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Omagh families win right to use testimony in civil case

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case

by

By  Garbhail McDonald and Tim Healy
Saturday April 05 2008

THE Supreme Court has ruled that the families and victims of the 1998 Omagh bombing who are suing five men they believe responsible for the worst atrocity of the Troubles, are entitled to use books of evidence and transcripts from the men's previous trials at the Special Criminal Court.

The families had feared that the landmark €18.2m civil action, which will begin in Belfast on Monday, would proceed without "essential" material used in the criminal trials of five men in this jurisdiction.



The Irish Independent has also learned that special arrangements are being put in place to facilitate the taking of evidence from 24 senior gardai who investigated the bombing.

The garda statements, which will be taken in Dublin, will form part of the Omagh families case against Michael McKeivitt, of Beech Park, Blackrock, Co Louth, who is serving a 20-year sentence for directing Real IRA terrorist activities.

The books of evidence and transcripts of Colm Murphy, of Jordan's Corner, Ravensdale, Co Louth -- who is facing a re-trial for conspiring with another person to cause an explosion in the State or elsewhere between August 13 and 16, 1998 -- are also set to be released after Chief Justice John Murray ruled that there was "nothing that prevents" material from the men's trials from being furnished to the plaintiffs.

The other defendants in the civil action, which could last for two months, include Seamus Daly, of Culloville, Castleblayney, Co Monaghan, who was sentenced to three years after being found guilty of membership of

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an illegal organisation.

Liam Campbell, of Upper Faughart, Dundalk, who was jailed for membership of an illegal organisation and Seamus McKenna, formerly of Silverbridge, Co Armagh, but with an address at Marian Park, Dundalk, who was sentenced to six years' imprisonment for unlawful possession of explosives are also being sued by the families.

Last night Michael Gallagher, whose son Aidan was killed in the blast, said that the families were "delighted and grateful" that the Supreme Court had ruled that there was no impediment in Irish law preventing the five from furnishing the books of evidence and the transcripts of the five men's trials at the Special Criminal Court.

"It is very close to the bone, just days before the civil trial starts, but we are just delighted," said Mr Gallagher.

The 11th-hour ruling by the Supreme Court, coupled with testimony from senior gardai, represents a major boost for the families civil campaign.

The ruling was handed down yesterday afternoon, and the Chief Justice, sitting with Mr Justice Adrian Hardiman and Mr Justice Hugh Geoghegan, said that the court would give the reasons for it's decision at a later date.

The two-day hearing followed an appeal brought against a recent High Court judgment that the Omagh victims were entitled to some, but not all, of the documentation they were seeking as part of a civil action for damages against the five.

All five men opposed the application on grounds including that there was an impediment and that they could be in contempt of court by doing so.

In a judgment delivered on March 20 at the High Court in Dublin, Mr Justice Paul Gilligan ruled that there was nothing in the Irish law that prohibits books of evidence served on the men during proceedings taken against them at the Special Criminal Court from being obtained by the families through normal court discovery procedures.

The judge, however, found that there is an impediment under Irish law preventing the defendants from providing the transcripts of their trials at the Special Criminal Court.

Appealed

Both sides had appealed aspects of that judgment to the Supreme Court.

The families had been granted an order of discovery by the High Court in Northern Ireland, subject to any determination by the courts in Dublin.

Counsel for Daly and Murphy said there was a risk of "cross contamination if the documents were allowed to be used in a civil case. But counsel for the Omagh families argued that the Northern Ireland courts had determined the use of the documentation for the civil case was "amply justifiable," and the material should be before the courts for "the doing of justice."

- *Dearbhail McDonald and Tim Healy*

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