

THE HIGH COURT

JUDICIAL REVIEW

Record No: JR 2017/798*

BETWEEN

*(as coupled with JR 2018/432
by direction of the High Court)**

STEPHEN MANNING

APPLICANT

AND

CIRCUIT COURT JUDGE SEAN O'DONNABHAIN

RESPONDENT

SUPPLIMENTARY AFFIDAVIT OF STEPHEN MANNING [No 17]*

(Relating to the two 'joined' JR applications* (i) JR 2017/798 (as listed above) and (ii) *JR 2018/432 Manning v District Court Judge Deirdre Gearty and the DPP)

I, Stephen Manning ('STM'), publisher, father and husband, special needs carer, sports official, social justice advocate, a member of *Integrity Ireland* and the named Applicant in these matters who ordinarily resides at Mountain, Forthill, Ballyhaunis, County of Mayo, aged 18 years and upwards **MAKE OATH AND SAY** as follows:

292. I refer to the contents of all previous affidavits lodged in these matters and continue the sequential numbering from 'Supplementary Affidavit No 16' as filed on July 29th 2019 which content was read out in the High Court at the hearing of the same date before Justice Michael MacGrath with DPP solicitor for the Respondent, Mr Brian McLaughlin and DPP Counsel (barrister) Mr Oisin Clarke also present.

293. That upon hearing from Justice MacGrath that; (i) he was NOT going to amend and correct the errors, omissions and false facts in; (a) his Judgment text of April 4th last, and; (b) in his corresponding Order of June 25th. (ii) That he was also refusing a 'case stated' to the Supreme Court, and; (iii) was likewise refusing to recuse himself from this case, as formally requested; that I informed Justice MacGrath that I could not and would not be knowingly complicit in unlawful or criminal activity such as was clearly ongoing in this case under his

management, directions and facilitations, and that I was left with no other choice but to lodge criminal complaints with the statutory authorities and would be lodging an appeal to the Superior Courts.

294. That in context of my collective experience of the Irish Courts to date, and in anticipation of ‘more of the same’ (now-typical) obstructionism, obfuscation and criminal interferences with due process and the rule of law by various other ‘Irish Officials and Office Holders’ that I lodge this 17th affidavit on the case file so as to ensure that the original texts of my respective parallel applications to the Court of Appeal and to the Supreme Court are registered in some alternative official format that is accessible to the public; in bleak expectation that all illicit efforts will again be made by ‘the establishment’ and particularly the Courts Service, to erase from the record any and all references to proofs of serious criminal wrongdoing by the various Officials and Office Holders named herein.

(i) In particular context of the somewhat extraordinary contents of the closing paragraphs (No’s 46 & 47) of the recent Judgment of the Supreme Court in “Tracey v The Irish Times Ltd & Ors” [2019] IESC 62, the Applicant respectfully emphasises the need to include in this document certain indispensable explanatory details which should in no instance be mistaken, misunderstood, misinterpreted or misrepresented as being, “prolix, verbose, or irrelevant to the issues in the case” and which said detail, whilst being delivered in an admittedly direct and uncompromising format should not be deemed, “vexatious or oppressive” nor considered to be “repeated litigation” given that it is solely and precisely because of the many serial abuses of the law, of due process and of Superior Court Rules (by agents of the State, and by Officers of the Court) that the Applicant finds himself in the unenviable position of needing to comprehensively detail the same in as succinct a manner as possible, *without* omitting key facts and abandoning issues that are absolutely central to the proper understanding of this case.

295. Regarding the delay in lodging my appeal applications I state and declare that: It was always the Applicant’s intention—since first sight of the contested Judgment text of April 4th—to challenge the contents of that document via an appeal to the Supreme Court, and this was made clear in the High Court, on affidavit, and in various correspondences to the Courts Service, to the DPP opposition and to Justice Michael MacGrath beginning April 3rd through May 30th and June 25th 2019; but in addition to the staggering catalogue of

documented criminal acts being committed by various 'Officers of the Court' throughout these extended proceedings; this particular (prospective) appeal application was it seems purposely 'run out of time' via a series of obstructive, unlawful, illicit and fraudulent acts (as detailed in the respective affidavits on file in the High Court in 'joined' JR cases 2017/798 & 2018/432, and summarised for the Court here below) including (but not limited to):

(i) The judge repeatedly refusing to correct and amend some very serious 'errors of fact' and outright mistruths in his judgment text of April 4th 2019, and twice refusing the Applicant's request for a 'case stated' on the matter, to the Supreme Court.

(ii) The Judge failing to issue or perfect an Order to accompany the said Judgment for twelve weeks and through two more scheduled High Court hearings where repeat attempts were made by the Judge and the DPP opposition to 'move matters on' despite the Applicant making it repeatedly clear in Notices, in correspondence, on affidavit, and in person that he believed that a fraud was being perpetrated on the Court and that he wished to contest and appeal several aspects of that Judgment text, which he could NOT do until the issuance and perfection of an accompanying Order.

(iii) The Judge and the DPP's solicitor making deceptive reference on May 30th to a non-existent Court Order which was NOT on the Courts Service online listings in any form, but which they nevertheless implied was already 'on the record' ("*but not yet perfected*") and which said Order, the Applicant had been waiting for since April 4th.

(iv) That on June 25th 2019 Justice MacGrath scheduled another 'for mention' hearing for July 29th, '*for the parties to consider the issues..*' (i.e. those arising out of the Applicant's objections to the specious contents of the said Judgment text of April 4th) and directing that the absent "*unperfected Order*" that purportedly accompanied that text (as discussed on May 30th but whose prior existence in any format has since been denied by the Courts Service); that the said unperfected Order be perfected "*not before July 5th*" to ostensibly allow the Applicant '*sufficient time to consider the same and come to a decision*' before July 29th – which was the last day before the Courts' summer recess. However, the Applicant was unaware at the time that this 25-day timeframe effectively placed him four days outside of the 21-day time limit to lodge any S.C. appeal against that Order (even if it was made available to the Applicant at the time of perfection – which it was not) – this very same Order, then sight-unseen by the Applicant, that was

‘due for discussion’ at the High Court hearing of July 29th.

(v) The High Court then producing an overtly-fraudulent replacement Order in place of the aforesaid non-existent Order (that was discussed in Court on May 30th) and dating the replacement Order “June 25th 2019” but then; (i) failing or refusing to alert the Applicant to its existence as per the instructions of the Court; and (ii) failing or refusing to acknowledge or respond to several email requests for a copy of the same.

(vi) On July 19th, and in purported (much-belated) response to the Applicant’s repeat and very specific requests for, “A copy of the document identified by Index No.14598 perfected on July 5th..” an unnamed source at the Courts Service sent a newly-created and backdated Order from 2018 in a different JR case – and thereafter (yet again) refused to respond to the Applicant’s requests that the person responsible please explain and correct this latest ‘error’ and to please identify themselves as per their obligations under *the Civil Service Code of Standards and Behaviours*. But again, there was no response!

(vii) The Courts Service then failing and refusing to provide an email copy of the said June 25th Order, until July 22nd which, despite the Applicant’s contention that it is a seriously flawed contrivance that is purposefully designed to compound the injustices already visited on the Applicant and to further frustrate his efforts to lawfully move his case forwards (and which said Order should therefore be deemed ‘null & void’ and should play no lawful part in these proceedings) but which said Order, of necessity (according to Superior Court Rules) must be referenced by the Applicant herein, it being the only such Order available to the Applicant to trigger this appeal.

(viii) The Courts Service failing to provide for collection an attested version of that June 25th Order – until Friday July 26th 2019 – which was 21 days from the date of perfection (July 5th) and the stated time limit (in Superior Court Rules) for any leapfrog appeal to the Supreme Court, as well as being 3 days *before* the listed hearing of July 29th where parties were purportedly scheduled to ‘discuss the matter’ thereby running the Applicant ‘out of time’ even, (a) before he had possession of the said Order, and (b) before the planned ‘discussion of the issues’ in Court on July 29th.

(ix) The fact that the DPP’s Office (acting for the Respondent) is dragging out the issue of ‘consent for a late filing’ by first of all; (a) feigning surprise at the Applicant’s requests for

the same, (b) by implying that no appeal could be lodged during the Court recess, and (c) then failing to respond to legitimate email enquiries.

(x) The fact that the Applicant (as a lay litigant) was in any event unaware that the time limit had been reduced from 28 days to 21 days earlier this year, and was only informed that he was officially 'out of time' when he approached the Supreme Court Office in person on July 29th with the intention and expectation of lodging an appeal, whereupon he was advised to explain these circumstances on the respective application form.

(a) The ensuing receipt of a letter from the Office of the Chief Justice on Friday August 2nd which in effect, banned the Applicant from "further corresponding" with the Supreme Court Offices – thereby placing an apparently-insurmountable obstacle to the proposed lodging of any direct leapfrog appeal to the Supreme Court in this matter.*

**Note: That upon receipt of the said letter that I then called the Court of Appeal Office on Friday August 2nd advising of my intention to lodge appeal papers 'asap' on Tuesday 6th following the Bank Holiday, but was informed that I would by then be "one day out of time" for the COA, and that my papers would NOT be accepted there either. I was told I would now have to apply for an extension of time and/or secure consent from the DPP to a late filing. Not expecting any facilitation on the part of the DPP I resolved to the fact that I would have to now apply for an extension of time for the COA despite all of the documented obstructionism, and I informed the DPP and the Courts Service that I now intended filing this COA appeal application on the morning of Friday, August 9th at the Four Courts. But at 11.15am that morning, I received an unexpected email from Mr McLaughlin who was now ostensibly 'consenting to a late filing'. Fortunately, the papers had not yet been submitted – but this 'unexpected development' required me to review and amend the forms before resubmission – especially in light of my original intention to apply directly to the Supreme Court on Constitutional grounds, notwithstanding the existence of the 'no need to reply' blocking letter of July 31st which had arrived on August 2nd. Given that "the Courts were in recess" (as advised by the DPP's Office) and given the assurances from the Court of Appeal Offices (as noted on COA Form 6) that a letter of consent would suffice to ensure an extension of time, I naturally assumed and believed that I now had sufficient time to recompose and resubmit these appeal forms to the respective Offices in my own time. However, in a now-typical 'ambush-style' tactic, and without any prior notice or discussion, the DPP's Brian McLaughlin suddenly and unilaterally 'withdrew' his consent by email and thereafter failed and refused to qualify under which particular rules or regulations he was now attempting to do so? Accordingly, the Applicant is resting on the said original agreement for an extension of time – and respectfully asks the Court to do the same – at least until such time as Mr McLaughlin provides a reasonable explanation and/or a legitimate cause or ruling which empowers him to vacillate in this manner in such an unhelpful and obstructive manner.*

(xi) The added fact that ‘21 days’—even in normal circumstances where the Applicant would have had prompt sight of the Order—is barely sufficient time for a lay-litigant with other pressing professional and domestic responsibilities, to complete the legal research necessary to properly compose and lodge an appeal ‘within time’.

(xii) Finally, the overriding and obvious fact that ‘the DPP opposition’—with the active facilitation of the Courts and the Courts Service—are deliberately deploying these ‘run out of time’ and other technical, legally-obstructive tactics against the Applicant for the purposes of unlawful obstruction and causing perennial delays in *legitimately* advancing this JR Case; whilst simultaneously targeting and harassing the Applicant and his family in various illicit ways (including by spurious criminal charges such as those, the very subject of this JR); whilst the opposition indulges in repeat and flagrant breaches of the law and of Superior Court Rules, without any sanction or remedy by the Irish Statutory Authorities or by the Courts.

(xiii) I therefore make a specific point of noting that the usual time limits for making an appeal have been grossly interfered with by ‘the opposition’ not only by the refusal/delay in forwarding a copy of the Order to the Applicant in the first place, but also by the scheduling of another High Court hearing on July 29th wherein the Applicant had made it clear to the Court in advance – and reiterated at the previous hearing of June 25th – that he would be seeking confirmation from Justice MacGrath on July 29th that the Court was going to ‘correct the record’ before the judicial review process could lawfully continue, and, if Justice MacGrath was not prepared to do so, that the Applicant would be seeking a ‘case stated’ to the Supreme Court (which MacGrath J. has since outright refused twice) and/or the Applicant would be obliged to lodge appeals to the Superior Courts and criminal complaints to the Gardaí for offences against the administration of justice.

(xiv) In circumstances where there is no possible prejudice or disadvantage to the opposition due to any purported ‘delay’ in lodging these papers, the Applicant is relying on the existence of the DPP’s written consent of August 9th for a late filing as well as on ‘the three stage test’ for an extension of time as established by the Supreme Court in *Eire Continental Trading Company Ltd v Clonmel Foods Limited* [1995] 1 IR 170 to show that the Applicant; (a) had a *bona fide* intention to appeal within the time limit; (b) that there was an element of ‘mistake’ (or in this case, intentional ‘mistakes’, delays, frauds and

unlawful obstructions by the State opposition) and, (c) that there were arguable grounds of appeal, which of course there are.

