

**THE HIGH COURT**

[2021] IEHC 809

**[Record No. 2014/9347 P]**

**BETWEEN**

**MARTINA KELLY**

**PLAINTIFF**

**AND**

**COMMISSIONER OF AN GARDA SÍOCHÁNA, MINISTER FOR JUSTICE AND EQUALITY  
AND IRELAND AND THE ATTORNEY GENERAL**

**DEFENDANTS**

**JUDGMENT of Mr. Justice Barr delivered electronically on the 15th day of December, 2021**

1. This application concerns a claim to privilege made by the defendants over an investigation file into a criminal complaint that was lodged by the plaintiff and her husband in relation to the receipt by them of a forty-nine-page document on 26th September, 2013.
2. The plaintiff is the wife of one Mark Kelly, who has instituted proceedings claiming damages for bullying and harassment allegedly suffered by him at the hands of one Sergeant D and further for damages against the defendants for failure on their part to investigate the alleged bullying and harassment by the sergeant.
3. The plaintiff has a similar action in almost identical terms against the defendants. The order for discovery that was made in the plaintiff's case was identical to that that was made in her husband's proceedings. The claim to privilege made by the defendants over the investigation file is made in identical terms to that made in the proceedings brought by her husband. The court has already delivered a judgment in relation to the issue of privilege in the case of *Mark Kelly v. Commissioner of An Garda Síochána & Ors.* [Record No. 2014/9348 P]. As the two cases are identical, it is not necessary for the court to repeat its findings in relation to the claim of privilege asserted in this case, which was in identical terms to that asserted in the case brought by Mark Kelly.
4. Accordingly, the court directs that for the reasons set out in its judgment in the *Mark Kelly* case, the defendants are to furnish the statements that were identified in that judgment as contained in item G4 of the affidavit of discovery sworn by Inspector Reynolds on 5th February, 2020; but the court upholds the claim to privilege over the remainder of the documents in the garda investigation file.
5. As this judgment is being delivered electronically, the parties will have four weeks within which to furnish brief written submissions on the terms of the final order and on costs and on any other matters that may arise.