

THE HIGH COURT

[2021] IEHC 757

[Record No. 2018/4187P]

BETWEEN

OLIVER NATALE

PLAINTIFF

AND

**THE COMMISSIONER OF AN GARDA SÍOCHANA, THE MINISTER FOR JUSTICE AND
EQUALITY**

DEFENDANTS

Ruling of Ms. Justice Reynolds delivered on the 17th day of November 2021.

1. The court has been asked by counsel for the defendants at the conclusion of the evidence in this case to withdraw the plaintiff's case from the jury upon the basis that there is no case in law to support any of the claims made by the plaintiff.
2. The proceedings essentially involve claims by Mr. Natale that the Guards acted maliciously in and about the investigation of the seizure of drugs at his rented accommodation on the 26th May, 2015.
3. Counsel for the defendants has identified for the court the issues which potentially arise at this stage in the proceedings as follows:
 1. the validity or otherwise of the search warrant;
 2. the unlawfulness of the arrest ;
 3. the unlawful detention;
 4. the attempted malicious prosecution;
 5. the failure on the part of the defendants to apprehend and prosecute the perpetrator of the crime amounting to alleged negligence and/or breach of duty to members of society, and in particular to Mr. Natale as a victim of crime.

The first issue – the search warrant

4. It is clear from the evidence that the search warrant was grounded on confidential information obtained from a previously reliable source by Detective Garda Bambrick. There is no evidence to dispute but that Detective Garda Bambrick had the requisite suspicion which justified his application for the warrant, no evidence having been adduced by Mr. Natale to contradict that position. Indeed, it is notable that the information was, to some extent, borne out insofar as drugs were found on the premises, albeit during the course of a second search after further information had been obtained by Detective Garda Bambrick from his informant. In all the circumstances, there is no evidence which could allow the jury to come to any conclusion other than the search warrant was lawfully applied for and duly obtained. Mr. Natale has submitted that the sworn information grounding the application for the search warrant is undated and unsigned. Whilst it is undoubtedly the case that the version of the sworn information furnished to the jury is indeed unsigned and undated, the Court has heard that this is so because the original is

retained by the District Court office as outlined by Detective Garda Bambrick in his evidence, and again no evidence has been adduced to contradict this.

The second issue – wrongful arrest

5. Mr. Natale's case is that the arrest was a wrongful arrest based on the invalidity of the search warrant. However, in circumstances where there is no question for the jury to answer in respect of the validity of the search warrant, then the only issue which could arise on the lawfulness or otherwise of the arrest is the failure on the part of the guards to observe the necessary formalities to ensure the arrest was lawful.
6. Mr. Natale accepts that he was told the reason for his arrest and the grounds for his arrest and has made no complaint in his evidence in that regard. Indeed, it is noteworthy that once he was advised of the reason and grounds for his arrest he cooperated fully with the guards.

Third issue - the detention

7. Mr. Natale has now conceded that all of his rights were properly observed whilst in custody and that the guards treated him fairly during his period of detention. It is now common case that all of the correct procedures were followed, and the issue is therefore moot.

The fourth issue – the attempted malicious prosecution

8. Mr. Natale gave evidence of his belief that the guards were acting in conspiracy with his landlord for the purpose of evicting him from his accommodation. In the witness box, he hypothesises that his former landlord may even have been a retired member of the Gardaí. However, it is evident that these assertions were merely suspicions on his part with no evidence whatsoever to underpin them.
9. Detective Garda Bambrick's evidence was that the landlord was someone who was previously unknown to him until he had to make contact with him for the purpose of obtaining access to the flat. He obtained the relevant contact details from another tenant of the property. He further advised that there was no record of Mr. Natale's landlord as a former member of the Guards, having carried out the requisite enquiries consequent upon Mr. Natale's evidence.
10. The suggestion by Mr. Natale that the Guards in some way acted with impropriety in the manner in which they investigated the matter is simply not borne out by the evidence. There was no prosecution of Mr. Natale at all. Having investigated the matter, Detective Garda Bambrick and his superiors recommended in the file sent to the DPP that there be no prosecution in the matter.
11. Mr. Natale was subsequently advised by the DPP's office that he would not be prosecuted.

The final issue – negligence/breach of duty on the part of the defendants

12. Mr. Natale claims that the perpetrator of the crime ought to have been apprehended and prosecuted so as to vindicate his rights as a victim of crime. He maintains that the defendants owed him a duty of care in the exercise of their statutory functions and that

their respective failures on this occasion gave rise to negligence, for which he is entitled to pursue a claim in damages.

13. There is simply no legal basis for this claim and no question which could properly go to the jury on this issue. Such a claim cannot be maintained by Mr. Natale when there is no relationship of any sort between the defendants and him as a victim of crime which could give rise to any breach of duty of care on their part.

Conclusion

14. The height of Mr. Natale's case in effect amounts to a series of assertions which lack any evidential basis. Mr. Natale essentially espouses a theory centred upon the notion of garda malpractice and subterfuge driven by malice. The difficulty with this thesis is that it exists in an evidential vacuum.
15. Whilst Mr. Natale gave sworn testimony, that testimony is in reality devoid of any evidential weight. He has robustly conveyed his suspicions but nothing more.
16. In order for the jury to be permitted to assess the matter, there must be some form of evidential foundation to his case. I am satisfied there simply is none and in these particular circumstances have no option but to withdraw the case from the jury.