296. As to this being a matter of 'general public importance' which would qualify these matters to be heard by the Supreme Court (and noting the limited word count available to expound on the topic) I say and declare:

1. The Applicant has stated from the outset of these judicial review proceedings that, *"This case is absolutely indefensible by the State other than by further acts of deception, fraud, perjury, criminal damage, contempt of Court, and various other actions and inactions designed to obstruct, pervert and/or otherwise interfere with the due course, and administration of justice."*
2. That it has since been established on affidavit and proven in evidence in these interconnected cases, that contrary to the various domestic Rules, Laws, Acts and Statutes (as listed in the Appendix of this form), that named 'Officers of the Court'* have engaged in specific criminal acts throughout, and, despite those proofs being presented to the Irish Statutory Authorities* and to various Oversight Bodies* including the Courts, that no corrective, remedial or lawful action (as is required under law) has yet been taken to sanction those offenders or to protect the public's fundamental and constitutional right to justice.**

**For clarity, the 'Officers of the Court' referred to herein include named members of: (i) An Garda Síochána, (ii) the legal profession; (iii) the Courts Service; and (iv) the judiciary. The 'Oversight Bodies' include, (v) GSOC and (vi) the IHRC. 'The Statutory Authorities' also include (vii) the President, (viii) the Taoiseach, (ix) the Attorney General, (x) the DPP, (xi) the CSSO, (xii) the Minister for Justice, (xiii) the Presidents of the various Courts, (xiv) the Chief Justice, and (xv) the Office of the Garda Commissioner – all of whom have been placed formally—and personally—"On Notice" of the criminality ongoing in these cases.*

*** The Applicant notes that in the recent judgment of the Supreme Court in 'Tracey v McCarthy [2019] IESC 14' that the Court simply notes the, "unsatisfactory, unfortunate and unacceptable" fact that a Court Order was unlawfully backdated so as to run Mr Tracey 'out of time' on his appeal. No individual has been sanctioned for this obvious act of criminal damage and deceit, and no specific practice directions have come into force to outlaw this type of devious practice – which in the Applicant's experience is a regular occurrence in the Courts, i.e. this type of 'unlawful interference' with Court records (i.e. fraud and criminal damage) being a central feature of the Applicant's cases and which 'the authorities' have so far refused to report to the Gardaí, as is required under domestic law .*

3. That it is therefore clearly *“a matter of general public importance”* that Irish Office Holders and Court Officials are systematically visiting criminal wrongs on the public through the wholesale neglect and/or abuse of their statutory powers, and via the misuse of public funds and resources.
4. That the specific issue(s) that anchor this appeal application are typical of the said systemic abuses inasmuch as they concern: (i) the construction of a largely-fraudulent High Court Judgment text and accompanying Order; (ii) the presiding judge’s knowledge of several serious ‘errors of fact’ therein but his repeat refusals to ‘correct the record’; (iii) the DPP’s active facilitation and complicity in the same; (iv) the judge’s refusal to recuse himself in face of direct allegations of bias; (v) his refusal to ‘State a Case’ to the Supreme Court; and (vi) now coercing the Applicant into unlawfully accepting and endorsing these criminal acts of fraud and contempt of Court.
5. That it is clearly a *“matter of general public importance”* that the State ensures; (i) the compliance of the judiciary with the rule of law; (ii) the public’s right to good administration; (iii) the requisite *“accuracy of the record”*; and (iv) *‘the lawful and legitimate creation and dissemination of personal data’* as per the respective EU Laws and GDPR.
6. That it is clearly, *“a matter of general public importance”* that ‘Officers of the Court’ are engaging with impunity in repeat criminal conduct. The same being supported, facilitated and implicitly encouraged by certain members of the judiciary who are likewise indulging in overt and covert breaches of the law and of Superior Court Rules and judgments in; (i) refusing legitimate applications and, (ii) publishing fraudulent texts and Orders ‘on the record’ for the purposes of visiting serial injustices on parties before the Courts.
7. That it is clearly *“a matter of general public importance”* that Irish Officials and Office Holders are in general violation of domestic law as well as specific European Treaties, Regulations, Directives and Laws (as listed herein) particularly in regards to GDPR, CFREU and EU Law regarding *‘passive and active corruption’* and as referenced in *the Criminal Justice (Corruption Offences) Act 2018*.

297. As to it being ‘in the interests of justice’ that this matter is heard by the Supreme Court (and noting the limited word count) I say and declare:

1. In addition to the issues referenced above, the term, “*in the interests of justice*” obviously requires that justice is done, and is *seen* to be done in the nation’s Courts. Conversely, our Courts and those who operate within them cannot be seen to be indulging in lies, frauds, deceptions and overt rule-breaking as a matter of course, nor, obviously, can these persons operate outside of the law and the Constitution with impunity without undermining the whole concept of ‘justice’ and without making a nonsense and a farce of our justice system. Likewise our political status as a supposed ‘modern democratic republic’ which has committed to absolute obligations under EU membership to respect citizens’ rights and the rule of law.

2. Accordingly, the overall integrity, probity and reliability of the Irish Justice System is now (again) under question, in specific context of these interconnected cases especially the distinction between judicial ‘independence’ within the meanings of *Article 35.2 of the Constitution*, and judicial ‘discretion’ or ‘licence’ for any member of the judiciary to operate outside of the law and the Constitution in the Courts, especially when they are knowingly; (a) engaged in primary criminal acts, and/or, (b) are complicit in the same either before-or-after-the-fact, through their improper actions or inactions in ignoring, suppressing or facilitating the same.

3. Similarly, the statutory responsibility of the Minister for Justice in respect of his personal knowledge of these crimes, and his obligations to act under *Article 35.4:1 of the Constitution* by referring these cases of ‘*stated judicial misbehaviour*’ to the Dáil and the Seanad for actioning.

4. It is clearly ‘*in the interests of justice*’ therefore that the Highest Court in the land clarifies the position, role and responsibilities of the Minister—and of all Officers of the Court—in context of Irish and EU law regarding passive and active corruption.

298. As to there being ‘exceptional circumstances’ which would warrant an appeal directly to the Supreme Court (and noting the limited word count) I say and declare:

1. In circumstances where the Irish public are expected to have faith in our justice system the Applicant contends that it is indeed a case of ‘exceptional circumstance’ (at least on

paper – if not in actual fact) when a litigant has incontestable grounds to lay direct accusations of fraud, deception and contempt of Court not only against the various Officers of the Court involved, but also against the presiding Judge.

2. In circumstances where the EU requires Member States to have, *“a properly functioning justice system that aspires to international best practice”* that it is indeed a case of ‘exceptional circumstances’ that so many incidents of gross prosecutorial and judicial misconduct have been reported to the various statutory authorities and repeatedly presented to the Irish Courts without any due or proper response or remedy.

3. In circumstances where EU citizens are guaranteed their fundamental rights, it is a case of ‘exceptional circumstances’ that the Applicant (and his family by association) have been mercilessly targeted by agents and agencies of the State simply for speaking out about corruption and malfeasance within the Irish justice system in particular.

4. The fact that not a single solicitor on the Law Society’s Legal Aid Panel will represent the Applicant in any of these matters despite qualifying for three (free) Legal Aid certificates since 2016.

5. If the Supreme Court does not deem any of the circumstances outlined above (plus those in paragraphs ‘A-L’ in Section 12) to be ‘exceptional’ – which admission may, somewhat ironically be one of the more truthful issuances delivered to the Applicant – then this matter must of certainty be escalated to the CJEU, because any tacit acceptance of these scandalous circumstances as being in any way ‘normal’ or ‘usual’ will serve as the Irish Supreme Court’s own indictment on the probity and integrity of our justice system.

299. As to seeking a priority hearing in the Superior Courts (and noting the limited word count) I say and declare:

1. The Applicant remains subject to false charges and imminent unlawful imprisonment such as occurred in January 2017 when two previous S.C. applications were submitted (i) S:AP:IE:2017/008 & (ii) S:AP:IE:2017/059 regarding, (i) several District Court judges violating the law and Superior Court Rulings in refusing to process applications for summonses against agents of the State; and (ii) the unlawful dismissal of four solid JR applications that demonstrated gross prosecutorial and judicial (criminal) misconduct in

this very same extended matter (2017/798JR); whereupon the Applicant was targeted, arrested and unlawfully jailed, while his S.C. applications and live cases against the State were inexplicably dismissed, denied or simply 'disappeared'.

300. As to the question of whether the Applicant has approached the Supreme Court

previously in relation to these matters, I say and declare:

1. inasmuch as the current case (JR 2017/798) is challenging a false conviction and term of imprisonment that arose out of a fraudulent prosecution in '(c)' District Court Case 2016/10489 'DPP v Granahan & Manning' which in turn was predicated by the Applicant's (officially-unlisted) 'common informer' criminal cases '(a & b)' initiated in 2015 & 2016 naming members of the Gardaí as the accused: that these cases were the subject or part-subject of several judicial reviews to the High Court that sought, (i) the immediate termination of the contrived District Court Case '(c)' and, (ii) remedial action by the Supreme Court on the general basis of multiple proven acts of fraud, criminal damage, perjury, collusion, contempt of Court, violation of Superior Court directions and rulings, and other attempts to obstruct and/or pervert justice by various 'Officers of the Court' including repeat breaches of the law, of the Constitution and of the Applicant's fundamental rights by the various named judges involved; as laid out in detail in assorted statements, affidavits, exhibits and submissions already on file in the High Court under the respective case record listings (1.'a-s' following) which are cumulative, successive and consequential, and therefore inseparably interconnected.

- a. **Stephen Manning v Garda Sgt Peter Handley, (unlisted)** private criminal prosecution in the District Court initiated in May 2015 and unlawfully terminated in Sept 2015.
- b. **Stephen Manning v 4 Dublin-based Gardaí, (unlisted)** private criminal prosecutions in the District Court initiated in January 2016 and which simply 'disappeared' off the records whilst the Applicant was incarcerated, after months of unlawful obstruction.
- c. **DPP v Granahan & Manning, Case 2-16/10489** – fraudulent criminal prosecution against the Applicant in the District Court in March 2016, arising out of Case (a), culminating in the Applicant's utterly fraudulent 'conviction in absentia' in Jan 2017.
- d. **Judge James Faughnan v Manning & Ors, Case 2016/9187 P** – botched (failed) attempt by a District Court Judge to try to shut down the *Integrity Ireland* project

and website via a contrived application to the High Court in October 2016.

- e. **Manning v District Court Judge Aeneas McCarthy, JR 2016/865** – complaint to H-C Nov 2016 about serial improprieties and unlawful acts by the trial judge in Case (c).
- f. **Stephen Manning v the DPP, Case JR 2016/866** – November 2016 complaint to the H-C about gross prosecutorial (criminal) misconduct by agents of the DPP in Case (c).
- g. **Stephen Manning v District Court Judge Aeneas McCarthy, JR 2016/918** – complaint to H-C about additional unlawful and unconstitutional acts by the judge in Case (c).
- h. **Stephen Manning v District Court Judge Bryan Smyth, Case JR 2016/960** – complaint to the High Court in December 2016 regarding serial unlawful acts by 6 District Court Judges who had unlawfully failed or refused to process Case (b) above.
- i. **Stephen Manning v High Court Judge Richard Humphries, Case 2017/008** - Supreme Court application arising out of JR refusal in case (h) above, in January 2017.
- j. **Stephen Manning v High Court Judge Richard Humphries, Case SCA 2017/059** - Supreme Court application arising out of JR refusals in cases (e, f & g) above.
- k. **DPP v Manning, Case 2017/355** – May 2017 appeal in the Circuit Court resulting in the Applicant's unlawful imprisonment after these two illicit half-trials (c & k) were conducted without: (i) any legal representation or defence witnesses; (ii) without identifying any injured party; (iii) without any defence aspect of the trial; and (iv) in face of multiple, documented criminal acts by the DPP Prosecution and trial judges.
- l. **Ben Gilroy v Governor of Castlerea Prison & Ors, 2017/507 SS habeas corpus** application on May 8th 2017 on behalf of Stephen Manning – refused by Noonan J, without; (i) any given reason; (ii) without reference to any points of law; (iii) without any written judgment; and (iv) without the required appearance of the Prisoner.
- m. **Stephen Manning v Governor of Castlerea Prison, 2017 No. 9 SSP Article 40 habeas corpus** application from prison on 11th May, refused on 18th May by Binchy J without; (i) any given reason; (ii) without reference to any points of law; (iii) without appearance of the prisoner; and (iv) accompanied by a much-belated and utterly devious judgment text that misstated most of the pertinent facts, was legalistically obtuse, contradictory, inane in parts, and which defied rationale and common sense.
- n. **Stephen Manning v Governor of Castlerea Prison, 2017 537 SS habeas corpus**

application of May 16th 2017 by Noriko Manning and Marguerite Corbett – refused on May 17th by Humphries J, without; (i) the required appearance of the Prisoner; (ii) without notifying the Prisoner of any decision for over two weeks (until June 2nd and after he had left Prison); and (iii) which notification from the Courts Service was accompanied by yet another utterly contrived and devious ‘EX TEMPORE JUDGMENT’ text containing misdirections and obtuse legalistic references which again, did not address the facts of the application.

- o. **Stephen Manning v Governor of Castlereagh Prison, 2017 No. 10 SSP** Article 40 application by STM on June 1st 2017 – refused by Humphries J, on June 7th without; (i) any given reason, (ii) any written judgment or reference to points of law (at the time); and again, (iii) without the required appearance of the Prisoner. (iv) The accompanying Judgment text which was not composed until June 27th was yet another now-typical demonstration of devious, misleading, inaccurate and convoluted legalese designed to misinform the record.
- p. **Stephen Manning v Ireland, Claim No 36557/17** – application to the European Court of Human Rights in November 2017 rejected on the grounds of; (i) ‘incomplete documentation’ and then; (ii) ‘run out of time’ due to the repeat refusals of the Irish Courts Service to provide copies of documents needed for that ECHR application.
- q. **Stephen Manning v Circuit Court Judge Sean O’Donnabhain, Case 2017/798 JR** application to the High Court in October 2017 to strike out unlawful conviction in Case (c & k) on grounds of wholesale criminality by various ‘Officers of the Court’.
- r. **DPP v Manning, Case 2017/180452** – fraudulent ‘assault’ allegations from April 2017 lodged in the District Court by the DPP *after* the initiation of Case (q) above.
- s. **Manning v District Court Judge Deirdre Gearty and the DPP, Case 2018/432 JR** – application to the High Court challenging blatant fraud, perjury, collusion, criminal damage, vexatious prosecution, contempt of Court and conspiracy to pervert justice ongoing in Case (r) above.

A. It should further be noted that throughout this extended period the Applicant has been charged with **nine different traffic offences by the Gardaí/DPP** – all of which were false, vexatious, spurious and fraudulent – and all of which were eventually withdrawn, dismissed or struck out on appeal, and that it was in the course of trying to establish the

facts in the District Court (for example) in November 2015 that the Applicant suffered a serious assault by Gardaí under the instructions of a Judge which has caused life-long injuries and gave rise to the 'common informer' private criminal prosecutions as listed at (b, h & i) above, after GSOC, the Courts Service and the DPP's Office conspired to suppress these 'official' crimes.

