[2020] IEHC 2

THE HIGH COURT
JUDICIAL REVIEW

2018 No. 1010 J.R.

BETWEEN

NICOLE DALY

APPLICANT

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT

JUDGMENT of Mr. Justice Garrett Simons delivered on 14 January 2020

INTRODUCTION

1. The principal issue for determination in these judicial review proceedings is whether a failure to remand a person, who has been released on station bail, to a sitting of the District Court within *thirty days* deprives the District Court of jurisdiction. The Applicant had been released on station bail on 25 October 2018, and remanded to appear before a sitting of the District Court on 28 November 2018. The supposedly novel feature of the case is that the Applicant chose not to attend before the District Court on 28 November 2018. Had she done so, then it is clear from the established case law that her attendance before the District Court would have remedied or cured any defect in the remand period. The deliberate decision of the Applicant not to attend before the District Court is said to bring the case outside the established case law. This judgment addresses whether that submission is correct.

FACTUAL BACKGROUND

2. The Applicant had been arrested at the Criminal Courts of Justice, Parkgate Street, Dublin 8 on the morning of 25 October 2018. The Applicant was conveyed to Castlerea Garda Station where she was detained pursuant to section 4 of the Criminal Justice Act 1984. The Applicant was subsequently released from detention, and then rearrested for the purpose of charging her with an offence. More specifically, the Applicant was charged with an offence of theft contrary to section 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001.

3. The Applicant was released from custody upon entering into a recognisance taken by the member in charge of the Castlerea Garda Station. The relevant statutory provisions governing this procedure are addressed in detail under the next heading below. In brief, the procedure requires that the remand be to a sitting of the District Court within thirty days. The shorthand "station bail" will be used to describe this procedure.

4. It seems that the next sitting of the District Court in District No. 4, following the date of the Applicant's arrest and charge, would have been a sitting of Castlerea District Court on 26 October 2018. Had the Applicant been remanded to this sitting, then the remand would have been well within the thirty-day period prescribed. In the event, however, the remand was to a sitting of Strokestown District Court on a date which fell outside the thirty-day period. (28 November 2018).

5. The precise form of recognisance entered into by the Applicant reads as follows.

"I will appear before the District Court to be held at Strokestown, Strokestown District Court, Strokestown, Co Roscommon on the 28 day of November 2018 at 10/30 am/pm to answer the charge(s)‡ as set out in the charge sheet attached and at every place and time to which during the course of the proceedings the hearing may be adjourned until my presence is no longer required to answer the said charge(s)."

6. The Applicant's solicitor has averred on affidavit that he advised the Applicant that he was of the opinion that the District Court did not have jurisdiction to deal with her case in circumstances where the thirty-day period had been exceeded, and that on the basis of this advice the Applicant "opted" not to appear before the District Court.

"11. I say that, accordingly, I spoke to the Applicant on the 27th day of November 2018 and advised her that I was of the opinion that the District Court did not have jurisdiction to deal with her case on the basis that the time period between her being released on station bail and the date she was due in court exceeded the thirty-day time period set out in section 31 of the 1967 Act.

12. I say that I informed the Applicant that, as the Court did not have jurisdiction to deal with her case, the correct Order for the court to make would be 'No Order'. I say that I did also inform the Applicant that, notwithstanding my view that the Court lacked jurisdiction to deal with her case, if she did not appear in court and the issue pursuant to section 31 of the 1967 Act was not noticed by the Court, there was a slight possibility a warrant may issue for her arrest. I say that usually, in my experience, a court would examine the bail bond in a matter of this nature to ascertain the legal obligation of the accused to appear.

13. I say that having informed the Applicant of the situation, she opted not to appear at the court hearing. I say that I called the District Court Office in Strokestown to ascertain what had happened to the case on the 28th November 2018. I say that I was informed that a bench warrant had issued for her arrest as the Applicant had not appeared in Court.

14. I say that I was very concerned when I received that information as I did not believe the District Judge had jurisdiction to issue a warrant considering there had been a non-compliance with section 31 of the 1967 Act. I say that I was concerned that, should the Applicant be arrested on foot of this warrant, she would be in jeopardy of being remanded in custody. Furthermore, I say that the issuing of the warrant could prejudice the Applicant in terms of any future applications for bail."

