

CONFIDENTIAL



Director of Regimes
S C JACKSON

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23 August 1988

DERMOT FINUCANE

I refer to previous correspondence about this case, which is expected to commence on Wednesday 5 October.

I wonder if it would be helpful, shortly before then, for some of us to meet (including the Governor, Maze) to run through some of the issues likely to be raised when I come to give oral evidence. It is probably not feasible for those who will be acting for us in the court to be present, but I should be happier if there had been some kind of "trial run" on some of the tricky issues, eg Gaelic sports and cultural activities and post-Pettigrew points (we expect the judgment in that case, I understand, in the course of the next two weeks or so).

What do you think?

S C JACKSON

GB/1122

com 1/ix
1. Ms Marson
2. Mr Gilmore
1. Miss Howland
Please note
X1 in relation
to the library
book issue - this
must be moved
forward urgently.
CJM
1/ix

Hidden copies:

Mr Steele

MR BELL SIL

MR J Stephens JMS.

CONFIDENTIAL

IN THE HIGH COURT

IN THE MATTER OF THE EXTRADITION ACT, 1965

BETWEEN:

DERMOT FINUCANE

Plaintiff:

and

JOHN PAUL McMAHON

Defendant:

AFFIDAVIT OF CAROL JACKSON

I, Carol Jackson of Northern Ireland Office Prison Department, Dundonald House, Upper Newtownards Road, Belfast, Northern Ireland, aged eighteen years and upwards, make Oath and say as follows:-

1. I am a Grade 5 officer of the Northern Ireland Civil Service holding the position of Director of Regimes within the Northern Ireland Office Prison Department.
2. I have read a copy of the Affidavit of Dermot Finucane, the Plaintiff, filed herein.
3. I know of my own knowledge or by access to records held at Prison Department Headquarters, about the facilities, regime and all aspects of the treatment of prisoners in prison establishments in Northern Ireland.
4. Her Majesty's Prison, Maze (hereinafter referred to as "Maze Prison") is a maximum security prison, designed and built to accommodate convicted prisoners. Maze Prison consists of 8 cell blocks - known as H Blocks, 3 compounds which formally housed the remaining 92 special category prisoners, hospital, workshops and kitchen, together with administration, education and sports facilities.
5. Maze Prison houses prisoners convicted of serious crime, who are serving sentences of four years or more. Maze Prison is an ordinary

Prison and holds prisoners of all security categories. There are no political prisoners in Maze Prison or in Northern Ireland. Maze Prison was not established as alleged by the Plaintiff "for political prisoners".

6. As of 23 May 1988 Maze Prison held seven hundred and sixty-two prisoners. Four hundred and thirty-three of these have recorded their religious denomination as Roman Catholic, the remainder as one of the Protestant denominations or other religions. Maze Prison contains those convicted of all types of offences. It is an ordinary prison administered - as all penal establishments in Northern Ireland - under the authority of the Prison Act (Northern Ireland) 1953 (hereinafter referred to as "the Act") and the Prison Rules (Northern Ireland) 1982. The day to day operation of prisons in Northern Ireland is carried out under Prison Standing Orders, which derive from the Prison Rules. The aim of the Northern Ireland Prison Authorities is to provide secure custody of convicted persons committed to their custody by the courts in as humane a regime as practicable. There is no policy to "crush Republican resistance". There is a positive policy not to discriminate against any religious belief or political opinion. The policy is to treat prisoners of different political and religious persuasions in the same manner and in accordance with the law.

7. In Maze Prison - as in all prisons in Northern Ireland - convicted prisoners are treated without distinction as to their religious or political beliefs or their culture. All prisoners are subject to the range of rights, privileges and sanctions as provided for in the Act and the Rules made thereunder and laid before Parliament.

8. In Northern Ireland, the governance and administration of prisons is subject to the provisions of the Northern Ireland Constitution Act 1973 section 19 of which provides -

"19.-(1)..... It shall be unlawful for a Minister of the Crown, a member of the Northern Ireland Executive or other person

appointed under section 8 above, the Post Office and any authority or body listed in Schedule 2 to the Parliamentary Commissioner Act 1967, Schedule 1 to the Parliamentary Commissioner Act (Northern Ireland) 1969 or Schedule 1 to the Commissioner for Complaints Act (Northern Ireland) 1969 to discriminate, or aid, induce or incite another to discriminate, in the discharge of functions relating to Northern Ireland against any person or class of persons on the ground of religious belief or political opinion.

(2) The obligation to comply with subsection (1) above is a duty owed to any person who may be adversely affected by a contravention of that subsection, and any breach of that duty is actionable in Northern Ireland accordingly.

(3) Without prejudice to the right of any person apart from this subsection to claim an injunction restraining another from continuing or repeating any act which is unlawful by virtue of subsection (1) above, the plaintiff may in an action in respect of an act alleged to be unlawful as aforesaid claim any such injunction as is mentioned below on the grounds -

- (a) that the act was done by the defendant and was unlawful as aforesaid;
- (b) that the defendant had previously done such unlawful acts of the same kind as, or of a similar kind to, that act; and
- (c) that he is likely, unless restrained by order of the court, to do further acts of the same or of a similar kind;

and the court may, if satisfied as to those grounds and whether or not damages are awarded, grant such injunction as appears to the court to be proper in all the circumstances, being an injunction restraining the defendant from doing, or causing or permitting others to do, further acts of the same or a similar kind."

