involving Judge Faughnan, Collins Solicitors and Justice Gilligan is simply 'more of the same' old harassment, legal trickery and contrivances – by agents or affiliates of the State – upon which similar incidents, these particular Judicial Review applications are largely based.

