

22/2
Mr. J Stephens PRBI - M

cc: Mr Marsh

Mr Gilmore**EXTRADITION OF DERMOT FINUCANE
FROM THE REPUBLIC OF IRELAND**

1. As you are no doubt aware, we are seeking the extradition of Maze Escaper, Dermot Finucane from the Republic of Ireland. I have already sent to you by bag a copy of the affidavit filed by Finucane as part of his defence against this request.

2. The Crown Solicitor now has to prepare counter-affidavits. Most of the allegations in Finucane's affidavit fall to the RUC to respond to but some fall to prison department. Bill Palmer in the Crown Solicitor's Office has asked that we provide information on the points raised in paragraphs 13, to 17 & 20 which concern allegations that Finucane will be ill-treated on return to prison and also that the Maze is a prison for political prisoners. Once Bill Palmer has the necessary information he will work it up into affidavits. We also need to find a suitable person to swear the affidavits. If necessary, this person should be prepared to go to Dublin for the oral proceedings in the High Court. Similar material was provided for the Russell case. These affidavits were sworn by Mr Hassan.

3. Finucane's affidavit has been very well prepared and covers far more ground than the Russell one. In considering what information you are able to provide to rebut paragraph 13 you will want to know that following the recent Maze escape judgment the

DPP(WI) is likely to order that the warrant in respect of the murder of Prison Officer Ferris be withdrawn. The Crown Solicitor is considering how our affidavit should cover this point.

4. I think the only points which are potentially difficult are those raised in paragraphs 17c & 20. On para 17c the Irish State Solicitor has asked whether Prison Officer Wright could swear the necessary affidavit. Although I am sure this would be feasible, would PO Wright be prepared to co-operate, particularly with regard to the possibility of appearing in court in Dublin?

5. On paragraph 20; although I am sure there were very good reasons for the Hennessy Report printing the names of the escapers and not the prison officers, this might be difficult to justify to an Irish court. If Finucane was to be successful on this point, it would, of course, severely prejudice our chances of successfully extraditing the remaining Maze escapers from the Republic.

6. Although we do not yet know how much time we have to prepare these affidavits, I think we should work on the assumption that your material be given to the Crown Solicitor's Office as soon as possible. This should allow plenty of time for the drafts to be cleared both by ourselves and the Irish. X

7. I think the best way forward would be for you to liaise directly with Bill Palmer (Belfast 235111). He would be very willing to talk this over with you, if you so wish. I would be grateful if all correspondence could be copied to us.

Elizabeth Wood

ELIZABETH WOOD 13 May 1988

X I have now found out that this case is listed for 3 June & the affidavits all have to be filed by that date. The Crown Solicitor needs the information to complete the affidavits by 27 May at the very latest to allow time to consult the Irish about the drafts.

CONFIDENTIAL

IN THE HIGH COURT
IN THE MATTER OF THE EXTRADITION ACT 1965

BETWEEN:

DERMOT FINUCANE

Plaintiff:

and

JOHN PAUL McMAHON

Defendant:

I, RICHARD CRAIG GAWN, Inspector of the Royal Ulster Constabulary, stationed at Headquarters, Brooklyn, Knock Road, Belfast, aged 18 years and upwards make oath and say as follows:-

1. I am an Inspector in the Royal Ulster Constabulary and authorised by the Chief Constable to make this affidavit.
2. I have read the affidavit of Dermot Finucane sworn in this matter on 7 April 1988, and I have examined records concerning the following matters.
3. I have no personal knowledge of the events described by the Plaintiff in paragraph 3 of his affidavit as having occurred in Percy Street in August 1969. On 27 August 1969 both Houses of Parliament of Northern Ireland resolved that it was expedient that a Tribunal be established for inquiring into a definite matter of urgent public importance including events in the month of August 1969 in Belfast. The Report of the Tribunal of Inquiry presided over by the Hon Mr Justice Scarman was published in 1972 (Cmd. 566). I refer to photocopies of paragraphs 21.1 to 21.49 inclusive of the Report which deals with the events in West Belfast on the night of 14/15 August 1969 and in section 4 the events in Percy Street up to about 1 am, now produced to me and marked "RCG1".

4. On 29 February 1972 John Finucane, a brother of the Plaintiff, was arrested and interned, he was released on 6 June 1972. Following his release, he was killed on 28 June 1972 when a stolen car in which he was travelling crashed. The statement in the Plaintiff's affidavit that John Finucane was at the time on active service for the Irish Republican Army accords with the intelligence available to the RUC.

5. On 18 September 1973 Seamus Finucane (who was born on 8 March 1957) was arrested and detained. He was released on 17 June 1975. On 14 October 1976 he was in a motor car leaving the factory compound at Balmoral Furnishing Company as an explosion occurred at the factory. The estimated cost of the damage to the factory caused by the explosion was £500,000. There were other people in the vehicle in which Seamus Finucane was travelling and there were firearms in the vehicle which were used against the police. Seamus Finucane was convicted on 6 September 1977 at Belfast City Commission of possession of firearms with intent to endanger life and sentenced to 14 years imprisonment.

