

A P P E A R A N C E S

The Sole Member:

His Honour Judge Peter Smithwick

For the Tribunal:

Mrs. Mary Lavery, SC
Mr. Justin Dillon, SC
Mr. Dara Hayes, BL
Mr. Fintan Valentine, BL

Instructed by:

Jane McKeivitt
Solicitor

For the Commissioner of
An Garda Síochána:

Mr. Diarmuid McGuinness, SC
Mr. Michael Durack, SC
Mr. Gareth Baker, BL

Instructed by:

Mary Cummins
CSSO

For Owen Corrigan:

Mr. Jim O'Callaghan, SC
Mr. Darren Lehane, BL

Instructed by:

Fintan Lawlor
Lawlor Partners Solicitors

For Leo Colton:

Mr. Paul Callan, SC
Mr. Eamon Coffey, BL

Instructed by:

Dermot Lavery Solicitors

For Finbarr Hickey:

Fionnuala O'Sullivan, BL

Instructed by:

James MacGuill & Co.

For the Attorney General:

Ms. Nuala Butler, SC
Mr. Douglas Clarke, SC

Instructed by:

CSSO

For Freddie Scappaticci:

Eavanna Fitzgerald, BL
Pauline O'Hare

Instructed by:

Michael Flanigan
Solicitor

For Kevin Fulton:

Mr. Neil Rafferty, QC

Instructed by:

John McAtamney
Solicitor

For Breen Family:

Mr. John McBurney

For Buchanan Family/
Heather Currie:

Ernie Waterworth
McCartan Turkington Breen
Solicitors

For the PSNI:

Mark Robinson, BL

NOTICE:

A WORD INDEX IS PROVIDED AT THE BACK OF THIS TRANSCRIPT.
THIS IS A USEFUL INDEXING SYSTEM, WHICH ALLOWS YOU TO QUICKLY SEE
THE WORDS USED IN THE TRANSCRIPT, WHERE THEY OCCUR AND HOW OFTEN.

EXAMPLE: - DOYLE [2] 30:28 45:17

THE WORD "DOYLE" OCCURS TWICE
PAGE 30, LINE 28
PAGE 45, LINE 17

THE TRIBUNAL RESUMED ON THE 25TH OF SEPTEMBER, 2012, AT
11 A.M. AS FOLLOWS:

CHAIRMAN: Good morning.

MR. HAYES: Chairman, before you resume into private session, you had put the issue of Mr. Corrigan in for mention.

CHAIRMAN: Yes.

MR. HAYES: You might just deal with that before going into private session.

CHAIRMAN: Yes. Perhaps Mr. O'Callaghan could assist with that?

MR. O'CALLAGHAN: Chairman, you may recall that last week I indicated to you that a report was coming from Mr. Corrigan's Consultant Cardiologist. First of all, I want to apologise to you. I had indicated you would get it last week, and unfortunately, through no fault on the part of my solicitor, it didn't arrive until yesterday, Chairman.

CHAIRMAN: Yes.

MR. O'CALLAGHAN: And it was sent on to you. The current situation is, Mr. Corrigan is in hospital. He has quite a significant condition, which has been outlined in the

1 report, Chairman, that I think you have read. The report
2 indicates, certainly, that he is not available to give
3 evidence this week. I can't inform you, Chairman, at this
4 stage as to when Mr. Corrigan will be available to give
5 evidence. I know the Tribunal is very anxious to conclude
6 his evidence. But the report produced by Dr. Murphy,
7 Consultant Cardiologist, clearly raises a number of issues
8 of concern for all parties concerned. I don't know, and I
9 had indicated, my solicitor is aware, that perhaps the
10 Tribunal may wish to hear from the Consultant Cardiologist?
11 If that's the case, we have no difficulty.

12
13 CHAIRMAN: Well, I think that's -- Mr. Corrigan's evidence
14 is very important. It is important to himself because -- I
15 can't remember the exact state of the evidence as it was
16 left on the last occasion. I think that all the
17 cross-examinations have virtually concluded except yours.
18 Is there some cross-examination still left by the Garda
19 Síochána?

20
21 MR. DURACK: There is. There is.

22
23 CHAIRMAN: And how long do you think that will take?

24
25 MR. DURACK: I would have thought less than an hour, sir.