This section protects the individual's constitutional right not to be discriminated against because of his religious belief or political opinion and provides a remedy if such discrimination against him is

proved in a court of law. Prisoners can avail of the protection of the courts under this Act and claims thereunder have been made in the County Court. Two such cases are those referred to in paragraph 14 of the Plaintiff's affidavit in both of which an appeal to the High Court is pending which is by way of re-hearing.

9. The regime for prisoners at Maze Prison provides a wide range of activities and facilities. Educational courses are provided, ranging from basic remedial teaching up to and including the Open University. Many prisoners take full advantage of these opportunities and some have graduated while in Maze Prison. Courses are provided in a number of languages including Irish. The courses in Irish are widely availed of. Maze Prison has a well stocked library containing a wide variety of books, both fiction and non-fiction. Books and periodicals in the Irish language are available to prisoners who wish to have them.

10. Considerable emphasis is laid on the availability of sports and gymnasium facilities in all prisons in Northern Ireland. Maze Prison has a well equipped gymnasium and there are professionally qualified prison officers who can instruct and supervise a wide range of physical training. As regards organised team sports, the prison administration must take into account the interests of all prisoners. The most popular team sport for members of the prison population in general is Association Football and the prison authorities have provided pitches and equipment adequate for all prisoners who so wish, to play this game.

11. There is no prison rule or standing order in any prison in Northern Ireland which prohibits the playing of any game, including gaelic football. If a prisoner were to insist on playing any game in disobedience of the lawful order of a prison officer he would be guilty of a disciplinary offence under the Prison Rules. As regards informal exercise periods, prisoners are however, subject only to the constraints imposed by reasons of health or safety, consideration for others and security, free to play or organise such games as they choose.

12. Prisoners in all Northern Ireland prisons are entitled as of right and privilege to communicate both personally, by way of visits, and in writing, by way of letters, with members of their family, friends and acquaintances. The criteria under which such communication may take place form the substance of sections 4 and 5 of Standing Orders which are published and freely available to prisoners. I beg to refer to copies of the said sections 4 and 5 upon which marked with the letters "CJ1" and "CJ2" respectively I have signed my name prior to the swearing hereof.

13. Because of the need to ensure safe custody and good order and discipline within the prisons, a degree of censorship is imposed on written and oral communications by prisoners. This censorship is in accord with the findings of the European Commission of Human Rights, the decisions of the European Court of Human Rights and the European Standard Minimum Rules for the Treatment of Prisoners.

14. Prisoners may receive books, pamphlets, periodicals and other written materials subject only to the provisions contained in sections 4 and 5 of the Standing Orders exhibited to this affidavit.

15. Section 5 of the said Standing Orders provides that conversations during visits to prisoners will be conducted in English unless the prisoner or his visitor is incapable of communicating in that language. There is no specific absolute prohibition against the use of any language. The question of whether English is the first or second language of prisoner or visitor does not arise; provided both can understand and be understood in English then that is the language they must use. The supervision of visits is carried out by prison officers who do not usually have any degree of fluency in languages other than English. It is, therefore, necessary to ensure that officers can be aware of and understand any potentially criminal or damaging conversation during the course of a visit, in order to protect the good order, discipline and security of the prison or to prevent crime.

16. I have read the factual assertions contained in paragraph 17(c) of the Plaintiff's affidavit. I cannot speak of them of my own knowledge but the conduct complained of would have been a criminal offence at the time and the same conduct would be a criminal offence today.

17. In the Northern Ireland prison system a number of avenues are open to prisoners who wish to make a complaint. A prisoner with a grievance may:

- a. speak to his class officer or the Governor in charge of his wing;
- b. write to the Governor;
- c. make representation to a member of the Board of Visitors or visiting official of the prison department;
- d. petition the Secretary of State.

18. In addition, a prisoner's recourse to the ordinary law is unfettered by the fact of his imprisonment. He may communicate with his legal advisers, institute proceedings or seek judicial review and prisoners frequently have recourse to these procedures and remedies. If any prisoner suffered injury in the circumstances alleged in paragraph 17(b) of the Plaintiff's affidavit a remedy would be available under the law of Northern Ireland to such a prisoner who could initiate an action for damages in the courts in Northern Ireland.

19. Prisoners may also communicate with their Member of Parliament, Member of the European Parliament and they have access to the Parliamentary Commissioner for Administration and the European Commission on Human Rights.

20. If the Plaintiff is returned to the custody of the Northern Ireland Prison Authorities I believe that he has no reason to fear that he will be killed or subjected to any form of torture, inhuman or degrading treatment. I am satisfied that there is no reason to believe that the Plaintiff, if returned to the custody of the Northern Ireland Prison Authorities, would be killed or subjected to any form of maltreatment.

Save where otherwise stated or appearing I depose to the foregoing from facts within my own knowledge.

CAROL JACKSON
Northern Ireland Office Prison
Department,
Dundonald House,
Upper Newtownards Road,
Belfast,
Northern Ireland.

Sworn this 20th day of June
1988 at Royal Courts of
Justice, Chichester Street,
Belfast, in the County Court
Division of Belfast,
Northern Ireland, before me
a Justice of the Peace for
the said County Court
Division of Belfast,
Northern Ireland, a person
duly authorised to take
affidavits under the law of
Northern Ireland, and I know
the deponent.

GRACE AGNES ERSKINE
Justice of the Peace for the
said County Court Division
of Belfast, Northern
Ireland, a person duly
authorised to take
affidavits under the law of
Northern Ireland.

This affidavit is filed on behalf of the Defendant by Louis J Dockery,
Chief State Solicitor, Dublin Castle, Dublin 2.