



THE SUPREME COURT

[RECORD NO.: 355/2006]

**MacMenamin J.
Dunne J.
Charleton J.**

BETWEEN:

KEVIN TRACEY

APPELLANT

AND

**DISTRICT JUDGE HUGH O'DONNELL, AND PADRAIG O'MEARA,
FRIEDA MCILHENNEY, THE DIRECTOR OF PUBLIC
PROSECUTIONS, THE STATE, IRELAND, ATTORNEY GENERAL,
MINISTER FOR JUSTICE, COMMISSIONER OF AN GARDA
SIOCHANA**

RESPONDENTS

**Ruling on Costs by Mr. Justice John MacMenamin dated the 23rd day of
August, 2021**

1. This is a ruling on costs. In these proceedings, the appellant, Mr. Tracey, applied for judicial review in relation to proceedings before the District Court. For reasons set out in the substantive judgment delivered, this Court held the High Court judge had not erred in refusing the appellant an order for judicial review. This Court (MacMenamin J., [2002] IESC 20), held that, at one level, the appellant's judicial review application was to be seen as premature; and that he could not show he was going to suffer any injustice by being heard by Judge Anderson in a hearing which was yet to take place. At another level, this Court held that the appellant could not demonstrate that he had suffered any detriment during the earlier hearing before Judge O'Donnell. There was no basis for the assertion that the appellant's constitutional right to a fair trial had been affected by either hearing.

2. The respondents succeeded at first instance and on appeal. An order for costs in this, or any other judicial review case, could run into the thousands of Euro. The respondents' counsel has indicated, however, that her clients are not seeking their costs. This is a fair resolution of the matter, bearing in mind that, *prima facie*, Mr. Tracey could be ordered to pay the costs of the High Court, and of this Court. Accordingly, I would make no order as to costs in the High Court, or the appeal to this Court. (See also observations made in *Kevin Tracey v. District Judge Tom O'Donnell and the Director of Public Prosecutions*, Record No. 173/2008, and *Kevin Tracey v. District Judge Miriam Malone & Ors.*, Record No. 262/2009, rulings on costs also delivered today.)