

**THE HIGH COURT
JUDICIAL REVIEW**

[2016 No. 228 JR]

BETWEEN

JOSEPH LAVERY

APPLICANT

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT

(NO. 4)

JUDGMENT of Mr. Justice Richard Humphreys delivered on the 26th day of February, 2020

1. The applicant over a period of the last decade has been involved in a dozen sets of proceedings mainly revolving around his complaints against Gardaí together with knock-on complaints against judges and other public authorities with whom he has come into contact. Those cases, many of which have given rise to written judgments, have been as follows:
 - (i). *Lavery v. McBride* [2012 No. 746 JR] (see *Lavery v. McBride* [2016] IESCDET 132; *Lavery v. McBride* [2018] IEHC 299 (Unreported, High Court, 30th April, 2018));
 - (ii). *Lavery v. McBride* [2013 No. 682 JR];
 - (iii). *Lavery v. McBride* [2014 No. 301 JR];
 - (iv). *Lavery v. McBride* [2015 No. 4819 P];
 - (v). *Lavery v. D.P.P.* [2015 No. 619 JR] (see *Lavery v. D.P.P. (No. 1)* [2016] IEHC 866 (Unreported, High Court, 21st December, 2016); *Lavery v. D.P.P. (No. 3)* [2018] IEHC 185 (Unreported, High Court, 13th March, 2018));
 - (vi). *Lavery v. D.P.P.* [2016 No. 228 JR] (see *Lavery v. D.P.P. (No. 2)* [2016] IEHC 322 (Unreported, High Court, 15th June, 2016));
 - (vii). *Lavery v. A Judge of the District Court* [2016 No. 346 JR];
 - (viii). *Lavery v. Faughnan* [2015 No. 37 JR] (see *Lavery v. Faughnan* [2017] IEHC 661 (Unreported, High Court, 1st November, 2017));
 - (ix). *Lavery v. G.S.O.C.* [2017 No. 39 JR];
 - (x). *Lavery v. McLoughlin* [2018 No. 5 JR];
 - (xi). *Lavery v. McLoughlin* [2018 No. 53 JR]; and
 - (xii). *Lavery v. McLoughlin* [2019 No. 20 IA] (see *Lavery v. McLoughlin* [2019] IEHC 190 (Unreported, High Court, 15th March, 2019)).

2. The applicant was made the subject of an *Isaac Wunder* order on 4th July, 2016 in *Lavery v. D.P.P.* [2016 No. 228 JR]. In accordance with that order, he now applies for permission to issue an application which is set out in an unstamped draft *ex parte* docket dated 24th February, 2020 and entitled in the 2016 No. 228 JR proceedings. That *ex parte* docket claims, as substantive relief to be obtained *ex parte*, orders placing two judges of the District Court in contempt and an order for expenses relating to the motion, as well as other relief.
3. The applicant moves on foot of an affidavit sworn on 24th February, 2020, although the name of the practicing solicitor who took the affidavit is unhelpfully totally illegible. The affidavit complains that criminal proceedings against the applicant were adjourned in May, 2016 and February, 2017, notwithstanding a stay granted by the High Court. Had the proceedings been substantively determined rather than adjourned, that might have given rise to grounds for complaint, if complaint had been made in a timely manner, although not a complaint as to contempt. However, all that happened here was that the proceedings were adjourned. That is not a breach of a stay, but even if it was, contempt against the judges would not be the appropriate remedy; and whatever remedy was sought, one would have to move in a timely manner, which is not the case here.
4. Representative of the scandalous tenor of the complaint made is that at para. 4 of the affidavit, Mr. Lavery avers that "*District Judge James Faughnan laughed introducing Justice Humphreys' aforementioned orders and referred to them as rubbish*".
5. There are a number of independent reasons why this application must fail:
 - (i). it is scandalous and vexatious, thereby reinforcing the case for the *Isaac Wunder* order; indeed the oral submissions made in support of it were very much in that vein, if not in fact considerably more so;
 - (ii). the proposed application discloses no statable ground for relief and certainly not the relief actually sought;
 - (iii). the application was not made in a timely manner; and
 - (iv). even if there was some point here, which there isn't, the remedy sought is not relief that can be obtained *ex parte* and, thus, the procedure adopted by way of looking for substantive relief (as opposed to leave to seek such relief) by *ex parte* docket is inappropriate.

Order

6. Accordingly, the order will be to refuse permission to apply pursuant to the *Isaac Wunder* order on foot of the proposed *ex parte* docket.