

Neutral Citation No: [2024] NIDiv 8

Ref: KEE12519

ICOS No: 24/33895/01

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

Delivered: 15/05/2024

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION (JUDICIAL REVIEW)

BEFORE A DIVISIONAL COURT

IN THE MATTER OF AN APPLICATION BY PAUL QUINN
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

Mr Quinn appeared as a Litigant in Person
Mr Ben Thompson for the Proposed Respondent the Police Service of Northern Ireland
("PSNI")

Before: Keegan LCJ and Treacy LJ

KEEGAN LCJ (*delivering the judgment of the court*)

Introduction.

[1] This is an application for leave to apply for judicial review brought by Mr Paul Quinn in relation to a criminal case against him that is currently proceeding before Newtownards Magistrates' Court. He has been charged with offences of having no insurance and obstructing police.

[2] The facts are as follows. On the evening of 19 July 2023 the applicant drove a black Mercedes along the Upper Knockbreda Road towards Forestside. He was stopped by police under suspicion that he was driving without insurance. A check on police systems suggested that the vehicle was uninsured. Police signalled for the applicant to pull in, which he did. He was spoken to by both Constables Elliot and Quinn. It appears that the applicant was asked repeatedly to provide his driving licence and certificate of insurance, and that he consistently declined to do so as he queried the constables' authority. The applicant was also asked to provide details of his name and address, so that police could identify him. He failed to do so. The applicant was warned that if he did not provide the necessary details he would be arrested. He declined to engage and refused to provide all details sought.

[3] At approximately 18:23 the applicant was arrested by police on suspicion of using a motor vehicle without insurance. He was cautioned by police. At approximately 18:35 he was further arrested on suspicion of obstructing police and driving without a licence. He was again cautioned. He was conveyed to Musgrave Police Station where his detention was authorised. He was interviewed under caution between 21:40 and 21:46 that day. During interview the applicant declined to provide any insurance details and claimed that he had been kidnapped, and that he was not required to produce documents unless there had been an accident or there was an injured party.

[4] At 22:24 the applicant was charged with the offences of using a motor vehicle without insurance and obstructing police. He was detained in police custody to appear at the next available court. He appeared before the court on 20 July 2023. He was connected to the charges and was granted bail.

[5] Witness statements were prepared and submitted to the Public Prosecution Service ("PPS"). The PPS decided that the test for prosecution was met and directed prosecution on 21 December 2023. The case remains live before Newtownards Magistrates' Court. The applicant informed us that there have been many appearances to date and yet the case has not progressed to a conclusion. He has also made complaints against G4S and the judge and essentially maintains that he has been treated badly and not allowed to make his case.

The applicant's challenge

[6] The essence of the proposed challenge is what the applicant describes as "the decision to prosecute this matter dated 2nd August 2023." In support of his case the applicant relies upon what he alleges to be the respondents' "... unlawful acts, omissions and behaviour in the way that they have failed to perform as required by both statute and statutory instrument in the conduct, management, care and duty of these legal proceedings being conducted at Newtownards Magistrates' Military Diplock Court, Northern Ireland, covering the period from 19 July 2023 until the present day."

[7] The ex parte docket dated 12 April 2024 that grounds this application seeks in summary:

- (i) An order of certiorari quashing the decision of the Chief Constable for Northern Ireland to prosecute a matter dated 2 August 2023.
- (ii) A general stay or no prosecution.
- (iii) The court to issue a mandatory order requesting the Attorney General to intervene in this matter and hold the DPP and the PPS liable for bringing this case before the court.

- (iv) Damages both ordinary and exemplary and for breach of human rights.
- (v) Costs and any other relief.

[8] We also summarise the grounds of challenge relied upon by the applicant as follows:

- (a) That the road traffic offences for which he was stopped “are not crimes” because neither involves “an injured party.” On that basis, the applicant contends that police had no jurisdiction and acted in bad faith.
- (b) That having no insurance is not a criminal matter. The applicant contends that there is no injured party, and that not having motor insurance must be “civil or disciplinary” action under public law applicable to a “Crown Agent.” He contends that it would be an “act of slavery” to “force a civilian of the occupied territory into a third-party contract with a private corporation [ie, insurance provider].”
- (c) Illegality – the applicant contends abuse of position, and abuse of police powers against the arresting officers; that the police breached their “Oath of Office” because they “... claimed to be a Constable while enforcing Public Policy on a civilian acting peacefully in his private capacity.”
- (d) Breach of the statutory duty contained in the Police Act (Northern Ireland) 2000, section 38. The applicant also contends that police had no jurisdiction as they are not constables of Eire and were acting as agents of, and enforcing the legislation of, a “foreign occupying force.”
- (e) Illegality on the part of the arresting officers due to improper use of private information as the safety road campaign, the Northern Ireland Road Safety Partnership has no powers to create legislation.
- (f) A breach of European Convention on Human Rights (“ECHR”) article 6, section 3(A) and section 154 of The Magistrates’ Courts (Northern Ireland) Order.
- (g) Lack of jurisdiction of the courts of Northern Ireland, breach of the Geneva Convention 1949.

