

THE DISTRICT COURT

Record No. 2017/180452

DPP vs STEPHEN MANNING

APPLICATION TO STRIKE OUT - & AFFIDAVIT OF STEPHEN MANNING

I, Stephen Manning, publisher, father and husband, social justice advocate, a member of *Integrity Ireland* and independent candidate for Co. Mayo who ordinarily resides at Mountain, Forthill, Ballyhaunis in the County of Mayo, aged 18 years and upwards **MAKE OATH AND SAY** as follows:

I am the named Defendant in this matter and I make this application and affidavit from facts within my own knowledge save where otherwise appears and where so appears I believe the same to be true and accurate.

1. This application is being made 'in person' without any professional legal assistance, and I respectfully ask the Court to take this into consideration.

2. Notwithstanding the contrived nature of the vexatious allegations against me, I say and believe that the Prosecution are engaged in a deliberate attempt to mislead the Court and prejudice this case from the outset, and are similarly in direct contempt of Court – upon which grounds as detailed hereunder – I hereby apply for this prosecution to be struck out.

3. I say that the first appearance in this matter was on January 17th last in Castlebar Courthouse before Judge Deirdre Gearty. That Judge Gearty directed Garda Inspector Gary Walsh, who was appearing on behalf of the DPP in the absence of the Prosecuting Officer Sgt Gerard McEntee, to furnish me with the CCTV evidence and any other prosecution evidence in the possession of the Prosecution in this case, as per a 'Gary Doyle Order'.

4. I say that I received by registered post on Tuesday 13th February a packet containing 8 typewritten, unsigned copies of statements comprising 12 pages in total, and a DVD/CD in a jewel case with the notation: "*Copy of CCTV footage Castlebar D/CT reception 04/04/17*" handwritten on the outside. That there were no other identifying markers on the CD itself.

5. That three of the said sworn statements that accompanied the CD, relate to the process of downloading and transferring the said CCTV footage onto the DVD, including a declaration by Garda Rowland Mc Intyre ('S.8') that he had, "*..made two true copies of the original onto disc format. I did not tamper with the original in any way.*" Garda McIntyre states that he completed this task on 26th July 2017 and handed the said copies to DPP Prosecuting Sergeant Gerard (Gary) McEntee on the same date.

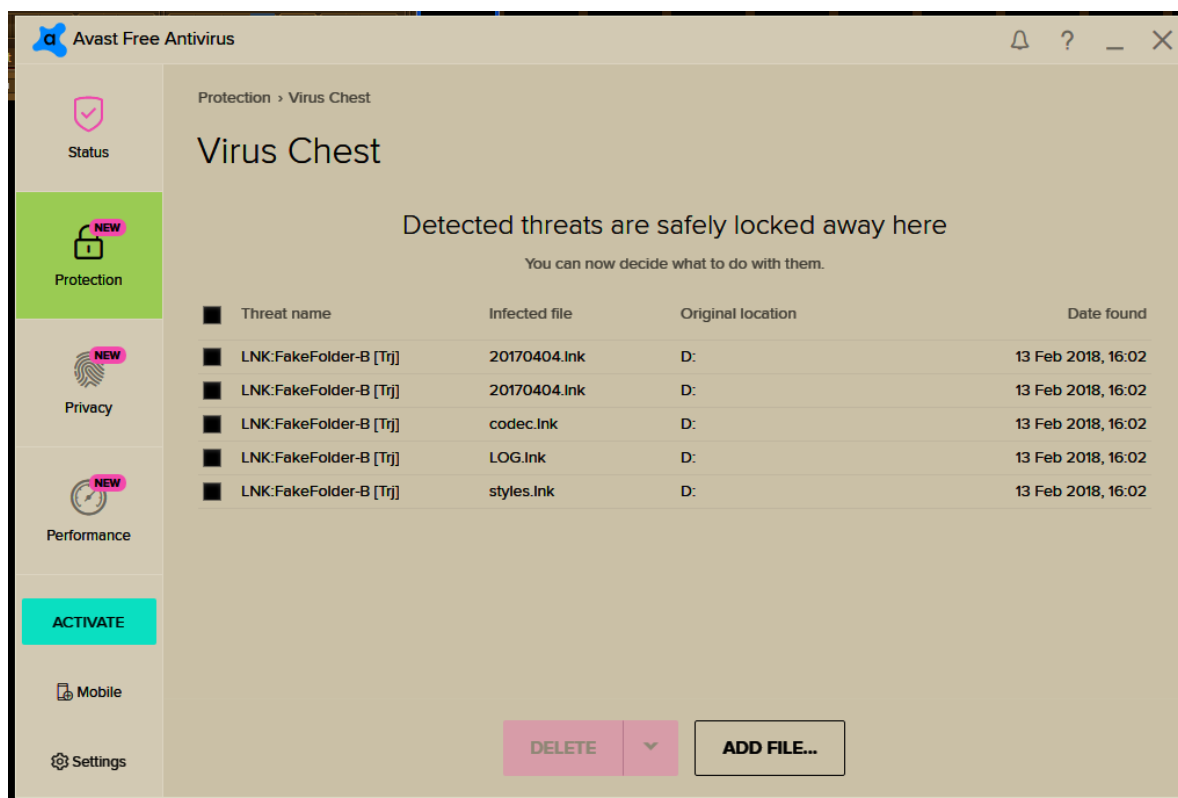
6. Notwithstanding a number of other anomalies and inconsistencies in the accompanying statements, it is clear that the inclusion of these three particular sworn statements including

