



THE SUPREME COURT

[RECORD NO.: 173/2008]

**MacMenamin J.
Dunne J.
Charleton J.**

BETWEEN:

KEVIN TRACEY

APPELLANT

AND

**DISTRICT JUDGE TOM O'DONNELL AND THE DIRECTOR OF
PUBLIC PROSECUTIONS**

RESPONDENTS

**Ruling on Costs by Mr. Justice John MacMenamin dated the 23rd day of
August, 2021**

1. This is a ruling on costs. This was an appeal against a judgment and order of McGovern J. in the High Court. In a written judgment dated the 6th March, 2008, the appellant was refused judicial review. The appellant's appeal this Court was dismissed ([2020] IESC 19). The judgments of the High Court and of this Court set out the full circumstances of the case. The appellant, Mr. Tracey, who represented himself, submitted he was entitled to a sum of €9,019 by way of his costs and outlay. He drew the Court's attention to the length of time these proceedings had been before the Court. But Mr. Tracey's appeal was dismissed. His appeal was entirely unsuccessful. Counsel on behalf of the respondent has submitted that no order for costs should be made in these proceedings, either in the High Court, or in this Court.

2. The general principle applicable, pursuant to Order 99, Superior Court Rules 1986, as amended, and s.169 of the Legal Services Regulations Act, 2015 is that costs follow the event, and that a party who is entirely successful is entitled to their costs. In not applying for costs, therefore, the respondents are making a substantial concession. An award of costs in this, and the other matters involving Mr. Tracey ruled on today (Record Nos. 355/2006 and 262/2009), could very easily run into four figures in each case. Like any other case, a judicial review should not be undertaken without a realisation that, at the end of the day, there may be an order for costs against an unsuccessful party.

3. Having regard to the submissions made, the Court considers the just order is to make no order for costs, in accordance with the submissions made on behalf of the respondents.