[9] We asked for a position paper from the proposed respondents in advance which has been helpful. The Attorney General for Northern Ireland (“AG”) states that she has no jurisdiction in this matter. We agree with this position and so at the outset the AG is dismissed from the case. The other proposed respondent the PSNI disputes the claims. We afforded Mr Quinn the opportunity to address us orally in relation to

why he should have leave to apply for judicial review which he availed of, and we reserved our decision.

[10] Having considered all the material filed and the oral submissions of Mr Quinn we turn to explain our decision in this case as follows.

Our consideration

[11] Firstly, we point out that this is an application for leave to apply for judicial review. This is a preliminary stage in any judicial review which precedes the provision of affidavit evidence. A Divisional Court has been convened as this matter is a criminal matter.

[12] In any judicial review, when dealing with leave the court must consider the test which is whether an applicant has an arguable case with a reasonable prospect of success. This is well-trammelled ground and a test that has been reiterated in our courts, most recently in *Re Ni Chuinneagain's application*, which is a decision of the Court of Appeal reported at [2022] NICA 56.

[13] As a preliminary matter, we note that the proceedings have been brought well outside the three-month time limit provided by the Rules of the Court of Judicature (Northern Ireland) 1980, Order 53, Rule 4(1). No explanation has been provided as to why the court should extend time. However, pragmatically Mr Thompson has, whilst raising the issue, implicitly asked us to deal with the merits of the application and we do so whilst noting the unexplained delay.

[14] It is a well-established principle in the field of public law that legal issues which can be dealt with in the context of extant criminal proceedings should not be brought before the Divisional Court, save in exceptional circumstances. That principle flows from a decision of *R v DPP ex p Kebilene* [2000] 2 AC 326. In a case in which I gave judgment of *Re Bryson and McKay's Application* [2021] NIQB 110, I also said this:

“This court is a court of last resort, meaning the judicial review court. The specialist criminal framework is better suited to determination of these types of issues. The applicants are not prejudiced by this outcome because they can bring pre-trial applications at trial including abuse of process and thereafter there are appeal rights embedded in the criminal law process.”

[15] We find no exceptional circumstances in this case or issues that cannot be dealt with in the criminal court.

[16] The general territory with which this case is concerned has recently been dealt with before the Divisional Court in *Anthony Parker and James Caldwell's Application for leave to apply for Judicial Review* [2023] NIKB 24 and *Re Rafferty's Application* [2024] NI

Div 6. Mr Quinn told us that he was familiar with the legal principles as he had been in court when the *Parker & Caldwell* case was heard.

[17] That case decided that driving summonses were validly before the court and set out in detail the jurisdiction of the magistrates' court. The principles are equally applicable in this case, and we will not repeat them. We find no arguable breach of Article 154 of the Magistrates Court (Northern Ireland) Order 1981 ("the 1981 Order") as alleged. We need say no more than repeat what we said previously at paras [29]-[33] of the judgment in *Parker & Caldwell*. The jurisdiction of the magistrates' court is contained in the legislation referred to in those paragraphs. The charges were validly brought under Article 90(4) of the 1981 Order, for no insurance and Article 180(7) for obstruction. The legislation deals in this area with speed limits, road safety measures and matters of criminal law clearly. This law does not simply apply to civil servants, as we have said, in our previous judgment.

[18] The power to require the production of the applicant's driving licence and insurance are provided by law. Specifically, Article 180 of the 1981 Order. The applicant is wrong to suggest that police do not have jurisdiction to investigate suspected criminal offences. To the contrary, section 32(1)(c)-(d) of the Police (Northern Ireland) Act 2000 specify the general duties of police officers as preventing the commission of offences, and, where offences have been committed taking measures to bring the offender to justice. The applicant's arguments to the contrary are unsustainable.

[19] The additional arguments that are made out in the paperwork are many and various, none of which we find any merit in. Briefly, for the sake of completeness only, we record that this is clearly not a military court as Mr Quinn suggests. We reiterate that the laws of the United Kingdom apply. We find no discernible claim under the ECHR and the Geneva Convention is clearly not applicable to this case.

[20] Other matters of complaint against police are clearly not matters for the judicial review court. Mr Quinn may pursue the issues he raises as to the manner of his arrest and the conditions of his detention in the civil courts or by way of a complaint against police who in essence he alleges were heavy handed towards him. He has an alternative remedy.

[21] All of the other arguments that are made in the Order 53 statement are unarguable and must be dismissed.

Conclusion

[22] Drawing together all that we have said above, we find that the arguments made by Mr Quinn in this case are without any foundation, unarguable and have no reasonable prospect of success within the judicial review jurisdiction. This is also a case where there is an alternative remedy which may be pursued against the police as

regards the manner of arrest and detention alleged by Mr Quinn. In addition, Mr Quinn may contest the criminal charges in the specialist criminal court.

[22] Accordingly, leave to apply for judicial review is refused.