B. It should also be noted that the Applicant has lodged some **40+ legitimate applications for criminal summonses under the Petty Sessions (Ireland) Act 1851** and, with the exception of those in cases (a) and (b) above (the first summons being unlawfully ignored by the accused with the illicit facilitation of the District Court, and the latter four which were simply 'disappeared' off the records by the Courts Service whilst the Applicant was incarcerated in 2017), that none of those other 40+ 'common informer' applications have ever been properly dealt with by the Courts, the Courts Service or by the DPP's Office.

C. I further note that the said two applications to the Supreme Court (i & j) were refused on 'highly questionable' legal grounds, also, whilst the Applicant was unlawfully incarcerated, and after multiple formal complaints by the Applicant that he was being mercilessly obstructed and stonewalled by agents of the Courts Service and the DPP's Office in particular; and that despite all of the evidence of criminal wrongdoing by certain named parties, that the Irish Courts seemed collectively determined to ignore, suppress, cover-up or dismiss that damning evidence to the great prejudice of the Applicant's case, and in violation of his fundamental right to access justice.

D. **Furthermore, the Applicant notes his intention to lodge a parallel leapfrog application to the Supreme Court on the same general basis as detailed herein**, noting that 'the Court' (i.e. various Officers of the Court involved in these matters to date) have engaged in a range of improper and illicit actions and inactions in repeat violation of the law and of their mandates and obligations as Officers of the Court, and in serious breach of their respective Codes of Conduct, their Oaths of Office, and of Superior Court Rules; and, inasmuch as they have engaged in these deliberate acts of fraud, collusion, deception, perjury and criminal damage; such as the erasure, fabrication or unexplained 'disappearance' of Court records and case-related evidence (both temporary and permanent) for the purposes of, (a) visiting serial unlawful obstructions, hindrances and delays on the Applicant and on the due and proper progress of this case; and (b) covering

up 'official crime'; that the said 'Officers of the Court' are therefore clearly in violation of domestic law and of the Irish Constitution, as well as acting in contravention of a number of Acts, Articles, Regulations, Directives and Statutes of European Union Law (which supersedes and informs Irish law) including (but not limited to); (i) The Copenhagen Criteria; (ii) the Treaty of the Functioning of the European Union (TFEU); (iii) the Charter of Fundamental Rights of the European Union CFREU (esp. Articles 41,47 & 51); (iv) the European Convention on Human Rights (esp. Articles 1,5,6,7,8,10,13,14 & 17); (v) the EU's General Data Protection Regulation (GDPR); (vi) the EU's Law Enforcement Directive 2016/680; (vii) Articles 1-7 of the EU Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union; (viii) The 2019 EU Justice Scoreboard Report; (ix) The United Nations Convention Against Corruption (UNCAC) 2003; (x) Article 267 of the Treaty on the Functioning of the European Union 'TFEU' .

301. As to the Applicant seeking the Irish Superior Courts to refer these matters to the Courts of Justice of the European Union ('CJEU') and/or to the European Court of Human Rights (ECHR), I say and declare as follows:

A: Preparatory note to the Irish Superior Courts: Bearing in mind, (i) that the Applicant remains without legal representation due to the combined failures/refusals of the State and the Law Society's Legal Aid Panel since early 2016 to assign representation and/or defend these cases; and (ii) given that many of the issues and questions at hand were articulated in the Applicant's previous applications to the Supreme Court which were unilaterally 'denied' in 2017 in highly questionable circumstances, where 'the Court' failed to make due or proper reference to many of the more salient matters raised—including several instances of outright, proven, criminal acts by 'Officers of the Court' and the parallel unlawful refusals of seven District Court Judges in succession to refuse to accept legitimate summons applications (in direct violation of the law and of recent Superior Court Rulings) and this, notwithstanding the corresponding unexplained 'disappearance' and/or purported 'non-existence' of High Court papers, and the removal (under duress) of much key detail by the Courts Service as a precondition of submission—including the said proofs of serious prosecutorial and judicial misconduct; and (iii) in circumstances where the Applicant was not only facing imminent false imprisonment but was also, (iv) encountering wholesale unlawful obstructionism, obfuscation and stonewalling by the DPP's Office, the Courts

Service, GSOC and by several named judges; that the Applicant refers specifically to the contents and substance of those particular S.C. applications (2017/008 & 2017/059)—plus the interconnected and cumulative Court Cases that grounded them—in support of this application, making reference to domestic Rules and Laws and the respective international legislation and case law as listed hereunder (which is obviously limited by the Applicant’s knowledge of the same) and upon which elementary list the Applicant relies upon to pose relevant questions to the Irish Supreme Court and to the Court of Justice of the European Union – some of which challenge the fundamental jurisdiction of the Irish Superior Courts to decide on matters wherein, “*no domestic judicial remedy*” effectively or in reality exists, and where several Superior Court Judges stand directly accused of criminal conduct in circumstances which impugn the very credibility and lawful functioning of the Irish Courts and indeed the Irish State, particularly in respect of all of the noted contraventions of Irish Law and the pertinent EU Directives and legislation regarding a citizen’s right to, (a) ‘due process’, (b) ‘accuracy of the record’, and (c) ‘access to justice’ which have been violated in these interconnected cases. (v) In context of ‘301.A.(i)-(iv)’ above, the Applicant further respectfully refers back to the contents of paragraph 295.(i) and to the Applicant’s absolute duty—for the avoidance of doubt and in the overall interests of justice, transparency and accountability—to detail the respective issues in as comprehensive a manner as possible.

B. Preamble to the questions for the CJEU: Given that the issues outlined herein, as supported by the detail in the Applicant’s various submissions to the High Court in Case 2017/798 JR (and which detail should therefore *not* be ignored or dismissed on the purported grounds that it is ‘not specifically articulated’ herein); that the said documents already on the High Court record clearly demonstrate that various “*Irish Officials and Office Holders*” are in repeat, flagrant and systemic violation not only of their sworn ‘duty of care’ under national law but also of various Articles of the ECHR and of EU law, and that there is in fact and actual effect, “*no judicial remedy under national law*” to this illicit activity, inasmuch as the various domestic Acts, Laws and Statutes that deal with corruption, criminality, fraud, perjury, criminal damage, misrepresentation and other ‘official wrongdoing’ by Irish Officials and Office Holders (and by their subordinates, lackeys, associates or ‘connected others’) are being deliberately and systematically ignored in these cases—with scienter and unlawful intent—by some of the very same Officials and Office Holders who are required under EU law to administer justice in this State.

C. That whilst the said, “*national judicial remedies*” indisputably exist ‘on paper’ they are not, (i) in reality, (ii) in effect, or (iii) in actual practice, being properly applied or acted upon when Irish Officials (and/or any affiliates thereof) are the subject of allegations of corruption or criminality, or indeed of any other type of official wrongdoing, especially when such allegations are delivered by ordinary members of the public. Accordingly, the question is raised as to the compliance of the Irish State with EU Directives that require member states to effectively incorporate EU law, as required by, ‘*The Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union.*’

(a) That the said Convention was transposed—in part—into Irish domestic law in the form of *the Criminal Justice (Corruption Offences) Act 2018* which, at S.9 deals explicitly with “the creation or use of false documents” and emphatically prohibits the same (which offence, when committed in context of ‘matters before the Courts’ would of course constitute an act of ‘criminal damage’ and/or of ‘obstructing, perverting or interfering with the course of justice’, which carries penalties of up to 10 years imprisonment) but which same unlawful practice continues regardless in these cases—as well as on a routine basis in the Courts—and that neither the Irish Statutory Authorities nor the Superior Courts are pursuing any lawful remedies to these criminal acts despite several formal complaints and appeals, and in spite of the relevant obligations under their respective codes of conduct, Oaths of Office and *the Criminal Justice Act 2011* to report serious crime. In fact, the very opposite is the case, with new Court Rules being introduced that effectively reinforces the wall of secrecy and concealment of serial wrongdoing being perpetrated by so-called ‘Officers of the Courts’.

D. That with respect to those agents of the State with whom the Applicant has not yet had prejudicial or damaging experience; it is nevertheless a general truism that the *de facto* tactic of ‘the State’ is to try to exhaust and frustrate legitimate complainants by re-routing complaints via bogus and ineffective ‘statutory oversight bodies’ or through bespoke ‘internal review mechanisms’ or via politically staged and staffed ‘commissions of enquiry’ whose pre-set terms of reference effectively ensure that no-one in authority is ever held fully accountable for their corrupt or criminal actions.

E. Likewise in the nation’s Courts, and concerning the specific matters being dealt with in

this High Court Case 2017/798 JR; that it only needs to be noted that the Applicant has already endured some 25 High Court hearings over a period approaching 2 years, ostensibly, “seeking (mere) permission for leave to apply for a judicial review” in an originating District Court Case that dates back to May 2015—and where the *Courts Service Annual Report for 2018* declares the waiting time for an application for a judicial review to be a mere, “two months”—to demonstrate how the Irish Courts are abusing and corrupting legal mechanisms and procedures for improper purposes in these particular cases.

F. As in any such cases which threaten to expose official wrongdoing; litigants’ affidavits and Submissions are variously suppressed, annotated with “Do Not Publish” markings, or are simply secreted away in (no public access) “State-Side” files whilst utterly contrived and misleading ‘Judgment texts’ are composed by compromised judges, and which said texts effectively and dishonestly ‘rewrite the facts’ in the absence of any contradictory arguments remaining ‘on public file’ (such as in this case) and where, because of the recent implementation of the uncontested ‘*Superior Courts Practice Direction HC86*’ (which came into force on 29th April 2019) and which Direction now prohibits direct access to case files – meaning that litigants and their solicitors can no longer even view or inspect their own case files to ensure the accuracy, completeness and integrity of the same, whilst leaving files vulnerable to unlawful interference from any other agent of the State who may have sinister or illicit intentions – as has been repeatedly demonstrated in these cases.

(a) In his Affidavits of June 7th and July 26th 2019 for example (which are central to the issues under appeal in this case) the Applicant lists some 25+ incidents combined of; (i) non-compliance by the opposition with High Court Orders; (ii) of wholesale failures of due process; and (iii) of apparent ‘errors and omissions’ and ‘improper record keeping’ on the Courts Service lists which, if the Applicant did not have prior access to his case file, he would probably never have discovered. The introduction of *Direction HC86* now places the Applicant at a great and distinct disadvantage whereby he won’t even know the true contents of the file upon which the Court is making decisions, and even *the Freedom of Information Act 2014* doesn’t apply in circumstances where Court records are considered to be “under the control of the courts” (i.e. they ‘belong to’ individual judges) and NOT to the Courts Service, thereby creating yet another bureaucratic layer of secrecy and impediments to anyone (other than the establishment) seeking access to case files, which

denial expressly violates Article 41.2. of the CFREU; *“the right to access the case files.”*

(b) Likewise with the multi-million euro Digital Audio Recording System ('DAR') that was marketed to the Irish public with great fanfare as being *“technically incorruptible”* and *“indispensible to the proper functioning of modern Courts”* inasmuch as 'we' would now have a primary record of what was, and was not said in open Court. However, in contrast to many other modern jurisdictions 'we' meant 'only the establishment' because individual judges could dispense with the DAR, and parallel Court Rules ensured that the public could NOT privately record their own cases. The added prohibition on the use of cameras or recording devices was introduced by the judiciary in November 2018 under *Rule CA11*. This might seem at first sight to be a practical measure until one considers the now well-established fact (including in these combined cases) that (on those occasions where the DAR is actually switched on); (i) that the DAR can in fact be interfered with and HAS been criminally interfered with on several occasions before Court-ordered DAR files were released to litigants for example – including DAR files being deliberately rendered incoherent as evidence, and where 'inconvenient' or incriminating files that demonstrated prosecutorial or judicial misconduct were unlawfully erased by the Courts Service or by the DPP prosecution. The same difficulties exist with supposed 'sworn transcripts' whose integrity simply cannot be relied upon. It is clear therefore, that these prohibitions on the public having firsthand accurate recordings of their own Court cases or even access to their own case files is to ensure that there is NOT 'a level playing field' or any genuine 'equal access to justice' as is required under international law, and that rogue 'Officers of the Court' in Ireland can continue to commit offences against the administration of justice without any immediate fear of exposure, accountability or penalty.

G. In addition, there is the alarming fact that the originating District Court Case of May 2015 has since given rise (either directly or indirectly) to over 30 interconnected, successive, and/or sequential Court Cases where the Applicant was variously listed: (i) As the lay-prosecutor (twice). (ii) As the Defendant (twelve times) – including two malicious public order prosecutions; nine vexatious and unproven traffic charges; and a failed (contrived) attempt by a judge to shut down the *Integrity Ireland* project. (iii) As the Appellant to the Higher Courts (now sixteen times) – including five judicial reviews to the High Court; three appeals to the Circuit Court; four habeas corpus applications from prison; three

Constitutional appeals to the Supreme Court and an application to the European Court of Human Rights) which latter application ultimately failed because of ‘incomplete documentation’ due to the Irish Courts Service (unlawfully) failing and refusing to provide the documentation required.

H. I further note that the above list does NOT include the 40+ unlawful refusals of the Irish District Courts to accept formal applications for criminal summonses; nor the unexplained failures and refusals of the DPP to prosecute corresponding criminal complaints; nor the refusal of the Irish Human Rights Commission to intervene; nor the various obstructive and unlawful tactics being deployed by other agents of the State and facilitated in the Courts so as to, (i) frustrate, (ii) “indefinitely suspend” or (iii) otherwise prevent from proceeding, three civil actions in the High Court taken by the Applicant and his family in response to some truly astonishing (criminal) breaches of their fundamental rights, including 3 spurious applications by the Child Protection Agency (‘TUSLA’) to try to secure care Orders against the Applicant’s children based on purported ‘anonymous online allegations’ and proven false reports by Gardaí – an increasingly pervasive and insidious tactic that is all-too-typical of the State’s sinister response to whistleblowers, anti-corruption activists, pro-justice spokespersons and independent reporters, and any and all perceived ‘troublemakers’.