those of the I.T. Engineer and Sgt McEntee respectively ('S.6' & 'S.7') is to assure the Court of the absolute integrity of the CCTV file-copying and transfer process; of the veracity and legitimacy of the CD delivered to the Defence under Court Order; and of the authenticity of the contents thereon. I say and believe that this is a deliberate attempt to mislead the Court for the purposes of jeopardising and prejudicing the just outcome of this case.

7. At 16.02 hrs Tuesday 13th February 2018 I inserted the said disc into my computer and was immediately alerted to the presence of 4 (possibly 5) virus threats which were attached to 3 (or 4) of the 8 files visible on the CD. This is brought to the Court's attention in specific context of the fact that another evidence CD delivered to me by District Court Order in 2016 from the complainant in this matter, Mr Peter Mooney, Castlebar Courts Service Manager, not only had key sections unlawfully erased from it, but that it likewise contained Trojan viruses which, on that occasion, actually disabled my computer.

7a. On this occasion however, my anti-virus software neutralised the viruses. The nature of the viruses was such that I could not carry out any functions on my PC – not even take a screenshot of the first sequence of virus warnings until they had been neutralised and removed. Fortunately however, I was able to screenshot the very last of the viruses, and that evidence is provided to the Court (copy attached) which clearly shows that the CD was the source of the said viruses on path: "D:/20170404.Ink"

