



An Chartlann Náisiúnta
National Archives

Reference Code: 2021/46/284

Creator(s): Department of Foreign Affairs

Accession Conditions: Open

Copyright: National Archives, Ireland.
May only be reproduced with
the written permission of the
Director of the National
Archives.



IRISH EMBASSY, LONDON

17, GROSVENOR PLACE,
SW1X 7HR
Telephone: 071-235 2171
TELEX: 916104
Fax: 071-245 6961

CONFIDENTIAL

✓ Counsellor AT
✓ BOX
Soh
20/2

19 February 1992

Mr Sean O hUiginn
Assistant Secretary
Anglo Irish Division
Department of Foreign Affairs
Dublin

MISCARRIAGE OF JUSTICE CASES: A GENERAL UPDATE

Dear Assistant Secretary,

I have had a number of conversations recently with the key people involved in the major Irish-related miscarriage of justice cases in Britain and I thought it might be helpful to let you have an general update on the issues discussed.

The Maguires

A committee has been set up by the May Inquiry to re-run the earlier tests which it commissioned from Professor Thorburn Burns of Queen's University, Belfast. These tests were crucial to the quashing of the Maguires' convictions but were subsequently challenged by RARDE, the Government forensic laboratory which has conducted the original tests.

The committee's report is expected to be completed by Easter. Morris thinks it "unlikely" that the committee will overturn Thorburn Burns' findings. If he is wrong, the Maguires will be put in the invidious position of having had the single ground on which their convictions were quashed impugned. The quashing of the convictions would, of course, stand.

The likelihood is that Sir John May will prepare another interim report on the Maguires which would effectively wrap up their case. His final report, encompassing the Guildford Four, will have to await the outcome of the prosecution of the Surrey police officers. It will be interesting to see if he comments on the decision of the Court of Appeal in the Maguire case, particularly as the Court was so restrictive in its approach and the ground on which it allowed the appeal so narrow.

Guildford Four

The Attorney General recently won an appeal which allowed the trials of the Surrey police officers involved in the Guildford Four case to proceed. I understand that the Attorney General, Sir Patrick Mayhew, regards this as a personal triumph as he took the highly unusual step of personally appearing in court to argue against a magistrate's decision not to allow the trials to go ahead.

There was a significant divergence between my sources on the likely time-frame for the trials of the officers to begin at the Old Bailey. Whereas the AGO believes that the committal could take place within a few weeks, followed by the trials within a few months, the Secretary to the May Inquiry, Mr Morris, does not think the trials can begin before January/February 1993. Much will depend on whether the defence concedes a "paper committal" or contests every point. The AGO sees no sign of the defence contesting the committal at this point but concedes that, if it does happen, then the trials may indeed be put back to early next year.

When the case goes to the Old Bailey, the judge could stop the trial if he considers the evidence inadequate. In this respect, Morris feels that the prosecution case has been significantly weakened by the "virtual undertaking" given by the Attorney General to the Divisional Court not to adduce evidence which was taken from the Surrey officers before they were formally cautioned.

Paul Hill/Shaw Conviction

When Hill was in contact about an American visa a few weeks ago, he was angry about the delay in dealing with his outstanding conviction for the Shaw murder in Northern Ireland. He felt that it would have been resolved at the same time as the Guildford convictions had the alleged crime taken place in Britain. He said that he had refused to accept release on licence in Northern Ireland and was free on £4,000 bail without any travel restrictions. Resolution of this case will, of course, have to await the outcome of the trials of the Surrey police officers.

Judith Ward

A full scientific review of the forensic evidence was completed by the Home Office at Christmas and is still being analyzed. There are a variety of forensic issues to be decided: in addition to alleged traces on her hands, results obtained by the notorious Dr Skuse, who also featured in the Birmingham Six case, other explosive traces are allegedly involved.

The Director of Public Prosecutions will wait until this process is completed before deciding on whether or not to seek to uphold the conviction when the case comes before the Court of Appeal. The Home Office tells me that they have little feeling at this stage for how the DPP might decide - apart from anything else, they will have to see how the newly-appointed DPP will approach cases of this kind.

Gareth Pierce, Ward's solicitor, has heard through the barristers that the DPP will contest the appeal (as she put it, throwing Skuse to the wolves but nevertheless maintaining that there was "something" in the evidence). However, on the basis of information provided by Pierce herself, I think the Director of Public Prosecutions would have to think very carefully before proceeding with such a strategy. The defence is, for example, in possession of a psychiatrist's report, written before Ward's trial, which stated that she was not fit to stand trial but that security considerations must outweigh the medical and the trial should go ahead as cancellation would be a "victory for the IRA". Non-disclosure of this material at the trial will form part of the appeal.

The Home Office is sceptical of the date of 27 April which has been set for the appeal will, in fact, be met. Its view is that the Court of Appeal has set 27 April as an indicative date to concentrate the minds of the parties but that it might well slip back by a few months. Pierce however is confident that the defence can meet the deadline.

The defence has lodged provisional but not final grounds of appeal. Gareth Pierce has instructed Mike Mansfield, whose forensic expertise was so crucial in the Birmingham Six appeal, as defence counsel. The Home Office sees this as a good move on Pierce's part as Mansfield has no equal among barristers in the forensic field and forensic evidence is at the heart of this complex case.

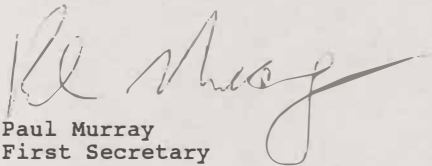
I was asked by the Home Office if we would provide an observer at the appeal hearing. I responded that this would be a matter for my authorities but I pointed to our apparent lack of *locus standi* as we are not aware of any grounds on which Ward could claim Irish citizenship. Ward herself has not, so far as I know, ever requested our assistance and she has in recent times discouraged active campaigning on her behalf.

Nevertheless, the British authorities are happy to continue to keep us informed of developments behind the scenes and would not, I imagine, object if we were to take at face value claims of Irish citizenship by Ward through her father. However, Gareth Pierce has established beyond any doubt that Ward's claim that her father was born in Ireland has no basis in fact and she regards the claim to citizenship as part of Ward's "maniacal" confessions.

Winchester Three Compensation Claims

In the course of conversation with the Home Office, I was told that Finbar Cullen of the Winchester Three (but not his co-defendants, McCann and Shanahan) had applied, through a Dublin firm of solicitors, for compensation for the period which he had spent in prison before being freed by the Court of Appeal in 1990. The Home Office have turned down the application as Cullen did not qualify under the statutory scheme, which applies only in the case of out of time appeals or those referred to the Court of Appeal by the Home Secretary. I got a clear impression of a distinct lack of sympathy for Cullen's case.

Yours sincerely,



Paul Murray
First Secretary