(a) That an idiosyncratic irony has emerged inasmuch as through the very process of attempting to abide strictly by the law in his dealings with the Irish establishment (beginning c.2009) that the Applicant (and his family by association) have become recurrent victims of crime – albeit largely ‘official’ crime. *“Article 2 (1) (a) (i) of the EU Victims Directive defines a victim as a ‘natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence’.”* The Applicant thereby reluctantly acknowledges that of all of the qualifying terms used to define his legal status to date (e.g. “defendant, applicant, plaintiff, appellant” etc.), that the most accurate, enduring and consistent designation is exactly that of “a victim of crime”.

(b) Noting that Ireland was sanctioned by the EU for its failure to transpose the Victims Directive into law by 2015, but that the corresponding *Criminal Justice (Victims of Crime) Act 2017* now provides for certain minimum rights, supports and protections for all victims of crime. *“The Directive recognises that victims must be treated with respect and*

dignity in a professional, sensitive and non-discriminatory manner. In legislating for these principles, the Victims Directive reinforces the rights outlined in the EU Charter of Fundamental Rights. More specifically, Article 47 of the Charter provides that victims of crime have the right to an effective remedy and a fair trial which ensures victims have 'effective access to court proceedings' (FRA 2015: 11)."

(c) That instead of being treated as a victim of proven, recurrent crime and as a law-abiding EU citizen with inalienable rights and entitlements, that the Applicant is in fact – and in actual effect – being treated by the Irish State as a criminal alien – albeit a criminal and an alien who has no fundamental right to genuinely 'access justice', and who continues to risk his liberty by simply telling the truth and by refusing to willingly engage with those in the pay of the State who are occupied in unlawful or criminal conduct. Indeed, in a truly ludicrous attempt to cast a shadow of suspicion on the newly-formed *Integrity Ireland* project in 2013, a Garda Detective remarked in open Court that the *I-I Association* was considered, "a subversive organisation with suspected links to international terrorists." One would hope that the absurdity of this startling assertion is by now self-evident to any rational person, but at least it offers some context for the catalogue of 'official' criminal harassment that followed – which has continued since for nearly 7 years.

J. That this catalogue of systemic wrongdoing demonstrates the disturbing lengths and depths that the Irish State is willing to travel to; to suppress legitimate complaints and Court cases; to cover up official corruption and misconduct; and to unlawfully target those who would speak up in defence of our rights under EU Law. Even when these underhanded tactics are properly brought to light in formal applications, legal appeals and judicial reviews the Superior Courts either; (a) 'selectively ignore' the salient issues; (b) they deploy suppressive, obstructive, obfuscating and 'damage control' tactics, such as blocking and refusing legitimate applications, repeatedly adjourning proceedings, falsely claiming 'no jurisdiction', and by issuing cryptic, contradictory and inane judgments, decisions and Orders that rarely correspond with what actually transpired in Court; (c) through the unexplained 'disappearance' from the record of Court documents and even whole cases (such as has occurred in this particular case); (d) by judges inexplicably walking out of Court mid-hearing and 'refusing to hear' valid arguments and challenges; and (e) by introducing

into the record, false and misleading judgments and new constructs and rules which effectively prohibits litigants from exposing these mendacities in the first place. The latest restrictions within; (i) *Rule 84 (Judicial Review)* – making it increasingly more difficult to lodge a JR; (ii) in *Practice Direction HC86* (no access for litigants or their solicitors to their own Superior Court files); and (iii) *Orders 123 & CA11 of the Rules of the Superior Courts, Order 67A of the Circuit Court Rules and Order 12B of the District Court Rules* – prohibiting any private recordings of Court hearings by persons other than Court Officials, are recent such examples.

K. In respect of the EU’s urgings for the introduction of a long-awaited (now 20 years plus) Judicial Council to deal with allegations of judicial misconduct in this State, it should perhaps be noted that in the ONLY country in the EU that doesn’t have a mechanism to sanction errant judges, that the politically-appointed Irish judiciary have been actively lobbying the government to make it a criminal offence to even publicly *name* any accused judge – even when that named judge has already been found guilty of professional misconduct, or worse.

L. Accordingly, and in dismal expectation of ‘more of the same’ (now-typical) obfuscation, misdirection, deception, collusion, inaction and convoluted legalese from the Irish Courts, and the anticipated nullifying argument that because I have not specified ‘this-or-that’ in precise legal terms that my arguments will therefore automatically fail; I say again that it should not be for a mere lay litigant to be held to the same exacting standards of trained solicitors, barristers and judges who have all of the professional resources of the Courts, the Law Society and the Law Library at their disposal, and that it remains the Constitutional duty of the Courts to make reasonable allowance for the position of lay litigants. As the experts in the field with ‘a duty of care’ to administer justice, it is naturally and Constitutionally incumbent on the Courts that they interpret the Applicant’s well-articulated arguments and deduce the inferred legalities in context of the respective legislation in a facilitative rather than an adverse, obstructive or inimical manner – and thereafter properly act upon the same ‘in the overall interests of justice’ and in accordance with their Constitutional Oaths of Office – even if certain specifics are not quoted verbatim herein because of the Applicant’s limited legal knowledge.

* * *

M. Grounds in EU law for a referral to the CJEU under Article 267 of the Treaty of the Functioning of the European Union.

(i) **Under the Charter of Fundamental Rights** of the European Union (CFREU), EU citizens are entitled to “the rule of law”. The Charter further requires that Member States’ actions be “within the scope of EU law” and that EU membership is conditional on “*The Copenhagen Criteria*” as laid down at the June 1993 European Council in Denmark, regarding the stability and functioning of domestic institutions that guarantee (specifically in this case); (a) the rule of law, and (b) human rights.

(ii) **The (presumed) required ‘statutory safeguards’ and ‘legal remedies’** within Member States’ domestic laws—as per ‘*The Copenhagen Criteria*’— thereby provides the basis for the inclusion of Article 51 in the Charter, which in turn allows the Charter to be invoked “only when Member States are implementing Union law”. In respect of the *application* of Article 51, the European Union Agency for Fundamental Rights acknowledges the principle of ‘subsidiarity’ quoting that Member States, “shall therefore respect the rights, observe the principles and promote the application thereof (of the Charter) in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.”

(iii) **The Judgment of the CJEU (Grand Chamber) in February 2013** [Case C-617/10] states: “Article 51 of the Charter thus confirms the Court’s case-law relating to the extent to which actions of the Member States *must* comply with the requirements flowing from the fundamental rights guaranteed in the legal order of the European Union.” (and) “The Court’s settled case-law indeed states, in essence, that the fundamental rights guaranteed in the legal order of the European Union are applicable in all situations governed by European Union law, but not outside such situations. In this respect the Court has already observed that it has no power to examine the compatibility with the Charter of national legislation lying outside the scope of European Union law. On the other hand, if such legislation falls within the scope of European Union law, the Court, when requested to give a preliminary ruling, must provide all the guidance as to interpretation needed in order for the national court to determine whether that legislation is compatible with the fundamental rights the observance of which the Court ensures.” (and) “Since the fundamental rights guaranteed by the Charter must therefore be complied with where national legislation falls

within the scope of European Union law, situations cannot exist which are covered in that way by European Union law without those fundamental rights being applicable. The applicability of European Union law entails applicability of the fundamental rights guaranteed by the Charter.”

(iv) **The Judgment of the CJEU (Grand Chamber) of 4 December 2018** [Case C-378/17] states: “..in accordance with the Court’s settled case-law, the primacy of EU law means that the national courts called upon, in the exercise of their jurisdiction, to apply provisions of EU law must be under a duty to give full effect to those provisions, if necessary refusing of their own motion to apply any conflicting provision of national law, and without requesting or awaiting the prior setting aside of that provision of national law by legislative or other constitutional means.” (and) “Accordingly, any provision of a national legal system and any legislative, administrative or judicial practice which might impair the effectiveness of EU law by withholding from the national court having jurisdiction to apply such law the power to do everything necessary at the moment of its application to disregard national legislative provisions which might prevent directly applicable EU rules from having full force and effect are incompatible with the requirements which are the very essence of EU law.”¹ (and) “As the Court has repeatedly held, that duty to disapply national legislation that is contrary to EU law is owed not only by national courts, but also by all organs of the State — including administrative authorities — called upon, within the exercise of their respective powers, to apply EU law.”² (and) “It follows that the principle of primacy of EU law requires not only the courts but all the bodies of the Member States to give full effect to EU rules.” (and) “..Member States are to ensure that judicial and/or administrative procedures.. ..are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them.” (and) “..the principle of primacy of EU law requires [‘a body upon which the national legislature has conferred the power’] to provide, within the framework of that power, the legal protection which individuals derive from EU law and to ensure that EU law is fully effective, disapplying, if need be, any provision of national

¹ Judgments of 9 March 1978, *Simmmenthal*, 106/77, EU:C:1978:49, paragraph 22; of 19 June 1990, *Factortame and Others*, C-213/89, EU:C:1990:257, paragraph 20; and of 8 September 2010, *Winner Wetten*, C-409/06, EU:C:2010:503, paragraph 56.

² Judgments of 22 June 1989, *Costanzo*, 103/88, EU:C:1989:256, paragraph 31; of 9 September 2003, *CIF*, C-198/01, EU:C:2003:430, paragraph 49; of 12 January 2010, *Petersen*, C-341/08, EU:C:2010:4, paragraph 80; and of 14 September 2017, *The Trustees of the BT Pension Scheme*, C-628/15, EU:C:2017:687, paragraph 54.

legislation that may be contrary thereto.”³ (and) “..a ‘court or tribunal’ within the meaning of Article 267 TFEU may refer to the Court, pursuant to that article, questions of interpretation of relevant provisions of EU law and, as it is bound by the judgment in which the Court gives a preliminary ruling, it must forthwith apply that judgment, disapplying, if necessary, of its own motion conflicting provisions of national legislation.” (and) “Rules of national law, even constitutional provisions, cannot be allowed to undermine the unity and effectiveness of EU law.” (and) “It follows from the principle of primacy of EU law, as interpreted by the Court in the case-law referred to.. ..that bodies called upon, within the exercise of their respective powers, to apply EU law are obliged to adopt all the measures necessary to ensure that EU law is fully effective, disapplying if need be any national provisions or national case-law that are contrary to EU law.” (and) “EU law, in particular the principle of primacy of EU law, must be interpreted as precluding national legislation.”

(v) **Notwithstanding the said stated supremacy of EU law**, there is accordingly, a binding contractual requirement on the part of subsidiary Member States—in order to properly qualify, endorse and ratify the Article 51 exclusionary rule—and indeed to qualify their continued membership of the Union—that Member States are *in reality and in actual fact*, implementing, respecting, applying and abiding by the respective domestic laws which, (a) correspond with, (b) derive from, (c) ‘fall within the scope of’, and (d) are subordinate to – Union law. In short, that in order to ensure ‘the rule of law’ for EU citizens within the Union, that it is clearly an indispensable and absolute requirement that any and all domestic laws—and particularly those which have derived *directly* from EU laws and Directives—are, (e) actual, real, authentic and effective; (f) are consistent with the Charter; and (g) are directly applicable and enforceable in each Member State via the State’s domestic institutions.

(vi) **Accordingly, if EU law** (and by association the Treaty, the Charter, the Court of Justice and the European Court of Human Rights) are to claim ‘jurisdiction and authority’ over Member States’ domestic laws in the circumstances as laid out under Article 51, then there simply *must* be some credible, effective and workable ‘domestic mechanism’ that is derived from EU law (other than simply being ‘on paper’ and/or posited in vague political promises and premises) that truly guarantees the rights of EU Citizens in face of the wholesale, chronic failures and abuses of the Irish State, such as is occurring in this case.

³ Judgments of 22 Nov 2005, *Mangold*, C-144/04, EU:C:2005:709, paragraph 77; of 19 January 2010, *Kücükdeveci*, C-555/07, EU:C:2010:21, para 53; and of 19 April 2016, *DI*, C-441/14, EU:C:2016:278, para 35.

302. QUESTIONS for referral to the CJEU: (Q1 – Q24)

In context of ‘A-M’ above the Applicant poses the following relevant questions:

Q1. Does the refusal of an EU Member State’s judge to correct known errors of fact in Court documents of his own authorship comply with the principle of ‘accuracy of the record’ and the EU citizen’s right to the same, as enshrined in EU law?

Q2. When a Member State’s domestic Officials and Office Holders (and their subordinates or associates) fraudulently create, amend, erase or backdate official records for the purposes of; (a) advancing false prosecutions, (b) covering up official wrongdoing, and/or (c) to delay, obstruct or otherwise prevent from advancing, legitimate applications before the domestic Courts; are the said Officials and Office Holders in compliance with each of the following legal rights and principles which are enshrined in EU law?

- The right to accuracy of the record.
- The right to good administration.
- The right to an effective remedy.
- The right to access to justice.

Q3. When a Member State’s Officials and Office Holders (and their subordinates or associates) fraudulently create, amend, erase or backdate official records for the purposes of delaying, obstructing or otherwise preventing cases from duly advancing to the CJEU and/or to the ECHR in circumstances where the said cases are being prepared for advancement by an EU citizen specifically and expressly because of the *absence* of any genuine or effective domestic remedies or correction in that State; are the said Officials and Office Holders in violation of the principles listed at Q2 above?

Q4. In circumstances where a Member State’s institutions are derogating from EU law and are engaged in open criminal activity in violation of the Charter through the agency and facilitation of the domestic Courts, and where no corrective or remedial actions are being taken by the respective domestic statutory authorities in response to formal complaints, is any given EU citizen:

- Required to comply with the said criminal activity?
- Lawfully subject to any such activity and the outcomes thereof?

- Obligated to challenge the said activity under the respective domestic laws?
- Permitted to approach the European Courts directly?

Q5. Is the Irish State complying with the membership requirements of the European Union known as “*The Copenhagen Criteria*” as laid down at the June 1993 European Council in Copenhagen, Denmark, regarding the stability and functioning of domestic institutions that guarantee (specifically); (a) the rule of law, and (b) human rights?