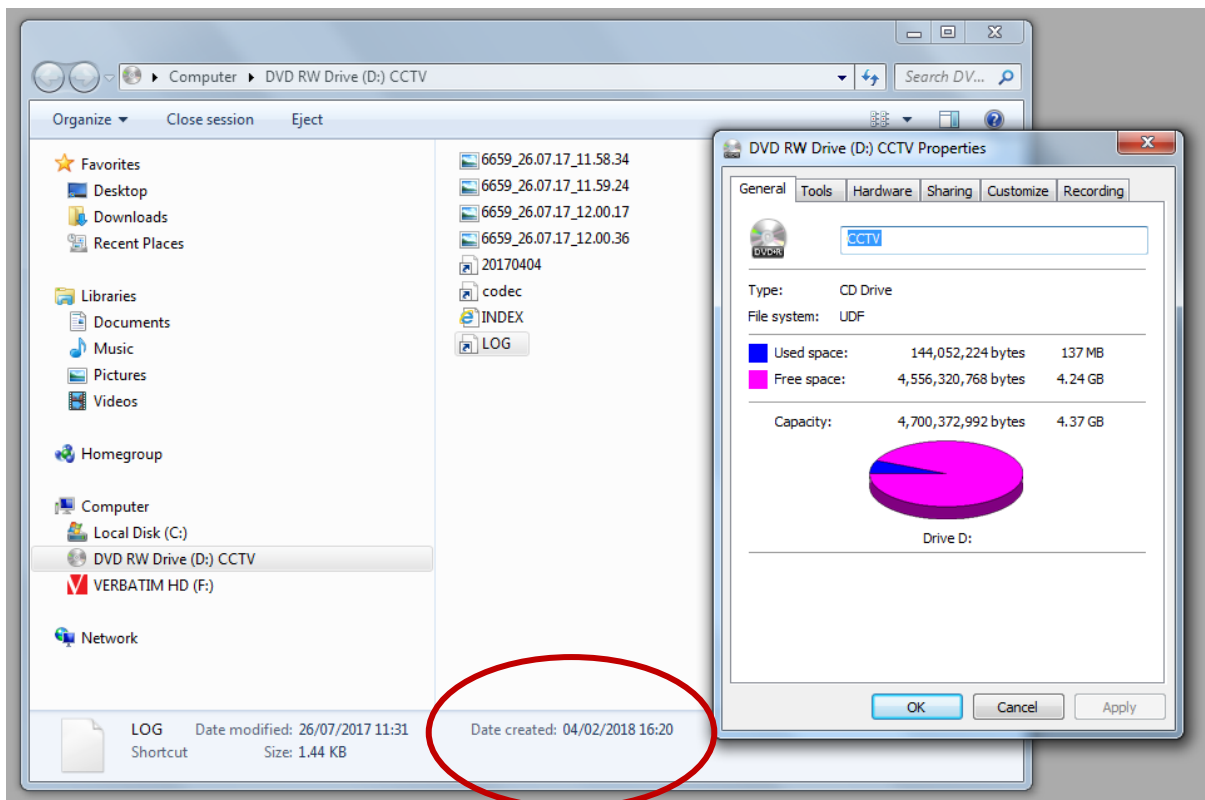
8. That I later found the neutralised viruses stored and listed in the anti-virus vault, where 5 viruses are listed as shown as having been removed – all of which are identified as having come from the said DVD/CD at the precise time of insertion, as per the screenshot below.



9. That I had by then ascertained that the CD contained 8 listed files. The first 4 of the files are JPEG (still) images apparently taken from CCTV footage, and the other four files were named sequentially: (v) '20170404' (vi) 'codec' (vii) 'INDEX' (viii) 'LOG'. That the 'INDEX' file contained a link named '/20170404/11100100.avi' that gives the *appearance* of being a link to a 50-minute CCTV video file dated 4th April 2017 between 11.10 and 12.00am. But that link leads only to a generic denial page that states. *"This content is not available."*

10. That I tried accessing the said CCTV footage on four different computers, including two owned by persons with I.T. qualifications, and received the same result: i.e. that the CCTV content was NOT available. That a local I.T consultant who regularly does work for the Courts has stated that, *"No such content (the CCTV footage) ever existed on this CD."*

11. Given that Garda Mc Intyre's statement ('S.8') explicitly states that he, *"..made two true copies of the original onto disc format"* – and given there is no mention in any of these supporting sworn statements of any *additional* copies being made – it must be reasonably assumed that the Prosecution is intending that the Court accepts that the CD/DVD delivered to the Defence is indeed one of those 'genuine copies'. But upon checking the 'properties' of the said disc the actual 'date of creation' of that CD is listed as '04.02/2018'; giving rise to the disturbing question as to how and why the construction and existence of this additional CD is NOT mentioned or referred to anywhere in the said sworn statements.



12. As to the presence of 4 still images of inconsequential content which provide no proofs or substantiation of any of the allegations against me other than the uncontested fact that I was at the Castlebar Courts Service window with my wife and Mr Granahan at some point in time; there appears no good reason or valid necessity for the inclusion of still images that

are already *supposed* to be on that CD in free-flowing CCTV format for the perusal of the Court; other than if the Prosecution anticipates relying on those still images in the event that the CCTV footage is – for some reason or other – ruled ‘inadmissible’. Something they may anticipate in light of the fact that Sgt McEntee was made aware (as is shown in these images) that Mr Granahan had made a video recording of the events in question.



13. Again, given the fact that a similar ploy was used by the DPP Prosecution last year when a Gary Doyle Order was granted for the release of DAR files *after* contrived statements (by Mr Peter Mooney and others) were entered into the record; the DPP Prosecution team had on that occasion presented the DAR disc to the Court in an artificially speeded-up format so that Judge Aeneas McCarthy could then declare it ‘inadmissible’ and therefore render it unavailable to the Defence as proof that the allegations against Mr Granahan and myself were utterly false and contrived. Mr Mooney had by that time already unlawfully erased ‘inconvenient’ audio files from that DAR CD with the *proven* foreknowledge of DPP State Solicitor Vincent Deane and prosecution witness Garda Superintendent Joe McKenna.