7. The Applicant herself has not filed any substantive affidavit in the proceedings, but has filed a short verifying affidavit in respect of the content of the statement of grounds and of her solicitor's affidavit.

8. A further affidavit has been filed on behalf of the Applicant by a legal executive. This affidavit exhibits the order of the District Court made on 28 November 2018. The operative part of that order reads as follows.

> "At the sitting of the Court at STROKESTOWN, THE COURTHOUSE, STROKESTOWN, CO ROSCOMMON in the Court area and district aforesaid
>
> on the 28-Nov-2018, the above entitled proceedings having appeared in the Court's list in respect of a complaint that the above-named accused of 10 TAFFES PLACE, BALLYBOUGH, DUBLIN
>
> On the 16-May-2018 AT CENTRA TARMONBARRY ROSCOMMON, IN SAID DISTRICT COURT AREA OF STROKESTOWN, did steal property to wit 4 BOTTLES OF KOPPARBERG (2.50 X 4) AND 1 BOTTLE OF WHITE WINE TOTAL 20 EURO the property of CENTRA TARMONBARRY […]
>
> Contrary to Section 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001.
>
> AND WHEREAS the accused failed to comply with the terms of his/her bail recognisance.
>
> IT WAS ORDERED AS FOLLOWS:
>
> Arrest the said accused and bring him/her before me or another Judge to be dealt with according to the law."

9. The within judicial review proceedings were instituted by way of an *ex parte* application to the High Court (Noonan J.) on 3 December 2018.

THE CASE AS PLEADED

10. The Director of Public Prosecutions has raised an objection that the submissions made before the High Court went beyond the grounds upon which leave has been granted. In order to rule on this objection, it is necessary to consider the relevant parts of the statement of grounds as follows.

    i. The jurisdiction of the District Court to deal with the Applicant's case is dependent on the statutory preconditions, as set out in section 31 of the Criminal Procedure Act 1967 as amended, being complied with. Absent compliance with the above-mentioned statutory provision, the Court lacks jurisdiction to make any Order. Therefore, the District Judge erred in law and acted without jurisdiction by issuing the bench warrant.

    ii. The return date on the bail bond exceeded both the time limits as set out in section 31 of the 1967 Act and the provisions of Order 17, rule 4 of the District Court rules, as amended. Accordingly, the Court did not have jurisdiction to deal with the matter in any fashion, let alone issuing a bench warrant for the arrest of the Applicant.

iii. In all the circumstances, to allow the warrant to stand would be contrary to fair procedures and constitutional justice and it would have the effect of placing the Applicant in jeopardy of imprisonment, would sully his warrant record and adversely affect his chances of being admitted to bail in the future.

iv. The impugned decision was made in excess of jurisdiction. It therefore lacks the essential characteristics of a lawful order.

11. As appears, the single complaint advanced in the statement of grounds is referable to the failure to comply with the thirty-day time period specified under section 31 of the Criminal Procedure Act 1967 (as amended) and the equivalent rule under the District Court Rules.

12. Notwithstanding this, an argument was advanced at the hearing before me to the effect that the issue of the bench warrant was invalid on the separate and distinct ground that the District Court erred in failing to inquire into the breach of section 31 of the Criminal Justice Act 1967. With respect, this argument does not form part of the case as pleaded. The Supreme Court in A.P. v. Director of Public Prosecutions [2011] IESC 2; [2011] 1 I.R. 729 has made it clear that an applicant and the High Court are confined to the grounds as pleaded unless and until an application to amend the statement of grounds has been made and granted.

13. No application to amend has been made, and, accordingly, the case is confined to the grounds as pleaded.

DISCUSSION AND DECISION

14. The principal statutory provision of relevance to these proceedings is section 31 of the Criminal Procedure Act 1967 (as amended), as follows.

> 31(1) Whenever a person is brought in custody to a Garda Síochána station by a member of the Garda Síochána, the sergeant or other member in charge of the station may, if he considers it prudent to do so and no warrant directing the detention of that person is in force, release him on bail and for that purpose take from him a recognisance, with or without sureties, for his due appearance—
>
> (a) before the District Court at the next sitting thereof in the District Court Area in which that person has been arrested or at any subsequent sitting thereof in that District Court Area during the period of thirty days immediately following such next sitting, or
>
> (b) in the case of the District Court in the Dublin Metropolitan District, before the next sitting of that Court or at any subsequent sitting thereof during the period of thirty days immediately following such next sitting.
>
> (2) The recognisance may be estreated in the like manner as a recognisance entered into before a justice is estreated.