Q6. There is currently an obligation on EU citizens to ‘exhaust all domestic remedies’ before making an approach to the European Courts. In circumstances where a Member State’s officials are engaged in proven criminal activity to the detriment of an EU citizen, does the requirement to ‘exhaust all domestic remedies’ include:

- The lodging of formal complaints with the respective internal oversight bodies?
- The lodging of criminal complaints with the domestic police?
- The issuing of private ‘common informer’ criminal proceedings wherever such is available under national law such as under *the Petty Sessions (Ireland) Act 1851*?
- The lodging of civil proceedings against the individuals concerned?
- The lodging of civil and/or criminal proceedings vs the State?

Q7. Where a Member State has ‘Obligation to Report Serious Crime’ laws in effect but where its Officials and Office Holders systemically ignore the same, is that State in violation of the *Copenhagen Criteria* and of the crime-prevention-related principles in the CFREU?

Q8. In circumstances where it is demonstrated that any given Member State is NOT respecting or applying the rule of law in its domestic framework, does the said State’s failure render the fundamental rights of the EU citizen (as enshrined in the CFREU) effectively ‘non-existent’ and unenforceable via the Court of Justice of the European Union (CJEU) under the terms of Article 51, for the sole reason that it is merely ‘domestic law’ that is being argued despite the fact that the said domestic law has been transposed from EU law for the specific purpose of giving force to Union law within that Member State?

Q9. In circumstances where a Member State’s institutions are NOT abiding by the rule of law or by the principles enshrined in the Charter, and in circumstances where there is no

effective “*national judicial remedy*” domestically available thereby rendering the CFREU effectively null and void in that State; where does the lawful EU citizen turn to for a remedy?

Q10. In circumstances where individual ‘Officials and Office Holders’ of Member States are also EU citizens who are subject to the rule of law, what mechanisms are in place to ensure the said individuals’ compliance – in their official capacity – with the TFEU & CFREU?

Q11. Is the Irish State perpetrating a deliberate fraud on the EU, and specifically in respect of the latest EU GRECO Reports which declare Ireland to be “*globally unsatisfactory*” in implementing justice-related reforms; inasmuch as several senior authority figures including Justice Minister Charles Flanagan are personally implicated in failing and refusing to act on incontrovertible evidence of serious corruption and illegalities within the Irish Justice System whilst Mr Flanagan (for example) simultaneously reassures the Irish public, as well as the OECD, GRECO, UNDOC and other EU Member States that, “*genuine reforms*” are underway?

“My department has been very active on anti-corruption measures this year, and indeed so have my colleagues in other Government Departments. The recently enacted Criminal Justice (Corruption Offences) Act 2018 represents a complete overhaul of Ireland’s anti-corruption laws that were somewhat out of date and inaccessible. It is a vital piece of legislation in the fight against corruption at home and abroad.” [From the Department of Justice website: **“Minister for Justice and Equality welcomes publication of latest (GRECO) anti-corruption report”** published 5th July 2018].

Q12. Is the Irish State complying with EU law as referenced above inasmuch as the various Irish Authorities and Statutory Oversight Bodies are failing and refusing to apply the sanctions laid out in criminal law in response to proofs of criminal acts and activities by other Irish Officials and Office Holders?

Q13. Are the Irish District Courts in violation of EU Law inasmuch as they are repeatedly (40+ times) failing and refusing to accept and lawfully process legitimate ‘common informer’ applications under *s.10 of the Petty Sessions (Ireland) Act 1851* for summonses naming agents of the State as the accused in criminal matters?

Q14. Is the Minister for Justice in violation of EU Law inasmuch as he has failed and refused

to acknowledge or respond to formal correspondence detailing criminal activity by members of the judiciary, which requests that the matter be put before the Irish Parliament as per *Article 35.4.1 of the Irish Constitution*; and with reference to (i) *s.73 of The Courts of Justice Act 1924*; (ii) *s.21 of The Courts of Justice (District Court) Act 1946*; (iii) *s.10.1 [iv] of The Courts (Supplemental Provisions) Act, 1961*; and/or (iv) *s.9 of The Houses of the Oireachtas (Privileges and Procedures) Act 2013* – which refer to various ‘privileged’ and private procedures to sanction errant judges?

Q15. Are the Irish Superior Courts in violation of EU Law inasmuch as the High Court and the Supreme Court has failed and refused to properly-and-lawfully respond to judicial review applications and appeals naming a number of judges and other ‘Officers of the Court’ in proven unlawful or criminal conduct such as listed herein?

Q16. *Article 41 of the Charter of Fundamental Rights of the European Union (CFREU)* states that, “Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.” (&) “The right of every person to have access to their file.” Given that the Applicant has documented many specific and wholesale abuses of ‘good administration’ by agents of the Irish State as forbidden under the Charter including many proven incidents of fraud, perjury, criminal damage, ‘stonewalling’, the withholding of information and services due, the fabrication of spurious charges, the deliberate delivery of misinformation, and various other acts of misfeasance, nonfeasance and malfeasance; does this place Ireland in violation of Article 41?

Q17. Inasmuch as the Irish State is a net recipient of EU funding, is the Irish State in violation of its obligations to the Union inasmuch as the Irish Department of Justice secretly funds the Legal Aid arm of *Transparency International Ireland* and the State funds *the Irish Human Rights Commission*, both organisations which have failed and refused to act on evidence of the Department’s breach of citizens’ rights to access justice – in direct contravention of their publicly-stated mandates, and their respective claims of ‘independence’? “*T.I. Ireland is independent of government, politically non-partisan, and is not profit making. It will not accept any donation which might compromise its independence.*” [T.I. Ireland 2019.] “*Our purpose is to promote and protect human rights and equality in Ireland and build a culture of respect for human rights, equality and intercultural understanding in the State.*” [IHRC 2019]

Q18. Inasmuch as the Irish State is a net recipient of EU funding, is the Irish State in violation

of its obligations to the Union inasmuch as the Irish Department of Justice funds the Irish Courts Service and staffs it with civil servants even though the same Courts Service is registered as ‘a private corporation’ which is governed and administered by a Board appointed under *the Courts Service Act 1998* which contains a governing majority of judges and a CEO who are being remunerated out of the public purse and who have likewise failed or refused to acknowledge, correct, sanction, amend or in any other way properly deal with various substantiated reports of criminal wrongdoing by persons employed in the Courts Service in these cases?

Q19. Is the Irish State perpetrating a deliberate fraud on the EU, and specifically in respect of the latest EU GRECO Reports which declare Ireland to be “*globally unsatisfactory*” in implementing justice-related reforms inasmuch as The Irish Council for Civil Liberties, The Bar of Ireland and the Law Society of Ireland have obtained EU funding to develop a training programme for lawyers and the judiciary for the purposes of, “..ensuring the effective implementation of the Victims Directive and the Criminal Justice (Victims of Crime) Act 2017 in Ireland.”?

Q20. The ‘Superior Courts Rules Committee’ is tasked by the Irish State to the, “*making, annulling or altering rules of court, and of making new rules..*” and similar functions are gifted to the members of the Circuit and District Court Rules Committees. Given that membership of these Committees (which are heavily populated with judges) is decided by the Minister for Justice, and given that it is solely the Constitutional function of the legislature to create laws—whilst it is the traditional role of the judiciary to interpret and implement those laws—the question arises as to the legitimacy and constitutionality of any Committee-imposed changes to existing Rules or Court-related processes such as with *Practice Direction HC86 (no access to case files)*; of *Rule CA12 (no cameras or recording gear)*; and *Order 84* (Judicial Review) for example, which have the actual effect of law on parties before the Courts – especially when these Rules conflict with a person’s fundamental right to justice as per Articles 6, 13 & 17 of the ECHR; and Articles 41 & 47 of the CFREU?

Q21. Similarly with the ad-hoc ‘invention’ of new rules and regulations or of verbal directions being given by various ‘Officers of the Court’ (particularly in the lower Courts) especially when any such ‘directions’ conflict with existing domestic or EU law and/or when the same effectively reduces, restricts, or even denies the public’s right to access the Courts

and/or denies them their fundamental rights to justice, as in the following circumstances which have each arisen in these interconnected cases:

- The public being physically denied access to the Courts.
- Litigants being denied the right to speak in their own cases.
- Unqualified persons being unlawfully afforded 'attorney' status (also in the Higher Courts) while qualified 'McKenzie Friends' and 'friends of the Court' (amicus curiae) are silenced, removed or ejected.
- Litigants being unlawfully assaulted in the Courts.
- Legitimate applications being unlawfully refused.
- Court cases being unlawfully initiated and prosecuted without jurisdiction in express violation of domestic, EU and international law.
- Litigants being jailed for attempting to verbally assert their rights.
- Prohibitive ad-hoc procedures and rules being unilaterally deployed to frustrate litigants and obstruct the proper administration of justice.
- Inconsistent, incompatible and contradictory rulings, judgments and decisions being unilaterally made that defy existing case law and legal precedent, including the refusal of judges and Courts Service staff to accept and process legitimate applications, the refusal to accept evidence, and the improper interference with documents and records already on file.

Q22. Is the Irish State effectively complying with the directions in, *"Articles 1-7 of the EU Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union"* to make 'passive and active corruption a criminal offence' and that, *"Each Member State shall take the necessary measures to ensure that the conduct referred to.. ..is punishable by effective, proportionate and dissuasive criminal penalties.."* inasmuch as the Irish State has declared the same 'on paper' in *the Criminal Justice (Corruption Offences) Act 2018* but is not in practice applying or enforcing the same in these cases?

Q23. The question also arises as to whether those officials who are in violation of *Article 9 of the Criminal Justice (Corruption Offences) Act 2018* (i.e. those who have knowingly created or used, and/or have facilitated the creation and use of fraudulent documents and texts in

respect of this High Court JR Case – as detailed herein) are in individual violation of GDPR and of the ‘passive and active corruption’ legislation derived from the said EU Convention at Articles 2 & 3?

Q24. Given it is a prerequisite of membership of the European Union that prospective and/or existing member States have a properly-functioning justice system; and given that it has been demonstrated in this particular case that domestic justice is NOT being lawfully delivered or consistently applied in Ireland, and that other than existing merely ‘on paper’ that the respective EU laws and Directives which the Irish State is obliged under EU membership criteria to transpose, implement and apply in the domestic sphere – is NOT in fact being implemented or applied in these interconnected cases; accordingly, does the CFREU have direct applicability when a Member State such as Ireland is NOT complying with EU law in its domestic capacity, nor with the remedies and rights enshrined in the CFREU?

303. As to the preliminaries required before listing the specific grounds of appeal and the respective legislation, I say and declare:

A. The Respondent in the JR named in the triggering Order of June 25th last is Circuit Court Judge Sean O’Donnabhain who has never, at any time, appeared in any of the 25+ High Court hearings to date. In fact, in response to the Applicant’s request to call material witnesses including the Respondent Judge and the various Officers of the Court who were involved in the substantive matters at hand, Justice Michael MacGrath declared in May 2018 that the Applicant could NOT call any witnesses and that, *“all evidence in this case will be decided on affidavit”*.

B. The Chief State Solicitor’s Office (CSSO) was the original Respondent’s representative by Order of Justice Noonan of October 23rd 2017, then (without any required Notice to the Applicant or to the High Court) the CSSO dropped out of the case and the Office of the DPP & solicitor Brian McLaughlin ‘assumed carriage of the case’ via a since-‘disappeared’ Order of the High Court from January 30th 2018.

C. Furthermore, three different counsels have already appeared for the DPP on intermittent occasions, and there has been no counsel at all at approximately half of the 25+ hearings in the High Court. The Applicant is NOT being notified of these changes or absences in advance and the DPP’s Office is not responding to my enquiries in any

reliable way, so I cannot confirm which barrister is officially ‘on record’ – or whether we should expect another new face to arrive without any notice?

D. However, it seems clear that Mr McLaughlin is the solicitor on record, and his contact details are:

Mr Brian McLaughlin, solicitor
Office of the Director of Public Prosecutions
Infirmary Road, Phoenix Park, Dublin 7
Tel: 018588534
Email: brian.mclaughlin@dppireland.ie

304. As to the matter of legal aid, I say and declare:

A. I have been ‘effectively denied’ Legal Aid throughout these interconnected proceedings since 2016 despite qualifying for four different certificates in; (i) the District Court (twice), (ii) the Circuit Court, and (iii) in the High Court.

305. As to the Grounds of Appeal in my applications to the Superior Courts, I say and declare that in addition to—and complimenting—the previous details herein regarding Case 2017/798 JR and its immediate precursors, including a well-documented list of State agents who have engaged in specific acts of criminal misconduct and which said list remains available to the Court for reference; the general grounds of appeal are:

1. That a serious and protracted miscarriage of justice has occurred, which is being exacerbated and compounded by the unlawful actions of State-sponsored actors in overt and covert violation of domestic law (as generally summarised hereunder ‘2.(a)–(w)’) and more specifically, that a number of ‘Officers of the Court’ including Courts Service staff, Gardaí, solicitors and barristers have acted contrary to the law and the Constitution in the various associated cases and Court hearings preceding and contributing to this application, with the full knowledge and complicity (both active and passive) of various Irish Officials and Office Holders, including named judges who have likewise violated their Constitutional Oaths of Office and in certain instances have knowingly committed primary criminal acts in order to obstruct, pervert or interfere with justice, and which said cumulative unlawful acts—by express association and detrimental effect—also conditionally ground this application.

(a) **That given the numerous breaches of Irish, EU and International Law** that have occurred in this case to date, and given the limitations of this form to be able to catalogue all of the same in detail herein, and notwithstanding the fact that many of the same have already been documented in detail in the Applicant's prior affidavits, Submissions and applications to the High Court; and in consideration of the need to lodge these papers as soon as practically possible—the Applicant has listed in short form the respective Rules/Laws/Legislation etc., which he has identified as having a direct bearing on this case, making provisional reference to the same with summaries in italics as to the Applicant's understanding of each, and which same have been breached or violated respectively by the said named persons identified:

2. Said domestic violations include breaches of the following ('2.a-w'):

(a) Articles of the Irish Constitution.

