

Neutral Citation No: [2018] NIQB 96

Ref: McC10801

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

*Delivered: ex tempore
21/06/2018*

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

IN THE MATTER OF AN APPLICATION BY RAYMOND McCORD
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

McCLOSKEY J

[1] I have considered all the submissions on behalf of all the parties. I understand fully why Mr McCord wishes the court to proceed with greater dispatch. It is well known that the court has expressed its anxieties to advance every member of the batch of legacy judicial reviews. This case belonging to that class, and the court has made a number of well publicised statements to that effect.

[2] Most recently the court's ambitions have been frustrated by a combination of appeals in other cases which are on any showing linked to a large number of cases belonging to the legacy judicial reviews category. In very brief compass, the Court of Appeal has heard a number of recent appeals and judgment is reserved. The Supreme Court is scheduled to hear one appeal in the forthcoming week and will hear another appeal shortly after the summer vacation.

[3] The essence of Mr McCord's case is that by reason of inadequate, incomplete and heavily delayed investigative activities on the part of certain state agencies there has been a breach of the procedural element of Article 2 of the Human Rights Convention in contravention of section 6 of the Human Rights Act. As is well known the case arises out of the notorious killing of Mr McCord's son, (also Raymond McCord) on 9 November 1997 and, starkly, that is 20 years ago.

[4] The court made a considered order on 13 March 2018 in which it referred to the broader panorama of other cases proceeding in superior courts which will result in decisions, by well-established principle, binding on this court. Because of that

nexus and taking into account all of the ingredients of the overriding objective I just cannot see that anything of any merit or substance will be achieved by investing limited court resources in progressing this case further at this stage. I ruled in March that it would be pointless and disproportionate to adopt a course involving any further investment of the finite public resources by this court or the court administration or any of the proposed public authority respondents. Three months later nothing has changed to alter that assessment.

[5] Accordingly, in the exercise of the court’s broad case management, I maintain the stay in this case. While it is a matter of regret that I cannot progress this case and others at greater speed my considered analysis is that unfortunately patience on the part of all concerned will have to be exercised and the court therefore affirms the Order which it made on 13 March 2018 staying these proceedings. I repeat what was in that Order. While the stay is expressed to be *sine die* it will be open to any party to apply to the court to revoke the stay in whole or in part at any time. I grant liberty to apply and I reserve today’s costs.

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Edited and approved transcript of *ex tempore* judgment.

Bernard McCloskey

06 December 2018

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Addendum

I refuse leave to appeal to the Court of Appeal under section 35(2) (g) of the Judicature (NI) Act 1978 for the reasons given in [7]ff of my decision in Re Kenny and McAvoy [unreported MCC 10755, 12/10/18].

06 December 2018