15. As originally enacted, the section did not prescribe a thirty-day time period. Rather, the section simply stated that the accused was to be remanded to appear before the District

Court "at the appropriate time and place". The only mention of a thirty-day period was to be found in the District Court Rules. Rule 39 (as substituted by the District Court (Criminal Procedure Act, 1967) Rules, 1985 (S.I. No. 23 of 1985)) read as follows.

> 39.—(1) Notwithstanding any other provision of these Rules, where a person is being released on bail from a Garda Síochána station under section 31 of the Criminal Procedure Act, 1967, the recognisance to be taken from him may be conditioned for his appearance at the next sitting of the court for the court area in which he has been arrested or at any subsequent sitting thereof to be held not later than 30 days after such next sitting.

16. The Supreme Court struck down this rule as ultra vires in *State (Lynch) v. Ballagh* [1986] I.R. 203. The Supreme Court held that the District Court Rules Committee did not have jurisdiction to regulate the statutory powers and functions of the Garda Síochána.

> "The statutory powers and functions of the Garda Síochána do not fall within a rule making authority or body of the judicial arm of government. The Garda Síochána is not in any sense part of the judicial system nor does it participate in the exercise of the judicial power of the District Court in its administration of justice. In my view, therefore, the provisions already cited of the District Court (Criminal Procedure Act, 1967) Rules, 1985, are *ultra vires* the District Court Rules Committee. The powers of the Garda Síochána in respect of what may be called 'station bail' and the regulation of them are contained only in s. 31 of the Criminal Procedure Act, 1967."

17. The procedure was subsequently amended by the Criminal Justice (Miscellaneous Provisions) Act 1997. The primary legislation now provides for the thirty-day period.

18. It is well established that the attendance of an accused person before the District Court will confer substantive jurisdiction on the District Court notwithstanding that the accused person has been brought before the court by an illegal process. Put shortly, the presence of the accused person before the District Court remedies or cures any defect in the procedure. See, for example, *State (Attorney General) v. Judge Fawsitt* [1955] I.R. 39 (at 43); *Killeen v. Director of Public Prosecutions* [1997] 3 I.R. 218 (at 228); *Director of Public Prosecutions (Ivers) v. Murphy* [1999] 1 I.R. 98 (at 107); and *Whelton v. District Judge O'Leary* [2010] IESC 63; [2011] 4 I.R. 544 (at 557).

19. This principle had been applied in the specific context of the original version of section 31 of the Criminal Procedure Act 1967 in *State (Lynch) v. Ballagh* [1986] I.R. 203. Notwithstanding that the accused in that case had succeeded in persuading the Supreme Court that the thirty-day period purportedly provided for under the then District Court Rules was *ultra vires*, the Supreme Court declined to quash the remand order in circumstances where the accused had attended before the District Court.

20. The supposedly novel feature of the present case is that the accused person did not attend before the District Court. More specifically, the Applicant, seemingly on the advice of her solicitor, chose not to attend before the District Court on 28 November 2018. Had

she done so, then it is clear from the established case law that her attendance before the District Court would have remedied or cured any defect in the remand period.

21. Counsel for the Applicant submits that this non-attendance distinguishes the present case from the established case law. It is said that it is a feature of almost all of the cases cited by the Director of Public Prosecutions that the accused person had actually attended before the District Court albeit on the basis of an invalid procedure. Counsel draws attention, in particular, to the following *dicta* of Walsh J. in State (*Lynch) v. Ballagh* [1986] I.R. 203 at 213.

> "In my view the initial criticisms of the District Court Rules made by [the Accused's solicitor] were well founded but I do not think that they are of any benefit to his client in this case. *If his client had not turned up on the 6th March in the District Court, then perhaps an interesting legal situation might have arisen but in fact he did turn up*.* Even assuming that his presence there was involuntary because of the bail bond of the recognisance, the complaint was made there and then and that was sufficient to give jurisdiction to the District Justice in this summary offence. I stress the fact that this was a summary offence to be tried summarily. Save in a case of the Special Criminal Court no person can be put on trial on indictment simply by appearing and being charged in the court of trial. A valid return for trial by the District Court is an essential preliminary requirement—see the judgment of this Court in *Costello v. Director of Public Prosecutions* [1984] I.R. 436. The statement to the contrary in *The State (Attorney General) v. Judge Fawsitt* [1955] I.R. 39 was overruled by the former Supreme Court of Justice in *The People (Attorney General) v. Boggan* [1958] I.R. 67."
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> *Emphasis (italics) added.