- **Article 34.6(i):** *The judicial Oath and declaration, and the pertinence and enforceability of the same in context of the following.*
- **Article 35.2:** *Judges MUST operate within the law and the Constitution.*
- **Article 38.1:** *No person to be tried on a criminal charge except by law.*
- **Article 40.(i):** *All citizens are equal before the law.*
- **Article 40.(3)(i):** *The state guarantees to defend and vindicate the rights of the citizen.*
- **Article 40.(3)(ii):** *The state shall protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.*
- **Article 40.4:** *No person may be deprived of liberty except by law.*

(b) The Offences against the State (Amendment) Act 1998.

Section 9: The obligation NOT to withhold information pertaining to a criminal offence and the duty to report the same to An Garda Síochána.

(c) HC86 /CA12 – Irish Superior Courts Practice Direction (of 29th April 2019).

Prohibiting direct access to case files by litigants and solicitors.

(d) Superior Court Rule 40.

The requirement that High Court affidavits are properly composed, submitted and filed according to strict parameters and time limits, including the rule on hearsay, perjury, and the right to cross-examine deponents on Notice.

(e) The Criminal Procedure Act 2010. Part 3: Section 7

(i) Regarding the discovery of 'new evidence' and its bearing on a criminal trial. (ii) Regarding "offences against the administration of justice" including perjury and conspiracy to pervert justice.

(f) The Prevention of Corruption Act 1906. Section 1.

Regarding the promise or receipt of a gift or consideration in return for improper actions or inactions by an agent of the State, causing 'gain' or 'loss' respectively.

(g) The Criminal Justice Act 1999. Section 41.

Regarding the use of threats, menaces and intimidation for the purposes of obstructing, perverting or interfering with justice.

(h) Criminal Justice (Theft & Fraud Offences) Act, 2001. Sections, 6, 9, 25, 26, 27 & 29.

Regarding the dishonest making of a gain for oneself or another, and/ or the causing of a loss to another through knowing; (i) deception; (ii) misuse of computers; (iii) forgery; (iv) false instruments etc.

(j) The Criminal Justice (Theft & Fraud Offences) Act, 2001. Section 51.

Regarding the concealment, disposal or interference with documents or records which could be pertinent to any Garda criminal investigation.

(k) The Criminal Justice Act 2011. Sections 17 & 19.

The prohibition on improperly falsifying, concealing, destroying or otherwise disposing of a document, and the obligation to report the same to An Garda Síochána.

(l) The Civil Service Code of Standards and Behaviours.

Requiring civil and public servants to respect the law, to act honestly and ethically, and to identify themselves when dealing with members of the public.

(m) The Code of Ethics for the Garda Síochána (January 23rd 2017).

The obligation on Gardaí to; "Deliver a Policing Service with Honesty, Accountability,

Respect, Professionalism and Empathy.”

(n) The Criminal Justice (Corruption Offences) Act 2018. Sections 5, 6, 7, 8 & 9.

Regarding: (i) passive and active corruption by Irish Officials; (ii) the improper trading in influence; and (iii) creating and using false documents and instruments.

(o) The Petty Sessions (Ireland) Act 1851. Section 10(4)

The procedure by which ordinary citizens can initiate criminal prosecutions against members of the establishment in the District Courts (for free) as endorsed by the Irish Superior Courts in 1966, 2013, 2015, 2016, 2017.

(p) Statutory Declaration & Notice of August 2016. (‘I-I QTC No.1’)

An Integrity Ireland legal document listing the statutory provisions for the (on paper) investigation and removal of Irish judges for stated, ‘incapacity, infirmity, misbehaviour and/or misconduct’.

- S. 73 of The Courts of Justice Act 1924
- S. 21 of The Courts of Justice (District Court) Act 1946
- S. 10.1 (iv) of The Courts (Supplemental Provisions) Act, 1961
- S. 9 of The Houses of the Oireachtas (Privileges and Procedures) Act 2013
- Article 35.4 (i) of the Irish Constitution

(q) Statutory Declaration & Notice of May 2019. (‘I-I QTC No.2’)

Establishing that systemic obstructionism, stonewalling and denials of service for corrupt or malicious purposes by Irish Officials constitutes a criminal offence.

(r) The Perjury and Related Offences Bill 2018.

Proposed legislation currently before the Dáil that deals with perjury and related offences.

(s) The Judicial Council Bill 2017.

Proposed legislation currently before the Dáil to deal with the longstanding problem of political judicial appointments and allegations of judicial misconduct – which is suffering multiple obstructions and nullifying amendments.

(t) The European Convention of Human Rights Act 2003

Transposing the terms and protocols of the Convention for the Protection of Human Rights and Fundamental Freedoms into Irish law.

(u) **The Criminal Justice (Theft & Fraud Offences) Act, 2001. Sections 41, 42, 43 & 44.**

Regarding the supremacy of EU law over that of the State in respect of acts of passive and active corruption, and of fraud that affects European Communities.

(v) **The Criminal Justice (Victims of Crime) Act 2017**

Transposing the terms of the EU's Victims Directive into Irish law.

(w) **The Criminal Law Act 1997 s.8(1)**

Making it a criminal offence to receive a consideration or reward for withholding information pertaining to an arrestable offence.

(x) **Orders 123 & CA11 of the Rules of the Superior Courts, Order 67A of the Circuit Court Rules and Order 12B of the District Court Rules**

The prohibition on the recording of court proceedings by persons other than the Courts Service, the legal profession, and by 'Court-qualified' reporters.

* * *

3. That likewise, aspects of the Charter of Fundamental Rights of the European Union and of certain Directives of European Law and the UN Convention against corruption are being repeatedly violated by various named 'Irish officials and office holders' in respect of this case with particular reference to '3.(j)' below:

(a) **'The Copenhagen Criteria'- European Council, June 1993.**

The requirement that EU Member States respect the rule of law and human rights.

(b) **Articles of the ECHR that deal with justice in context of this case:**

- **Article 1:** The obligation on member States to respect human rights.
- **Article 5:** The right to liberty and security.
- **Article 6.** The right to a fair trial.
- **Article 7:** No punishment without law.
- **Article 8:** Right to respect for private and family life.
- **Article 10.** Freedom of expression.
- **Article 13.** The right to an effective remedy.
- **Article 14.** Prohibition of discrimination.
- **Article 17.** Prohibition of abuse of rights.

(c) Articles of the Charter of Fundamental Rights of the European Union (CFREU) which apply in this case.

- **Article 41:** The right to good administration and access to ones' own case files.
- **Article 47:** The right to an effective remedy in the Courts.
- **Article 51:** Confirming that the Charter applies when member States are implementing EU law.

(d) The EU's General Data Protection Regulation (GDPR).

Member States' obligation to ensure 'accuracy of the record' and that personal data is handled in a fair, lawful and legitimate manner.

(e) The EU's Law Enforcement Directive 2016/680.

Ensuring a consistent and high level of protection of the personal data of natural persons in criminal matters.

(f) Articles 1-7 of the EU Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union.

The obligation on member States to make passive and active corruption a criminal offence complete with effective, proportionate and dissuasive criminal penalties.

(g) The 2019 EU Justice Scoreboard Report

Wherein it is noted that Ireland remains the only State in the EU which has NO domestic mechanism to sanction errant judges.

(h) United Nations Convention against Corruption (UNCAC) 2003.

Regarding the requisite independence of anti-corruption bodies, the codes of conduct of public servants and office holders, the prevention of corruption in the judiciary, the protection of whistleblowers, and the implementation of measures to prevent the obstruction of justice.

(j) Article 267 of the Treaty on the Functioning of the European Union 'TFEU' (ex Article 234 TEC).

Gives the EU Court of Justice jurisdiction to deliver preliminary rulings on the validity and interpretation of EU law. The primary purpose of Article 267 is to ensure that EU law has the same meaning and effect in all the Member States.

4. The immediate and specific grounds of appeal in this case are that a number of ‘Officers of the Court’ (both known and unknown) have engaged in serious, criminal violations of the law with effective immunity from legal consequences inasmuch as ‘due process’ and Superior Court Rules have been variously and repeatedly breached, ignored and/or violated by the State opposition in this case, and which documented misconduct is being actively or passively facilitated by the High Court and by the Irish ‘Statutory Authorities’ inasmuch as they are failing and refusing to carry out their statutory functions and apply the law in defence of the Applicant’s fundamental rights, and that they are in effect repeatedly ‘scandalising the Courts’ inasmuch as:

(i) High Court Orders have been ignored, breached and disobeyed by the State opposition without any due sanction or remedy by the High Court, e.g.

- Order of Noonan J of October 23rd 2017 (*intermittently ‘missing’ from the C.S. record and/or referred to since as mere ‘directions’ by MacGrath J*).
- Order of Noonan J of January 30th 2018 (*disobeyed/ignored by CSSO and DPP and since ‘disappeared’ off the Courts Service record*)
- Order of Noonan J of February 13th 2018 (*ignored/disobeyed by DPP*)
- Order of Noonan J of May 8th 2018 (*ignored/suppressed by MacGrath J*)
- Order of MacGrath J of June 5th 2018 (*ignored/disobeyed by DPP*)

(ii) That the DPP opposition remains in open and unresolved contempt of Court.

(iii) That a number of fraudulent documents have been entered into the record, and that a number of legitimate documents have either disappeared from the record or have otherwise been improperly interfered with.

(iv) That a number of legitimate applications which the Applicant has brought before the High Court have been ignored and/or NOT properly acted upon, and have then been essentially ‘written out of the script’ by the fraudulent actions of the presiding judge with the active knowledge and collusion of the DPP opposition and other Officers of the Court.

(v) That formal complaints have been registered with the respective ‘statutory authorities’ and the said authorities have failed and refused to respond according to their statutory obligations under domestic and EU law.

(vi) Specific to the respective appeal applications to the Superior Courts are:

- DPP solicitor Raymond Briscoe
- DPP solicitor Brian McLaughlin
- DPP counsel, barrister Oisin Clarke
- Justice Michael MacGrath, High Court Judge
- Principal Registrar Mr Kevin O'Neill

(vii) With provisional reference to:

- DPP Claire Loftus
- DPP Chief Prosecuting solicitor Helena Keily
- Minister for Justice Charles Flanagan (and others)
- CEO of the Courts Service, Mr Brendan Ryan

5. That in explicit contravention of; (i) *Section 9 (1) of The Criminal Justice (Corruption Offences) Act 2018* (as quoted at 5.(i) hereunder) and in contravention of; (ii) *Sections, 6, 9, 25, 26, 27 & 29 of the Criminal Justice (Theft & Fraud Offences) Act, 2001*; and in added contravention of; (iii) *Section 8.1 of The Criminal Law Act 1997*; and (iv) *Sections 4, 19 & 29 of Superior Court Rule 40* concerning the composition and delivery of High Court affidavits; and in added breach of the respective criteria in (v) *the Guide to Professional Conduct for Solicitors in Ireland*, and (vi) the *Legal Dictionary's* definitions concerning 'perjury', 'fraud', 'fraudulent misrepresentation' and 'the concealment of crime'; that DPP solicitor Raymond Briscoe knowingly, and with malicious intent, constructed and submitted two fraudulent affidavits to the High Court which contained lies, untruths, hearsay and misleading statements, for the dual purposes of (a) slandering and criminalising the Applicant and (b) covering up crimes committed by himself and his colleagues at the DPP's Office and by other named 'Officers of the Court' who are, or were involved in these proceedings, and which said affidavits dated "5th April 2018" and "29th June 2018" respectively did not in any event comply with the respective Orders of the High Court regarding required content and the time limits for delivery.

(i) The Criminal Justice (Corruption Offences) Act 2018:

"9. A person who, either directly or indirectly, by himself or herself or with another person, corruptly creates or uses a document, that the person knows or believes to contain a statement which is false or misleading in a material particular, with the

intention of inducing another person to do an act in relation to his or her office, employment, position or business to the prejudice of the last-mentioned person or another person shall be guilty of an offence.”

(ii) The Criminal Justice (Theft & Fraud Offences) Act, 2001:

“6.—(1) A person who dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another, by any deception induces another to do or refrain from doing an act is guilty of an offence.

9.—(1) A person who dishonestly, whether within or outside the State, operates or causes to be operated a computer within the State with the intention of making a gain for himself or herself or another, or of causing loss to another, is guilty of an offence.

25.—(1) A person is guilty of forgery if he or she makes a false instrument with the intention that it shall be used to induce another person to accept it as genuine and, by reason of so accepting it, to do some act, or to make some omission, to the prejudice of that person or any other person.

26.—(1) A person who uses an instrument which is, and which he or she knows or believes to be, a false instrument, with the intention of inducing another person to accept it as genuine and, by reason of so accepting it, to do some act, or to make some omission, or to provide some service, to the prejudice of that person or any other person is guilty of an offence.

27.—(1) A person who makes a copy of an instrument which is, and which he or she knows or believes to be, a false instrument with the intention that it shall be used to induce another person to accept it as a copy of a genuine instrument and, by reason of so accepting it, to do some act, or to make some omission, or to provide some service, to the prejudice of that person or any other person is guilty of an offence.

29.—(1) A person who has in his or her custody or under his or her control an instrument which is, and which he or she knows or believes to be, a false instrument with the intention that it shall be used to induce another person to accept it as genuine and, by reason of so accepting it, to do some act, or to make some omission, or to provide some service, to the prejudice of that person or any other person is guilty of an offence.”

(iii) Section 8.1 of The Criminal Law Act 1997:

“8.—(1) Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed and that he or she has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding three years.”

(iv) Superior Court Rule 40:

“4. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, and shall state his means of knowledge thereof, except on interlocutory motions, on which statements as to his belief, with the grounds thereof, may be admitted.

19. Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used, unless by leave of the Court.

29. The defendant, within fourteen days after delivery of such list, or within such time as the parties may agree upon, or the Court may allow, shall file his affidavits, and deliver to the plaintiff or his solicitor a list thereof.”