26
27 CHAIRMAN: Yes. And then it is very important that
28 Mr. Corrigan's own evidence be given, to be cross-examined
29 by his own counsel, because that's stating his case before
30 not merely the Tribunal but the public as well. So, that I

1 am therefore sure that he is very anxious to have that
2 evidence heard. So, the question is, not I think that it
3 can be left in limbo. It can't. It is very important that
4 his evidence would be heard. The Tribunal will do
5 everything to facilitate the giving of that evidence. I
6 would like to ask his consultant -- his heart cardiac
7 consultant in evidence under what circumstances and with
8 what restrictions, with what ameliorating circumstances he
9 can give that evidence? How can that be done with least
10 damage to his health? And I think that is a question that
11 would have to be asked to his consultant in evidence. And
12 I think, therefore, before too long, that evidence should
13 be heard so that that matter can be finalised.

14
15 MR. O'CALLAGHAN: Yes.

16
17 CHAIRMAN: And I -- rather than just leave it, it's too
18 late-in-the-day now just to leave it and hope that
19 everything will pan out satisfactorily. I think it is
20 important that we should reach a determination on that.
21 And therefore, I would be obliged if the medical consultant
22 could give evidence, oral evidence on that point.

23
24 MR. O'CALLAGHAN: Yes.

25
26 CHAIRMAN: There are a number of questions that, perhaps, I
27 am not technically qualified enough to ask about the report
28 that has been submitted to the Tribunal, but they could be
29 satisfactorily answered. So, I think the matter should be
30 put in to hear that evidence in the not too far distant

1 future.

2

3 MR. O'CALLAGHAN: Certainly, Chairman. But perhaps it
4 would be expedited more if the Tribunal was able to contact
5 Dr. Murphy, Mr. Corrigan's consultant, itself. Because I
6 know Mr. Lawlor, obviously, can have a certain amount of
7 influence over the consultant, but obviously if the
8 Tribunal indicates that it is anxious for her to come to
9 give her evidence, I think that would carry more weight
10 just in the normal course of events, Chairman.

11

12 I should also say, Chairman, that obviously Mr. Corrigan
13 has given evidence for 16 days. Nine days he has been
14 examined by Tribunal counsel. And you are absolutely
15 correct, the person who is disadvantaged by him not being
16 here now is himself, because I'm the person cross-examining
17 him, and there is some very important issues that I want to
18 get through him that I need to get out. I know that you
19 are not suggesting it, but Mr. Corrigan, I know, is also
20 anxious to come back here to conclude his evidence. But
21 there is a genuine medical condition, as you can see,
22 Chairman, from this. But perhaps the way to progress is,
23 perhaps if Mr. Lawlor and Ms. McKevitt were to discuss
24 matters in respect of contacting Dr. Murphy, and we could
25 try and organise a date convenient to Dr. Murphy and the
26 Tribunal when she could come to give her evidence.

27

28 MR. HAYES: I can tell you, Chairman, in fact Ms. McKevitt
29 will write to Dr. Murphy to request her to come, and can
30 liaise with Mr. Lawlor.

1 CHAIRMAN: Yes. I think that telephone contact would have
2 to be made. And of course, Dr. Murphy would have to be
3 authorised by Mr. Corrigan to talk to the Tribunal on the
4 subject of his health, because that is a private matter of
5 his. And that can be done by a telephone conversation.

6
7 MR. HAYES: It can. And I think as soon as is reasonably
8 practical between both Ms. McKeivitt and Mr. Lawlor we can
9 arrange for Dr. Murphy to come and attend to give evidence
10 before you.

11
12 CHAIRMAN: Yes. Well, I think that, therefore, perhaps at
13 the end of the private session, we could fix on a day
14 before which that can be done and matters can be put
15 forward there. But I think we ought to keep it under
16 review. So, maybe later in the day when the private
17 sitting has ended, we could revert to it again --

18
19 MR. HAYES: And see what could be done on that.

20
21 CHAIRMAN: -- and we can decide on what day will this
22 matter be decided.

23
24 MR. HAYES: I suspect that really, possibly, the
25 determination of that will be the availability of the
26 doctor rather than the rest of us.

27
28 CHAIRMAN: Of course, yes. Good. Thank you very much.
29 Well, we will leave it so for the moment. Thank you very
30 much, Mr. O'Callaghan. Now, Mrs. Lavery.

1 MRS. LAVERTY: Now, Chairman, the private session will
2 resume, and therefore I would ask that the Court be
3 cleared.

4
5 CHAIRMAN: Well, in that case, ladies and gentlemen of the
6 press and members of the public who are in court or in the
7 hearing room, I would be very grateful if you could
8 withdraw so that we can resume our private session.