6. The only record of Martin Finucane having been in the custody of the security forces shows that on 25 May 1979 he was stopped by the army and held for a period of 3 hours. There is no record of any complaint having been by the said Martin Finucane.

7. On 9 August 1977 the Plaintiff was arrested by a soldier for throwing bricks at the army. At Lisburn Juvenile Court on 18 October 1977 he was convicted of riotous behaviour and bound over for two years in his own recognizance of £50, and one surity of £50.

8. On 25 September 1978 at 6.10 am the Plaintiff was arrested by Constable S Black at 27 Dungloe Crescent, Belfast, under section 11 of the Northern Ireland (Emergency Provisions) Act 1978. He was taken to Castlereagh Police Office and the records show that he arrived there at 6.50 am. It is recorded that the Plaintiff complained to a doctor at a

medical examination on 27 September 1978 between 9 pm and 9.35 pm that on 25 September at his first interview and on 27 September immediately preceding the medical examination he had been ill treated at interviews. He said that on the first occasion he had been made to sit in an "imaginary chair" position and slapped and punched and had his hair pulled. He complained that on 27 September he was punched and slapped again. It is recorded that he had been examined by a Doctor Donnelly, his own General Practitioner, on 27 September 1978 between 3.25 pm and 3.40 pm but had made no complaint of the events alleged to have occurred at his first interview on 25 September 1978. There is no record of any complaint by the Plaintiff that he had been made to sign a confession or had been threatened. He did not mention this either to Dr Johnston, the medical officer who saw him before his release or Inspector Flanigan, who is recorded as having asked him if he had any complaints to make prior to his release. These allegations were investigated by the Complaints and Discipline Branch of the RUC and a report was forwarded to the Director of Public Prosecutions the Plaintiff was asked to assist the investigating officers by giving them an interview but failed to do so. Subsequently he directed "no prosecution" against the police officers against whom the allegations had been made. Following this the Police Complaints Board examined the matter and no disciplinary action was ordered against any of the officers.

9. It is recorded that on 7 February 1981 at 6.15 am Constable J. Fenton arrested the Plaintiff at 4c Bunrana Gardens, Belfast, under section 12 of the Prevention of Terrorism (Temporary Provisions) Act 1976. Following his arrest the Plaintiff was taken to Castlereagh Police Office and he is noted as having arrived there at 6.45 am.

10. On 6 February 1981 a police officer was murdered in the vicinity of a newsagents shop in Balmoral Avenue, Belfast. Following his arrest as aforesaid, on 10 February 1981 the Plaintiff was charged with the

murder of the police officer. On 21 May 1981 the Director of Public Prosecutions directed no prosecution due to lack of corroboration of evidence of identification. The Plaintiff was released from custody on 22 May 1981.

11. While the Plaintiff was in custody at Castlereagh Police Office following his arrest on 7 February 1981 he was visited by his solicitor on the 8 February 1981. After his solicitor had visited him he complained that he had been threatened, assaulted and verbally abused by interviewing detectives. He is reported to have complained that they told him at one stage that these were going to record a false verbal admission. Later his solicitor complained that he had been refused an interview with his client on the grounds that his client did not wish to see him when his client had asked for an interview. The Plaintiff also complained that he had asked for a uniform inspector to explain about his treatment but no inspector had attended him. These allegations were investigated by the Complaints and Discipline Branch of the RUC and a report was sent to the Director of Public Prosecutions despite requests the Plaintiff failed to make himself available to the investigating officers. He directed no prosecution against any of the officers alleged to have been involved. The Police Complaints Board also examined the matter and directed no disciplinary action any officer.

12. On 20 August 1981 an army patrol on duty at Shaws Road, Belfast, came under gun fire and a soldier suffered multiple gun shot wounds. Five minutes later members of a police patrol saw a vehicle containing three men mount the footpath before it was driven off. As officers had seen a rifle in the vehicle they opened fire in self defence. The three men abandoned the vehicle and surrendered on being called upon to do so. They were found to be in possession of a Colt .223 AR 15 rifle and a Colt .223 M16 A1 rifle and ammunition. There was also spent ammunition in the car. Forensic evidence linked one of these weapons

with the earlier attack on the army patrol. The occupants of the car were charged with attempted murder and possession of firearms with intent to endanger life.

13. On the 14 June 1982 the Plaintiff was convicted by Mr Justice MacDermott at Belfast Crown Court of possession of firearms with intent and sentenced to 18 years imprisonment. I refer to a copy of the judgment now produced to me and marked "RCG2".

14. It is alleged by the Plaintiff in paragraph 16(e) of his affidavit that "a consistent pattern has been established over the years that those responsible for the prima facie unauthorised deaths of civilians have either gone unprosecuted or unpunished". The statistics are that between 1972 and the present date soldiers have been prosecuted for murder or manslaughter and police officers have been prosecuted for murder or manslaughter. Included in these statistics are three police officers who were charged with the murder of Gervise McKerr, Eugene Toman and Sean Burns referred to in paragraph 16(g) of the Plaintiff's affidavit, and a soldier charged with the manslaughter of Aideen McAnespie referred to in paragraph 17(h) of the Plaintiff's affidavit.

15. The Director of Public Prosecutions has directed no prosecution against the Plaintiff in relation to the offences to which warrants relate.