22. Counsel submits that the implication of this passage is that the "cure all" properties of an appearance by an accused are not applicable where, as in the present case, the accused does not appear before the District Court.

23. With respect, the highlighted sentence in the above passage from *State (Lynch) v. Ballagh* is *obiter dicta* in circumstances where the accused in that case did, in fact, attend before the District Court. It seems to me that the passages from the Supreme Court judgment which are germane to the present case are those which explain the manner in which the District Court becomes seised of criminal proceedings, i.e. by virtue of the making of a complaint. As appears from the very next sentence in the passage cited above, the making of a complaint is sufficient to give jurisdiction to the District Court in a summary offence.

24. Walsh J. puts the matter further as follows (at page 212/3 of the reported judgment).

> "[…] When a person has been arrested and charged in the Dublin Metropolitan District, the charge is written into the charge sheet but that does not amount to seising the court of the case. Unless and until the complaint is made to the court

by the appearance of the person arrested before the court and/or the presentation of the charge sheet to the court, there is no complaint. Up to the moment the charge sheet is put before the court it is a police document only, and it becomes a court document only when it is laid before the district justice. It is in effect the entry of the case or charge before the district justice—see the judgment of O'Dálaigh C.J. in *Attorney General (McDonnell) v. Higgins* [1964] I.R. 374 at page 385. The arrest and the charge sheet so long as it remains a police document, do not confer jurisdiction. (See the judgment of Kingsmill Moore J. in the same case at page 386)."

25. On the facts of the present case, a complaint was lawfully made to the District Court on 28 November 2018. Neither (i) the fact that the remand period stated under the station bail exceeded thirty days, nor (ii) the fact that the Applicant chose not to attend before it, operated to deprive the District Court of substantive jurisdiction in respect of the criminal charges. Rather the legal position is as explained by the High Court (Barron J.) in *Maguire v. Shelley* [1992] 1 I.R. 482 (at 487).

> "If I am wrong in this view it does not assist the applicant. The jurisdiction of the court is not based upon an enforceable recognisance but upon a complaint being made. This court cannot prevent the District Court being given jurisdiction by the making of a complaint. If a complaint is made to it in the presence of the accused, it will have jurisdiction to proceed. *If the complaint is made to it in his or her absence, it is a matter for the court how and when it would proceed*.* In neither case, could the court have been prevented from receiving the complaint by reason of the bad recognisance."
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> *Emphasis (italics) added.

26. The making of the complaint on 28 November 2018 conferred jurisdiction on the District Court. In circumstances where the offence alleged, namely an offence of theft contrary to section 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001, may only be tried summarily where the accused, on being informed by the District Court of his or her right to be tried with a jury, does not object to being tried summarily, the appropriate response to the Applicant's non-attendance was for the District Court to issue a bench warrant for her arrest. This was necessary to ensure that the Applicant would be brought before the court and informed of her right to a jury trial before a decision was made as to whether to deal with the case summarily or on indictment. See *O'Brien v. Judge Coughlan* [2016] IESC 4; [2018] 2 I.R. 270 at 276/7 as follows.

> "Where either prosecution witnesses or an accused fail to attend, the first enquiry by a judge will be as to notice and as to whether there is any evidence that some unavoidable or very serious issue has intervened. Thereafter, acting judicially, a judge has the option when satisfied as to notice to proceed with the trial. In the District Court, there may be particular issues to which the accused must consent before a criminal trial may take place within jurisdiction. Usually, such issues as the minor nature of the offence, the consent of the Director of Public Prosecutions

> to summary disposal and any right there may be in an accused to have a jury trial, if applicable, will have been decided before any trial date is set by earlier decisions in the presence of the accused. Where the presence of the accused is needed for such decisions, but he or she chooses not to attend, the appropriate response is to cause his or her arrest through a bench warrant: *Lawlor v. District Judge Hogan* [1993] I.L.R.M. 606. Any issue as to when it may be appropriate to continue with, or even commence, a trial on indictment are entirely separate and do not now arise for decision."