9
10 THE TRIBUNAL WENT INTO PRIVATE SESSION.

1	convenient [1] - 4:25 conversation [1] - 5:5 correct [1] - 4:15 Corrigan [6] - 1:7, 1:29, 2:4, 4:12, 4:19, 5:3 Corrigan's [4] - 1:20, 2:13, 2:28, 4:5 counsel [2] - 2:29, 4:14 course [3] - 4:10, 5:2, 5:28 Court [1] - 6:2 court [1] - 6:6 cross [4] - 2:17, 2:18, 2:28, 4:16 cross-examination [1] - 2:18 cross-examinations [1] - 2:17 cross-examined [1] - 2:28 cross-examining [1] - 4:16 current [1] - 1:28	far [1] - 3:30 fault [1] - 1:22 finalised [1] - 3:13 first [1] - 1:20 fix [1] - 5:13 FOLLOWS [1] - 1:2 forward [1] - 5:15 future [1] - 4:1	M	qualified [1] - 3:27 questions [1] - 3:26 quite [1] - 1:29
2	2012 [1] - 1:1 25TH [1] - 1:1	G	R	
A	A.M [1] - 1:2 able [1] - 4:4 absolutely [1] - 4:14 ameliorating [1] - 3:8 amount [1] - 4:6 answered [1] - 3:29 anxious [4] - 2:5, 3:1, 4:8, 4:20 apologise [1] - 1:21 arrange [1] - 5:9 arrive [1] - 1:23 AS [1] - 1:2 assist [1] - 1:15 AT [1] - 1:1 attend [1] - 5:9 authorised [1] - 5:3 availability [1] - 5:25 available [2] - 2:2, 2:4 aware [1] - 2:9	Garda [1] - 2:18 gentlemen [1] - 6:5 genuine [1] - 4:21 given [2] - 2:28, 4:13 grateful [1] - 6:7	raises [1] - 2:7 rather [2] - 3:17, 5:26 reach [1] - 3:20 read [1] - 2:1 really [1] - 5:24 reasonably [1] - 5:7 remember [1] - 2:15 report [5] - 1:19, 2:1, 2:6, 3:27 request [1] - 4:29 respect [1] - 4:24 rest [1] - 5:26 restrictions [1] - 3:8 resume [3] - 1:6, 6:2, 6:8 RESUMED [1] - 1:1 revert [1] - 5:17 review [1] - 5:16 room [1] - 6:7	
B	between [1] - 5:8	H	N	
C	cardiac [1] - 3:6 Cardiologist [3] - 1:20, 2:7, 2:10 carry [1] - 4:9 case [3] - 2:11, 2:29, 6:5 certain [1] - 4:6 certainly [2] - 2:2, 4:3 CHAIRMAN [14] - 1:4, 1:10, 1:15, 1:26, 2:13, 2:23, 2:27, 3:17, 3:26, 5:1, 5:12, 5:21, 5:28, 6:5 Chairman [11] - 1:6, 1:18, 1:24, 2:1, 2:3, 4:3, 4:10, 4:12, 4:22, 4:28, 6:1 circumstances [2] - 3:7, 3:8 cleared [1] - 6:3 clearly [1] - 2:7 coming [1] - 1:19 concern [1] - 2:8 concerned [1] - 2:8 conclude [2] - 2:5, 4:20 concluded [1] - 2:17 condition [2] - 1:30, 4:21 consultant [6] - 3:6, 3:7, 3:11, 3:21, 4:5, 4:7 Consultant [3] - 1:20, 2:7, 2:10 contact [2] - 4:4, 5:1 contacting [1] - 4:24	HAYES [6] - 1:6, 1:12, 4:28, 5:7, 5:19, 5:24 health [2] - 3:10, 5:4 hear [2] - 2:10, 3:30 heard [3] - 3:2, 3:4, 3:13 hearing [1] - 6:7 heart [1] - 3:6 himself [2] - 2:14, 4:16 hope [1] - 3:18 hospital [1] - 1:29 hour [1] - 2:25	need [1] - 4:18 nine [1] - 4:13 normal [1] - 4:10 number [2] - 2:7, 3:26	S
	D	I	O	
