



THE COURT OF APPEAL

Record Number 272/18

**The President
Edwards J.
McCarthy J.**

BETWEEN/

DIRECTOR OF PUBLIC PROSECUTIONS

APPELLANT

- AND -

LIAM CASEY

RESPONDENT

**Judgment of the Court (*ex tempore*) delivered on the 6th day of December, 2019 by
Mr. Justice McCarthy**

Introduction

1. This is Mr. Casey's appeal against a sentence of imprisonment of five years imposed at Limerick Circuit Court on the 25th October, 2018 in respect of the offence of possession of a restricted firearm without a Firearms Certificate contrary to the Firearms Act, 1925 (as amended). Such a firearm may not be the subject of a certificate since it was a sawn-off pump action shotgun, although not one in working order. In effect, however, such a firearm may never lawfully be possessed and it is of course useful only for one purpose, that is to kill people.
2. As to the circumstances in which the offence came to light, members of An Garda Síochána on the 26th February, 2017 mounted a surveillance operation at the appellant's home in Bruff, County Limerick, he shares that with his sister. At a given stage a vehicle arrived driven it seems by his co-accused Mr. Dundon and he and Mr. Dundon and a third accused then left the vehicle and were seen to put it shortly, to bring what transpired to be the shotgun into his home. Subsequently when the home was searched the gardaí gained access to an immediately neighbouring derelict premises in which the weapon was found. The weapon was wrapped with a type of clingfilm material, similar material was found in the kitchen of the premises.
3. Later in the day, after the firearm had been deposited in the premises and all three persons remained there for what was described as a short period of time, the gardaí followed the vehicle and after what might be shortly described as a lengthy journey in which a great deal of the time was spent by the driver driving dangerously, the vehicle was stopped and the appellant and the others were arrested.
4. A plea of guilty was entered at the trial. It has been described, I have to say, somewhat surprisingly, as an early plea, but in any event, at the trial; the charge was added to the indictment in circumstances where the main charge, if one might describe it as such, was

possession or control of a firearm in suspicious circumstances. A *nolle prosequi* was entered in relation to that.

5. In the course of his sentencing observations the Circuit Court judge specifically referred, we think, to all factors relevant to sentence, and amongst the other things which he said was that the appellant was born on the 6th March, 1984, was unemployed, and had several convictions: it appears sixteen in number altogether. Only four of those are relevant.
6. There were two charges under the Firearms Acts of possession of firearms and ammunition respectively in respect of which three-year concurrent sentences were imposed upon him at Limerick Circuit Court on the 10th February, 2004, and those however were suspended in full. Subsequently on the 27th October, 2010 two similar charges, obviously they were related, were the subject of sentences of seven years' imprisonment. These are the most salient features of the case. As commented upon by the Circuit Judge in his sentencing remarks, given the nature of the charge he was not subject to the presumptive mandatory minimum sentence contemplated in the case of the offence of possession of firearms in suspicious circumstances.
7. In any event, the Circuit judge characterised the offence as being at the very top of the scale, so to speak, in respect of offences of the present kind; the maximum sentence is seven years' imprisonment. He took the view that the headline sentence should be seven years and he then had regard to the mitigating factors, we think it is fair to say with particular reference to the plea of guilty, and he imposed a sentence of five years accordingly. Of course previous relevant convictions are an aggravating factor and we think there is no doubt but that he was correct in his view as to the headline sentence or indeed the ultimate sentence and accordingly we dismiss this appeal.