27. The District Court acted entirely properly, therefore, in issuing a bench warrant on 28 November 2018.

CASE LAW IN RESPECT OF OTHER PROCEDURAL REQUIREMENTS

28. Counsel on behalf of the Applicant sought to rely on certain case law in respect of other statutory provisions which prescribe a procedure for bringing a person before a court, i.e. procedures other than that under section 31 of the Criminal Procedure Act 1967. In particular, emphasis was placed upon a case in respect of the reactivation of suspended sentences, namely *Director of Public Prosecutions v. Carter* [2015] IESC 20; [2015] 3 I.R. 58 ("*Carter*").

29. With respect, such reliance is misplaced. The Supreme Court in *Carter* drew a clear distinction between statutory provisions which do not relate to the substantive jurisdiction of the court to try the accused for the particular offences, and those which do.

> "[…] In cases such as *Director of Public Prosecutions (Ivers) v. Murphy* [1999] 1 I.R. 98 and others, it is important that the defect is in securing the attendance of the accused before a court which itself has jurisdiction to try the accused or otherwise deal with him or her. The provision which is not complied with in such a case does not relate to the substantive jurisdiction of the court to try the accused for the particular offences. Where however compliance with a statutory provision is a condition precedent to the exercise of the jurisdiction or itself a proof which must be established (as in the cases under s. 49 of the Road Traffic Act 1961, as amended) then the breach is not irrelevant but can in a general sense be said to go to jurisdiction either to try the accused or otherwise deal with him or her."

30. On the facts of *Carter*, the statutory provision at issue regulated the reactivation of suspended sentences. In brief, it provided that where a person subject to a suspended sentence is convicted of another offence, then the sentencing court is required to remand the person in custody or on bail to "the next sitting of" the court that had imposed the suspended sentence ("*the suspending court*"). The Supreme Court held that failure to comply with this requirement could not be treated as a mere defect in securing the attendance of an accused in court. On its true interpretation, a valid remand was a *predicate* for the exercise of the power to reactivate the suspended sentence.

> "[…] It also follows that the High Court Judge was correct to conclude that the true interpretation of s. 99 was jurisdictional or perhaps more correctly, that failure to

comply with s. 99 could not be treated as a mere defect in securing the attendance of the accused in court. On its true interpretation, s. 99(10) required that for the court to exercise jurisdiction under the section the person must be validly remanded under s. 99(9). Subsection 10 of s. 99 opens with the words 'A court to which a person has been remanded under subsection (9)' which must mean that a valid remand under subs. (9) is a predicate for the exercise of power conferred by subs. (10). I should, for completeness, say that this conclusion rests upon the assumption upon which the case was argued, that s. 99 now replaces all common law power, and is the sole and statutory basis for both the imposition and the reactivation of suspended sentences. While the question of whether there remains a common law power to reactivate a suspended sentence which was not removed by the creation of the statutory jurisdiction under s. 99, was touched on in this court, it was not the subject of detailed argument in the High Court or on this appeal and accordingly I express no opinion thereon."

31. The Supreme Court then distinguished the position of a remand from the suspending court to the sentencing court.

> "However, it should be noted that this reasoning would not necessarily apply in the same way to a remand from a reactivating court under s. 99(10) to the convicting court under s. 99(10A). That court is exercising its power to impose sentence in respect of a matter properly before it. The jurisdiction to do so comes from the court's jurisdiction to try the offence. Trial, adjudication and sentence are normally indivisible parts of the administration of justice. Accordingly, the power to impose a sentence does not appear to be created or conferred by s. 99(10A), or to be dependent upon it. That section at best merely provides a mechanism to secure the individual's attendance before the court. That however does not arise in this case, and accordingly, I would dismiss the appeal against the decision of the High Court Judge and affirm the answers she gave to the case stated."

32. There is nothing in the judgment of the Supreme Court in Carter which suggests that the line of authority from *State (Attorney General) v. Judge Fawsitt* [1955] I.R. 39 had been incorrectly decided. Rather, the Supreme Court distinguished that case law on the basis that the wording of the statutory provisions at issue before it, namely section 99 of the Criminal Justice Act 2006 (as amended), made compliance with the remand a condition precedent to the exercise of the jurisdiction of the suspending court to reactivate the sentence.

33. By contrast, the jurisdiction of the District Court in the present case is founded upon the complaint made to that court on 28 November 2018, and not upon the terms of the recognisance. The prolonged remand period did not, therefore, affect the District Court's jurisdiction.