14. That in his undated and unsigned written statement (‘S.7’) Sgt McEntee states (possibly erroneously) that he invited myself, my wife and Mr Granahan to make statements on June 6th 2017. Our records show that it was actually on July 6th 2017 that Sgt McEntee came to our home. However, in his sworn statement Sgt McEntee declares that we ‘refused’ to make statements. This is not a true or accurate report. We actually said, ‘*We reserve the right to make statements at a future date should this matter go any further*’ and asked that Sgt McEntee noted in his official report that we believed the situation and the allegations to be ‘*ridiculous and absurd*’ and yet another act of harassment and intimidation. We were NOT informed that the matter was indeed going forwards until the arrival of the summons.

15. That a ‘Gary Doyle Order’ by definition should include ALL the evidence which has a bearing on this case, and that no copies of any entries in Garda notebooks from April 4th 2017 nor Sgt McEntee’s report of July 6th last have been included, nor any copies of the original handwritten, signed statements included with the blank CD.

16. The added fact that Sgt McEntee has failed or refused to; (i) act on legitimate criminal complaints naming Mr Mooney and others in the pay of the State, and (ii) has failed or refused to respond to a number of formal letters and personal visits to Castlebar Garda Station (6 in the last 3 months) adds further weight to my contention that this prosecution is a spurious and contrived operation from the outset, which is grossly unfair and prejudiced and designed to cause maximum distress, harassment and inconvenience to myself and my family; which is in direct breach of Articles 38 & 40 of the Irish Constitution; and that this

prosecution's only chance of success is through these serial abuses of power and position, and if the Court allows these reckless abandonments of due process and proper procedure.

17. That in context of multiple previous documented occasions where myself (and several other associates and colleagues) have been in receipt of DAR and CCTV records which have been unlawfully amended, altered or erased; or where other evidence has been likewise interfered with or tampered with by An Garda Síochána, by the Courts Service, by persons affiliated with the DPP's Office or other agencies of the State; then I say and declare that this complete absence of CCTV footage on a Court-Ordered CD – in conjunction with the presence of 4 otherwise totally unnecessary still photographs and potentially damaging viruses – along with three sworn statements designed to underscore the authenticity of the same, yet without the added materials we should expect from a Gary Doyle Order; indicates yet another disingenuous contrivance on the part of the Prosecution so as to engineer a situation whereby the Court may be obliged to make its determinations in this case based *solely* on the highly-questionable statements of some of the prosecution witnesses.

18. I say and believe in circumstances where I have already made applications to the Supreme Court and to the European Court of Human Rights regarding (in part) similar circumstances whereby the Irish authorities have repeatedly failed or refused to take lawful action against those in the pay of the State (including Mr Peter Mooney and agents of the DPP's Office) who have been *proven* to be complicit in criminal acts of collusion involving the unlawful deletion and suppression of evidence; that this omission of the CCTV footage in these particular circumstances on a Court-Ordered CD regarding an alleged incident that occurred over 10 months ago cannot be brushed aside as mere incompetence or human error. That I say that it is a contrivance and a deliberate act of 'contempt of Court'.

19. That I say and believe that this specific omission of Court-Ordered CCTV footage, in conjunction with the sorry history of similar such acts of apparent negligence; of blatant (and arguably criminal) disrespect of Court Orders; and of outright acts of unlawful obstructionism, perjury and criminal damage by Mr Mooney in particular; which flies in the face of any reasonable or right-minded person's understanding of 'due process' or indeed of natural justice, requires that this Court strikes out these proceedings on the basis of the aforesaid contempt of Court; that these proceedings are an abuse of process and a waste of taxpayer's resources, which violate the following legal maxims and doctrines:

- *Falsus in uno, falsus in omnibus*. False in one thing, false in everything.
- *Ei incumbit probatio qui dicit, non qui negat*. The burden of the proof lies upon him who affirms, not he who denies.
- *Incerta pro nullis habentur*. Things uncertain are considered as nothing.

20. I declare that to the best of my knowledge and belief, that the above statement is true.

Dr Stephen Manning

February 19th 2018

Witness: Noriko Manning

