



THE COURT OF APPEAL

Neutral Citation Number: [2020] IECA 185

Record Number: 2019/82

High Court Record Number: 2013/7460P

Edwards J.

Whelan J.

Noonan J.

BETWEEN/

IAN COUGHLAN

PLAINTIFF/APPELLANT

- AND -

THE MINISTER FOR DEFENCE, IRELAND

AND THE ATTORNEY GENERAL

DEFENDANTS/RESPONDENTS

Costs Ruling of the Court delivered on the 10th day of July, 2020.

1. The Court's judgment in this matter was delivered on the 4th March, 2020 (the "Principal Judgment"). The appellant's appeal was allowed and the matter remitted to the

High Court to be determined in accordance with the terms of the Principal Judgment. It is agreed between the parties that the appellant should be entitled to the costs of the appeal subject to a stay pending the final determination of the proceedings.

2. The appellant contends further that he should be entitled in addition to the costs of the hearing before the High Court. This is disputed by the respondents who contend that as the final determination of this motion has not yet occurred, the costs should be reserved to the High Court. However, the Court considers that this is not the correct approach. The essential objection raised by the appellant in the High Court was that the evidence advanced by the respondents was hearsay and ought not be relied upon by the Court. Despite that objection, which was held to be well founded by this Court, the High Court acceded to the respondents' application and dismissed the entire proceedings. That determination was found by this Court to have been made in error and was therefore set aside. Had the matter been correctly decided in the High Court, it would have resulted either in the respondents' motion being dismissed or sent forward for hearing on oral evidence. In either event, it seems to this Court that the appellant would have been entitled to his costs.

3. Accordingly, the Court will direct that the appellant is to have his costs in this Court and the High Court, subject to a stay until the final determination of the proceedings.