34. The case law relied upon by the Applicant in respect of the Special Criminal Court is distinguishable for similar reasons. In particular, the judgment in *O'Brien v. Special Criminal Court* [2007] IESC 45; [2008] 4 I.R. 514 is predicated on the well-established

proposition that the powers and procedures of the Special Criminal Court must be interpreted strictly. This is because that court exercises a "special and exceptional" jurisdiction, and its powers, jurisdiction and procedures must, as Article 38 of the Constitution of Ireland provides, be laid down by law.

35. Finally, the Applicant's reliance on the judgment in *Kennemerland BV v. Attorney General* [1989] I.L.R.M. 821 does not advance her case. The judgment of the Supreme Court turns on the requirement under the Fisheries (Consolidation) Act 1959 that an application for an order authorising the continued detention of a boat and all persons on board be made "as soon as may be". The judgment does not establish any wider principle which can be "read across" to the facts of the present case.

WHAT IS THE CONSEQUENCE OF NON-COMPLIANCE?

36. For the reasons set out above, I have concluded that the fact that the remand period exceeded the thirty days prescribed under section 31 of the Criminal Procedure Act 1967 did not affect the substantive jurisdiction of the District Court.

37. This conclusion might suggest that non-compliance with the thirty-day period has no legal consequence. It would seem anomalous were it to be the case that a statutory provision could be breached without any apparent repercussions. Whereas the importance of compliance with remand time-limits is less urgent in circumstances where an accused person is not in custody, the Oireachtas nevertheless prescribed that an accused person on station bail should be returned before the District Court within a period of thirty days.

38. There was some discussion at the hearing before me as to whether one possible consequence of a breach of section 31 would be that the recognisance would be unenforceable as against an accused person. On this analysis, whereas the District Court might not be entitled to direct that the accused be arrested for failure to comply with the recognisance, that court could nevertheless issue a bench warrant in accordance with the principles set out in *O'Brien v. Judge Coughlan* [2016] IESC 4; [2018] 2 I.R. 270 at 276/7 (discussed at paragraph 26 above). Put otherwise, the accused would still be on hazard of being arrested, albeit that the precise basis for same might be different than in the case of a valid recognisance. It might also follow that the fact that the recognisance is bad on its face would preclude same being relied upon for the purposes of estreating the bail monies.

39. Given the fact that the thirty-day period was only exceeded by a matter of days on the facts of the present case and cannot be said to have caused prejudice to the Applicant in circumstances where she was at liberty and not subject to any specific bail conditions, it is unnecessary for me to express any view as to whether a more significant delay *might* have implications for the substantive jurisdiction of the District Court. Rather, it seems preferable to leave this issue over for determination in a case where it is necessary to do so in order to resolve the proceedings. I simply note that the case law emphasises that an invalidity in the preceding process may impact upon substantive jurisdiction in certain limited circumstances. Three instances were cited by McKechnie J. in *Whelton v. District Judge O'Leary* [2010] IESC 63; [2011] 4 I.R. 544, [45] as follows:

(a) where there has been a deliberate and conscious violation of constitutional rights;

(b) where the relevant conduct is of such a nature as to outrage, insult or defy the legal or constitutional authority or status of the court;

(c) where the validity of a preceding event, for example an arrest, is an essential ingredient to ground a charge upon which an accused person stands before the court.

40. McKechnie J. emphasised that these were examples only, and that the list is not closed.

CONCLUSION AND FORM OF ORDER

41. The making of the complaint on 28 November 2018 conferred jurisdiction on the District Court. The fact that the remand period stated in the recognisance had exceeded the thirty days prescribed under section 31 of the Criminal Procedure Act 1967 (as amended) did not affect the substantive jurisdiction of the District Court.

42. The appropriate response to the Applicant's non-attendance was for the District Court to issue a bench warrant for her arrest. This was necessary to ensure that the Applicant would be brought before the court and informed of her right to a jury trial before a decision was made as to whether to deal with the case summarily or on indictment.

43. The application for judicial review is dismissed in its entirety.

Appearances

James Dwyer, SC and Oisín Clarke, BL for the Applicant instructed by Edward R. Bradbury Solicitors

Conor McKenna, BL for the Director of Public Prosecutions instructed by the Chief Prosecution Solicitor