	damage [1] - 3:10 date [1] - 4:25 days [2] - 4:13 deal [1] - 1:12 decide [1] - 5:21 decided [1] - 5:22 determination [2] - 3:20, 5:25 difficulty [1] - 2:11 disadvantaged [1] - 4:15 discuss [1] - 4:23 distant [1] - 3:30 doctor [1] - 5:26 done [4] - 3:9, 5:5, 5:14, 5:19 Dr [7] - 2:6, 4:5, 4:24, 4:25, 4:29, 5:2, 5:9 DURACK [2] - 2:21, 2:25	important [6] - 2:14, 2:27, 3:3, 3:20, 4:17 indicated [3] - 1:19, 1:21, 2:9 indicates [2] - 2:2, 4:8 influence [1] - 4:7 inform [1] - 2:3 INTO [1] - 6:10 issue [1] - 1:7 issues [2] - 2:7, 4:17 itself [1] - 4:5	O'Callaghan [2] - 1:15, 5:30 O'CALLAGHAN [5] - 1:18, 1:28, 3:15, 3:24, 4:3 obliged [1] - 3:21 obviously [3] - 4:6, 4:7, 4:12 occasion [1] - 2:16 OF [1] - 1:1 ON [1] - 1:1 oral [1] - 3:22 organise [1] - 4:25 ought [1] - 5:15 outlined [1] - 1:30 own [2] - 2:28, 2:29	satisfactorily [2] - 3:19, 3:29 see [2] - 4:21, 5:19 sent [1] - 1:28 SEPTEMBER [1] - 1:1 SESSION [1] - 6:10 session [5] - 1:7, 1:13, 5:13, 6:1, 6:8 significant [1] - 1:30 sitting [1] - 5:17 situation [1] - 1:29 solicitor [2] - 1:23, 2:9 soon [1] - 5:7 stage [1] - 2:4 state [1] - 2:15 stating [1] - 2:29 still [1] - 2:18 subject [1] - 5:4 submitted [1] - 3:28 suggesting [1] - 4:19 suspect [1] - 5:24 Síochána [1] - 2:19
	E	K	P	
	end [1] - 5:13 ended [1] - 5:17 events [1] - 4:10 evidence [21] - 2:3, 2:5, 2:6, 2:13, 2:15, 2:28, 3:2, 3:4, 3:5, 3:7, 3:9, 3:11, 3:12, 3:22, 3:30, 4:9, 4:13, 4:20, 4:26, 5:9 exact [1] - 2:15 examination [1] - 2:18 examinations [1] - 2:17 examined [2] - 2:28, 4:14 examining [1] - 4:16 except [1] - 2:17 expedited [1] - 4:4	keep [1] - 5:15	pan [1] - 3:19 part [1] - 1:22 parties [1] - 2:8 perhaps [7] - 1:15, 2:9, 3:26, 4:3, 4:22, 4:23, 5:12 person [2] - 4:15, 4:16 point [1] - 3:22 possibly [1] - 5:24 practical [1] - 5:8 press [1] - 6:6 private [7] - 1:6, 1:13, 5:4, 5:13, 5:16, 6:1, 6:8 PRIVATE [1] - 6:10 produced [1] - 2:6 progress [1] - 4:22 public [2] - 2:30, 6:6 put [3] - 1:7, 3:30, 5:14	T
	F	L	U	
	facilitate [1] - 3:5 fact [1] - 4:28	ladies [1] - 6:5 last [3] - 1:18, 1:22, 2:16 late [1] - 3:18 late-in-the-day [1] - 3:18 Lavery [1] - 5:30 LAVERY [1] - 6:1 Lawlor [4] - 4:6, 4:23, 4:30, 5:8 least [1] - 3:9 leave [3] - 3:17, 3:18, 5:29 left [3] - 2:16, 2:18, 3:3 less [1] - 2:25 liaise [1] - 4:30 limbo [1] - 3:3	technically [1] - 3:27 telephone [2] - 5:1, 5:5 THE [3] - 1:1, 6:10 therefore [5] - 3:1, 3:12, 3:21, 5:12, 6:2 TRIBUNAL [2] - 1:1, 6:10 Tribunal [10] - 2:5, 2:10, 2:30, 3:4, 3:28, 4:4, 4:8, 4:14, 4:26, 5:3 try [1] - 4:25	under [2] - 3:7, 5:15 unfortunately [1] - 1:22

V
virtually ^[1] - 2:17
W
week ^[3] - 1:18, 1:22, 2:3 weight ^[1] - 4:9 WENT ^[1] - 6:10 wish ^[1] - 2:10 withdraw ^[1] - 6:8 write ^[1] - 4:29
Y
yesterday ^[1] - 1:23