(v) That in respect of a solicitor’s responsibilities to a client or to the Court in context of this particular case, *the Guide to Professional Conduct for Solicitors in Ireland* states:

(a) “A solicitor should decline to act further in any proceedings where he has knowledge that his client has committed perjury or has mislead the court in relation to those proceedings, unless the client agrees to make a full disclosure of his conduct to the court.

(b) It is an offence for a person to give or dishonestly to cause to be given, or to adduce or dishonestly to cause to be adduced, evidence... ..that (a) is false or misleading in any material respect, and (b) he knows to be false or misleading:⁴

(c) There is a similar offence in relation to the act of giving false or misleading instructions or information to a solicitor or to an expert appointed by the court. An act is done dishonestly by a person if done with the intention of misleading the court.”

⁴ Civil Liability and Courts Act 2004 s.25.

(vi) **On the matters of perjury, fraud and misrepresentation** in context of this case, the Legal Dictionary clarifies:

(a) “A court could set aside a judgment where it was proven on the balance of probabilities that (i) the judgment had been obtained through the fraudulent testimony of one or more witnesses, (ii) that the perjury was known to or instigated by the successful party, and (iii) that the testimony was material to the decision.”⁵

(b) Fraud is a crime which may involve a false pretence, a forgery, as in *the Larceny Act 1861 s.84; Debtors (Ireland) Act 1872 s.13*, which has since been repealed by *the Criminal Justice (Theft and Fraud Offences) Act 2001*, wherein a number of new offences of *electronic fraud* have been created. Fraud is also the tort of ‘deceit’. The Supreme Court has held that fraud must be pleaded with the most particularity; it would not be inferred from the circumstances pleaded, at all events if those circumstances were consistent with innocence.⁶ The essential proofs for persons seeking to establish fraud or deceit are: (i) the making of a representation as to a past or existing fact by the defendant; (ii) that the representation was made knowingly or without belief in its truth, or recklessly, careless of whether it is true or false; (iii) that it was intended by the defendant that the representation should be acted upon by the plaintiff; (iv) that the plaintiff did act on foot of the representation; and (v) that the plaintiff suffered loss as a result.⁷

(c) *The Code of Conduct for the Bar of Ireland (Jul 2014) r.5.16* states that a barrister must not settle a pleading claiming fraud without express instructions, but a fraud on the Court is grounds for setting aside the judgment of a court. See *Credit Union Act 1997 s.173*. The Code also states quite explicitly at S.1.2 that barristers must NOT engage in dishonest conduct or in conduct which will bring the profession into disrepute or which is prejudicial to the administration of justice.

(d) Misrepresentation: A statement or conduct which conveys a false or wrong impression. A misrepresentation may be *fraudulent, negligent* or *innocent*. As regards contract, a misrepresentation to be *operative*: must be a false represent-ation; it must be

⁵ Kelly v National University of Ireland [2009] IEHC 484; [2009 HC] 4 IR 163.

⁶ Superwood Holdings plc v Sun Alliance [1995 SC] 3 IR 303.

⁷ Scott v Wallace, Official Liquidator of Custom House Capital Ltd (In Liquidation) [2013] IEHC 559; [2014 HC] 1 ILRM 360. Also McCaughey v Irish Bank Resolution Corporation Ltd [2013] IESC 17.

one of fact; it must be intended to be acted upon; and it must actually mislead and induce a contract.

(e) A *fraudulent misrepresentation* is one made knowingly or without belief in its truth or recklessly, careless whether it be true or false:⁸ The person so induced to contract may affirm or rescind the contract and sue for damages in the tort of 'deceit', although rescission may not be allowed where the parties cannot be restored to their original position:⁹

(f) A *negligent misrepresentation* is one made with no reasonable grounds for believing it to be true. A special duty of care may exist between parties to a contract such as to render *negligent* the failure of one party to ascertain the falsity of a statement, which with reasonable care would have been ascertained:¹⁰ The person induced to enter the contract may sue in the tort of 'negligence'.

(g) Negligent mis-statement: Where a duty of care exists between two parties (such as the relationship between 'the authorities' and the public – or between Officers of the Court, the Courts, and the Applicant) there is a general obligation not to do what foreseeably may damage another:¹¹ and this duty of care applies to economic or financial loss as well as to physical damage caused by another's negligence:¹²

(h) The High Court has held that the following test should be applied in deciding whether or not a duty of care existed between a plaintiff and a defendant in a case where negligent mis-statement is alleged - (a) was the injury or damage to property reasonably foreseeable, (b) has the "*proximity*" or "*neighbourhood*" test been met, and (c) is it just and reasonable that the law should impose a duty of a given scope on the defendant for the benefit of the plaintiff:¹³ On appeal to the Supreme Court, it was held that the proximity test in respect of a negligent misstatement included persons in a limited and identifiable class when the maker of the statement could reasonably expect, in the context of a particular enquiry, that reliance would be placed thereon by such persons to

⁸ Derry v Peek [1889] 14 App Cas 337; Early v Fallon [1976] HC.

⁹ Northern Bank Finance Corp Ltd v Charlton [1979] IR 149; Carbin v Somerville [1933] IR 276.

¹⁰ Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964] AC 465; Securities Trust Ltd v Hugh Moore & Alexander Ltd [1964] IR 417; Esso Petroleum Ltd v Mardon [1975] 1 All ER 203; Stafford v Mahoney [1980] HC.

¹¹ Donoghue v Stevenson [1932] AC 562.

¹² Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964] AC 465.

¹³ Wildgust & Carrickowen Ltd v Bank of Ireland and Norwich Union L.I.S. [2001 HC] - 1st Oct.

act or not to act in a particular manner, potentially to their detriment, in relation to that transaction:¹⁴

6. That in contravention of Sections 31 & 32 of Superior Court Rule 40 regarding the prohibition on the use of formally-challenged affidavits ‘as evidence’ pending cross-examination, that Justice Michael MacGrath has nevertheless accepted the submission into the record of the said fraudulent affidavits of Raymond Briscoe and has since attempted to legitimise the same with repeat and recurring reference to the contents therein (particularly in Justice MacGrath’s Judgment text of April 4th 2019) despite the Applicant having lodged a comprehensive affidavit detailing the fraudulent nature and contents of Mr Briscoe’s submissions, and despite lodging a formal application ‘On Notice’ to cross-examine Mr Briscoe in December 2018 – and which said matter has yet to be dealt with by the Court.

(i) **Superior Court Rule 40:** *“31. When the evidence is taken by affidavit, any party desiring to cross-examine a deponent who has made an affidavit filed on behalf of the opposite party may serve upon the party by whom such affidavit has been filed a notice in writing, requiring the production of the deponent for cross-examination at the trial, such notice to be served at any time before the expiration of fourteen days next after the end of the time allowed for filing affidavits in reply, or within such time as in any case the Court may specially appoint; and unless such deponent is produced accordingly, his affidavit shall not be used as evidence unless by the leave of the Court. The party producing such deponent for cross-examination shall not be entitled to demand the expenses thereof in the first instance from the party requiring such production.*

32. The party to whom such notice as is mentioned in rule 31, is given shall be entitled to compel the attendance of the deponent for cross-examination in the same way as he might compel the attendance of a witness to be examined.”

7. That in contravention of certain Articles of the Constitution (listed at ‘7.(i)-(v)’ hereunder) and the legislation quoted at 5 & 6 above, that High Court Judge Michael MacGrath has authored, ‘approved’ and placed ‘on the record’ a knowingly-fraudulent judgment text containing serious factual errors, as well as inaccurate and misleading statements and declarations which are designed to ‘mislead the Court’ and eliminate from

¹⁴ Wildgust v Bank of Ireland [2006 SC] 1 IR 570; [2006 SC] 2 ILRM 28; [2006] IESC 19.

the record, established proofs of prior and ongoing criminal activity by the DPP's agents and other 'Officers of the Court' (as specifically detailed in the Applicant's Supplementary Affidavit of 7th June 2019, in case 2017/798 JR and summarised in bullet points here below) and which said contrivances unlawfully favours the State opposition and causes prejudice, bias and potential fatal flaws to the Applicant's case and position, and that the said Judge has since repeatedly failed and refused to amend or correct the record inasmuch as.

- The title is incorrect on its face. This needs to be amended and corrected.
- The whole document is couched in terminology and wordings which promote an incomplete, inaccurate and misleading understanding of the critical facts.
- Justice MacGrath has artificially (and improperly) returned us to a preliminary point in proceedings in JR 2017/798 which the High Court record and Superior Court Rules clearly shows we have long since passed. It is not therefore credible or reasonable, nor is it in alignment with Superior Court directions that it has taken over 20 months and 20+ scheduled hearings in the High Court to simply arrive at the, *"permission for leave to apply for Judicial Review"* stage. This position is NOT sustainable or tenable.
- The Opposition (CSSO & DPP) are in repeated breach and violation of Court Orders, time limits, and Superior Court Rules. Accordingly, 'the opposition' have long since lost their legal standing as legitimate parties in these JR proceedings.
- The Opposition have at NO time even responded to my original Grounding Affidavit – which again places them in breach of due process and renders their opposition void.
- The Opposition have NOT responded to my comprehensive Submissions detailing over 30 violations of national and EU law, nor have they challenged or rebutted any of the same except by a generic (and utterly fraudulent) denial of my claim which said failures and refusals establishes the veracity of my claim *'qui tacet consentit'*.
- The Opposition continue to remain in 'contempt of Court' which is a matter that has NOT been resolved or in any way properly dealt with by Justice MacGrath. Furthermore, the Judgment document of April 4th makes inaccurate, erroneous and misleading reference to the same. This needs to be addressed, and the record corrected.
- The Opposition have delivered four affidavits into the record in blatant violation of

Superior Court Rule 40 and of the respective time limits for each of the same.* Justice MacGrath should therefore NOT even be making any reference to those affidavits other than to dismiss them as fraudulent and disingenuous instruments. This must be done 'asap' if the Court is even to maintain even any *pretence* at due process. *(Including 'joined' JR 2018/432).

- That this Judgment document of Justice MacGrath attempts, essentially, to rewrite the history of these interconnected cases in such a manner as to be highly prejudicial to my applications already before the Court—and indeed is indirectly proscriptive to the same—including my unresolved applications 'on Notice' to the opposition by direction of the Court in December 2018, for the release of specific phone and DAR records and to cross-examine the DPP's agents on their fraudulent affidavits – the latter being of such obviously centrality to the fair and just continuation of these proceedings, that to ignore or sideline these crucial issues, let alone give credibility to those fraudulent DPP affidavits by referencing them in this Judgment text, is again, to do a great and ignoble injustice that is unworthy of this honourable Court.
- The fact that Justice MacGrath is, in many respects, improperly taking on the role of Defence Counsel for the Respondent inasmuch as he continues to initiate arguments and raise issues of objection—both inside the Courtroom as well as in this Judgment document—which have NOT previously been raised or articulated by the opposition.

(i) **Article 34.6(i):** *"Every person appointed a judge under this Constitution shall make and subscribe the following declaration: In the presence of Almighty God I do solemnly and sincerely promise and declare that I will duly and faithfully and to the best of my knowledge and power execute the office of Chief Justice (or as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws. May God direct and sustain me."*

(ii) **Article 35.2:** *"All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the law."*

(iii) **Article 40.1:** *"All citizens shall, as human persons, be held equal before the law."*

(iv) **Article 40.3(i):** *"The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen."*

(v) **Article 40.3(ii):** *“The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.”*

8. That in contravention of the legislation quoted at 5, 6 & 7 above, that Justice Michael MacGrath has authored and published an Order dated June 25th 2019 and perfected on July 5th 2019 which likewise has the form, construct and appearance of a fraudulent instrument (as per the detail in the Applicant’s “Supplementary Affidavit No 15” of July 26th 2019, as summarised hereunder, and as referred to at paragraph 295 (ii)-(v) of this affidavit).

- The hearing referred to (June 25th) was scheduled by Justice MacGrath on May 30th 2019 but was at NO time listed by the Courts Service and remained unacknowledged by the DPP until they were re-Ordered to attend at 2pm on June 25th after the Applicant had appeared in the High Court at 11am that day.
- This title is NOT correct. It is NOT the same as all of the previous Court documents on record. This is the 2nd time that MacGrath J has tried to change it in spite of the Applicant’s objections on affidavit and in open Court.
- There is NO mention at all of the fact that the opposition [first the CSSO and now the DPP] have at NO time even responded to the Applicant’s original grounding affidavit – and there is NO mention either of the Applicant’s 13 prior affidavits on record which detail so much criminal wrongdoing.
- Justice MacGrath again refers to the mere ‘directions’ of Justice Noonan on 23rd October 2017 when he is fully aware that Noonan J actually made an Order that day, which has since ‘gone missing’ from the Courts Service lists.
- MacGrath J refers to ‘the presence of DPP Counsel’, but NO ‘Counsel’ was present for the DPP on June 25th – in fact, DPP Solicitor Brian McLaughlin tried to use this fact as an excuse NOT to progress matters that day.
- The vague and unspecified invitation to apply for the DAR here (i.e. which DAR from which particular cases and hearings are we referring to here?) appears to be designed to put the Applicant in a position where in order to secure any of the oft-requested DAR records, that he would be obliged to accept the validity of this Order and thereby tacitly acknowledge MacGrath J’s ‘lawful right and jurisdiction’ to

continue in this case.

- Justice MacGrath's refusal to recuse himself in circumstances where he has allowed so many breaches of the law by the opposition – and where the Applicant has in effect accused him of criminal activity and intent in the management of these cases – is patently absurd, ridiculous and preposterous.
- 'Louise Evans' is named as the Registrar on record, but she was NOT the Registrar present on the day. The Registrar who WAS present advised the Applicant after the hearing of June 25th that she would ensure the speedy and accurate production of this Order in line with the directions of the Court.
- This is clearly NOT the same (as-yet-unseen) Order which was deceptively discussed in open Court between Justice MacGrath and DPP solicitor Brian McLaughlin on May 30th 2019, and which the Courts Service has since confirmed never actually existed.

9. That in particular respect of the two documents listed at 7 & 8 above, and in specific breach of Order 28 of the Rules of the Superior Courts and Order 84, Judicial Review (as quoted at 9.(i)-(iii) hereunder) that Justice MacGrath has knowingly, deliberately and with prejudicial intent changed the title of the proceedings from the original, *"Stephen Manning v Circuit Court Judge Sean O'Donnabhain"* to *"Stephen Manning v A Judge of the Circuit Court"* without lawful cause or reason in circumstances where; (a) NO application was made by any party to the proceedings to amend or alter the same; (b) wherein no particular required, *"clerical mistakes in judgements or orders, or errors arising therein from any accidental slip or omission"* have been identified; (c) where there is no provision in law or in Superior Court Rules for the unilateral changing of the title of proceedings in this manner; (d) where *'mala fides'* as against the original Respondent Judge Sean O'Donnabhain has been very clearly implied and articulated in the Applicant's originating JR paperwork (thereby necessitating the inclusion of the said Judge's name); (e) where Justice MacGrath has flatly refused to act on the Applicant's formal objections on affidavit and in person in this regard; and, (f) in circumstances where the said alterations present a fatal flaw to the lawful progression of these proceedings, and which said imposition forces the Applicant to either accept these unlawful alterations and the illicit consequences thereof, or, to raise these matters urgently before the Superior Courts, on appeal.

(i) Order 28 of the Rules of the Superior Court (in relevant parts) states:

“1. The Court may, at any stage of the proceedings, allow either party to alter or amend his indorsement or pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

2. The plaintiff may, without any leave, amend his statement of claim, whether indorsed on the summons or not, once at any time before the expiration of the time limited for reply, and before replying or, where no defence is delivered, at any time before the expiration of four weeks from the appearance of the defendant who shall have last appeared.

3. A defendant who has set up any counterclaim or set-off may without any leave, amend such counterclaim or set-off at any time within six days from the delivery of the reply or the expiration of the time allowed for delivery thereof, whichever shall be the shorter.

4. Where any party has amended his pleading under either rule 2 or rule 3, the opposite party may, within eight days after the delivery to him of the amended pleading, apply to the Court to disallow the amendment, or any part thereof, and the Court may, if satisfied that the justice of the case requires it, disallow the same, or allow it subject to such terms as to costs or otherwise as may be just.

5. Where any party has amended his pleadings under rule 2 or rule 3, the opposite party shall plead to the amended pleading, or amend his pleading, within the time he then has to plead or within eight days from the delivery of the amendment, whichever shall be the longer; and in case the opposite party has pleaded before the delivery of the amendment, and does not plead again or amend within the time above mentioned, he shall be deemed to rely on his original pleading in answer to such amendment.

6. In all cases not provided for by the preceding rules of this Order, application for leave to amend may be made by either party to the Court before or at the trial of the action, and such amendment may be allowed upon such terms as to costs or otherwise as may be just.

7. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited, then within fourteen days from the date of the order, such order to amend shall, on the expiration of such limited time as aforesaid, or of such fourteen days as the case may be,

become ipso facto void, unless the time is extended by the Court.

8. An indorsement or pleading may be amended by written alterations in the copy which has been delivered, and by additions on paper to be interleaved therewith if necessary, unless the amendments require the insertion of more than 144 words in any one place, or are so numerous, or of such a nature that the making of them in writing would render the document difficult or inconvenient to read, in either of which cases the amendment must be made by delivering the document as amended, which shall be printed when printing is required under Order 19, rule 9.

9. Whenever any indorsement or pleading is amended, the same when amended, shall be marked with the date of the order, if any, under which the same is so amended, and of the day on which such amendment is made, in manner following, viz.: "Amended the day of pursuant to order of dated the day of ."

10. Whenever any indorsement or pleading is amended, such amended document shall be delivered to the opposite party within the time allowed for amending the same.

11. Clerical mistakes in judgements or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court on motion without an appeal.

12. The Court may at any time, and on such terms as to costs or otherwise as the Court may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings."

(ii) The (Slip Rule) Amendment S.I. No.271 of 2009 states:

"1. The Rules of the Superior Courts are amended by the substitution for rule 11 of Order 28 of the following: 11. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected without an appeal -

(a) where the parties consent, and with the approval of the Court, by the registrar to the Court, (i) on the application to the registrar in writing of any party, to which a letter of consent to the correction from each other party shall be attached or (ii) on receipt by the registrar of letters of consent from each party; or

(b) where the parties do not consent, by the Court, (i) on application made to the Court by motion on notice to the other party or (ii) on the listing of the proceeding before the Court

by the registrar on notice to each party.”

(iii) That in respect of allegations of ‘mala fides’ (acting in bad faith) being asserted by the Applicant as against the Respondent Judge Sean O’Donnabhain, **Order 84 S.I. No. 345 of 2015: Rules of the Superior Courts (Judicial Review) 2015 states: (underlines added)**

“(a) the judge of the court concerned shall not be named in the title of the proceedings by way of judicial review, either as a respondent or as a notice party, or served, unless the relief sought in those proceedings is grounded on an allegation of mala fides or other form of personal misconduct by that judge in the conduct of the proceedings the subject of the application for judicial review such as would deprive that judge of immunity from suit.”

10. That it is therefore clear even from the undoubtedly incomplete details on this form, that High Court Judge Michael MacGrath, a respected lecturer in law and a former barrister of many years standing, is, like several of his colleagues who have had prior involvement with these cases, either astonishingly ignorant of the relevant laws and Superior Court Rules, or, that he is in open and flagrant criminal contempt of the same, with scienter and prejudicial intent.

11. That according to; (i) The EU’s General Data Protection Regulation (GDPR), and (ii) The EU’s Law Enforcement Directive 2016/680, the Applicant is entitled to ‘accuracy of the record’ and ‘fair and legitimate procedures’ in any and all matters before the Courts, noting that in *Curtis v Kenny* [2012 IEHC 556] Kelly J held that, *“Parties cannot be asked to tolerate bias, prejudice, ill will or mala fides in any form by the judiciary.”*

12. Furthermore, that inasmuch as each of the following [12.(i)-(viii)] are trained legal professionals and/or ‘Officers of the Court’ with a statutory responsibility NOT to mislead the Court or to otherwise breach their respective codes of conduct or oaths of office; and inasmuch as each is aware of the various frauds, deceptions and abuses of due process being perpetrated upon the Applicant in the High Court; and inasmuch as each is actively or passively complicit in the same; that each may also be said to be in violation of the legislation listed at 5, 6, 7, 8 & 9 above, namely: (i) DPP solicitor Raymond Briscoe; (ii) DPP solicitor Brian McLaughlin; (iii) DPP (latest) counsel, barrister Oisín Clarke; (iv) Principal Courts Service Registrar Mr Kevin O’Neill; (v) DPP Claire Loftus; (vi) DPP Chief Prosecuting

solicitor Helena Keily; (vii) Minister for Justice Charles Flanagan; and (viii) CEO of the Courts Service, Mr Brendan Ryan.

13. That accordingly, these named ‘Office Holders’ and ‘Officers of the Court’ (amongst others with express knowledge of the same said offences) are in open and direct criminal contempt of Court and in violation of the aforesaid laws, and are effectively ‘scandalising the Court’ through their actions and inactions: *“The offence of contempt of court ..arises when what is said or done ...is of such a nature as to ..endanger public confidence in the court and thereby interfere with the administration of justice:”*¹⁵

14. That the Applicant is being denied his fundamental right to justice in all of the ways and forms as laid out in his sworn affidavits before the High Court in these interconnected and cumulative matters; and is now being forced and coerced (under threat of false criminal charges, pending potential incarceration and other unlawful pressures by agents of the State) to collaborate, in what the Applicant has shown to be absolutely illicit, fraudulent and criminal processes and procedures in the Irish Courts.

15. The Applicant therefore respectfully requests the Superior Courts to accept his appeal applications as a priority, asking that a date be set for a full public hearing of the facts for the purposes of delivering the lawful reliefs being sought, before any more shame, disgrace and opprobrium is brought to bear on the Irish State through the continued criminal activities of those within ‘the system’ who would conspire to cover-up, suppress and compound these proofs of ‘official wrongdoing’ instead of airing the same in alignment with their respective statutory obligations, “to report, address and sanction criminal conduct” thereby respecting the rule of law and ensuring that, “All citizens shall, as human persons, be held equal before the law. *Article 40.1 Bunreacht na hEireann (Irish Constitution)*).

306. As to the Orders sought from the Irish Superior Courts.

1. **An Order of Prohibition** preventing Michael MacGrath, Judge of the High Court from any further involvement with the Applicant or the Applicant’s cases.

2. **An Order of Prohibition** preventing any of the following named High Court Judges from involvement with the Applicant or his cases on the grounds that each has had prior

¹⁵ State (DPP) v Walsh [1981] IR 412 cited in Desmond & Dedeir v Glackin & Minister for Industry & Commerce [1992 HC] ILRM 489.

prejudicial dealings with the Applicant in violation of the law and of their constitutional Oaths of Office: (i) Noonan, Seamus J; (ii) Binchy, Donald J; (iii) Humphries, Richard J.

3. **An Order of Mandamus** directing the Minister for Justice to receive proofs of criminal conduct ongoing in the Courts and in each respective case to either; (i) refer matters to the respective statutory authorities for investigation and prosecution; and/or (ii) regarding proofs of criminal misconduct by members of the judiciary, that said matters be referred to the Houses of the Oireachtas as per Article 35.4(i) of the Constitution for due consideration of impeachment and dismissal from office.

4. **An Order** directing An Garda Síochána to investigate the allegations of criminal misconduct as detailed in the Applicant's affidavits for the purposes of prosecution.

5. **An Order** directing the DPP to prosecute accordingly 'in the public interest'.

6. **An Order** restraining from any further involvement in this case each and every individual who stands accused of criminal conduct in this case.

7. **An Order** amending or striking out *Practice Direction HC 86* so as to provide for the reinstatement of litigants' direct, supervised access to their own case files, in alignment with EU law regarding access to justice.

8. **An Order** amending *Order 84 (Judicial Review)* to bring it into alignment with citizens' rights to (i) access justice and (ii) to an effective remedy in the Courts.

9. **An Order** directing Courts Service staff to comply with the Civil Service Code of Standards and Behaviours, particularly in respect of identifying themselves and providing 'due service' when dealing with members of the public.

10. **An Order** granting the Applicant's judicial review and directing that a full hearing be held without delay, or, in the alternative, an Order granting the reliefs as laid out in the Applicant's original Statement of Claim as listed hereunder (No 11-15)

11. **An Order of certiorari** striking out the Applicant's unlawful conviction and subsequent incarceration on May 4th 2017 at the Circuit Court Appeal of District Court Case No 2-16/40190 "DPP vs Granahan & Manning" on each, any or all of the foregoing and/or the following grounds.

- That the Applicant was entitled to a presumption of innocence
- That the Applicant was denied effective legal representation
- That the Applicant was denied the right to enter a defence or call witnesses
- That the Court acted in excess and breach of its jurisdiction
- That the Court failed to observe constitutional and natural justice
- That the Court failed to act according to its legal duty
- That the trial Judges acted with extreme bias and prejudice throughout and in violation of their solemn Oaths of Office.
- That there were flaws and errors on the face of the committal orders
- That there have been multiple breaches of the Applicant's fundamental rights as per the European Convention on Human Rights.

12. **An Order for compensation** for the period the Applicant was unlawfully imprisoned as per Article 5.5 of the European Convention on Human Rights.

13. **An Order for damages.**

14. **Any other Order** as deemed fit and appropriate by the Court in the overall interests of justice and in context of the fact that the Applicant is acting without legal representation.

15. **In the event the above reliefs are denied or refused** (No's 11-14), the Applicant seeks the following ex-parte reliefs for the purposes of preparing a case to the European Court of Human Rights (ECHR) and to the Courts of Justice of the European Union (CJEU).

- A. **An Order of Mandamus** directing the Courts Service to release the **full unedited** DAR recordings of the following five District Court hearings in Castlebar regarding case 2016/40190 "DPP vs Granahan & Manning": (i) September 2nd 2015 before Judge Kevin Kilraine; and (ii) November 22nd 2016; (iii) November 23rd 2016; (iv) January 23rd 2017; and (v) January 24th 2017 each before Judge Aeneas McCarthy all of which have been either refused or denied to us without proper or lawful explanation.
- B. **An Order of Mandamus** directing the Courts Service to release the full unedited DAR recordings of the following Circuit Court hearings in Castlebar concerning the Applicant's Circuit Court Appeal: (i) February 10th 2017 before Judge Rory McCabe;

(ii) February 17th before Judge Raymond Groarke; and (iii) May 2nd, 3rd & 4th 2017 before Judge Sean O'Donnabhain.

- C. **An Order of Mandamus** directing the Office of the DPP to withdraw the threatening letter of Raymond Briscoe of April 11th 2017 and to respond to the issues raised by the Applicant in recent correspondence.
- D. **An Order of Mandamus** directing the CEO of the Courts Service Mr Brendan Ryan to respond to the issues raised by the Applicant in recent correspondence.
- E. **An Order of Mandamus** directing An Garda Siochána to properly investigate the criminal complaints lodged by the Applicant and his colleague Mr Colm Granahan in respect of alleged criminal offences committed in the course of these proceedings.
- F. **An Order of Prohibition** restraining any Judges (who have not since retired) who have previously been involved in this case from adjudicating further in these matters on the grounds that it would give the public appearance of possible impropriety, bias and/or a conflict of interest.
- G. **Costs** (and/or expenses).
- H. **Further or other Orders** as this Court sees fit in respect of the fact that the Applicant is acting as a lay litigant, impecunious, without legal access or support.

Signed: Stephen Manning, EU Citizen.

Sworn by the said Stephen Manning this day of September 2019 at 3 Inns Quay, Chancery Place, in the City of Dublin before me a Commissioner for Oaths and the deponent's identity has been established by reference to a Public Services Card bearing a photograph of the deponent with the number 644199125463

Practising Solicitor / Commissioner for Oaths

Filed on the...6thday of.....September.... 2019..... by Stephen Manning, Applicant.