

In the matter of an application by Margaret McQuillan (AP) For Judicial Review (Northern Ireland) No 2

Case ID: 2020/0029

Case summary

Issue

In the Appeal (1) The extent to which the article 2 investigative obligation arising under the Human Rights Act 1998 applies retrospectively to deaths which occurred prior to the commencement of the Human Rights Act 1998; and (2) Whether the Legacy Investigations Branch of the Police Service of Northern Ireland is sufficiently independent to investigate and / or review the investigations into such deaths and what steps are necessary to ensure that the investigation / review meets article 2 standards and the point in time at which those steps must be taken.

In the Cross Appeal (1) Whether the NI Court of Appeal erred in finding that there was no obligation to ensure that the investigation into the death in question was independent under (1) the common law; and (2) under the Police (Northern Ireland) Act 2000, s. 32(1)(d) read in conjunction with the Code of Ethics 2008 as contained in the Police Service of Northern Ireland (Conduct) Regulations 2008.

Facts

On the night of 8 June 1972, Jean Smyth was a passenger in a car which was stationary on the Glen Road, Belfast, when she was fatally wounded by a bullet striking her head. Following police investigation into her death and following the discovery of military logs suggesting the possibility that the fatal shot was fired by a member of the Military Reaction Force, the Police Service of Northern Ireland proposed to conduct a further investigation into Ms Smyth's death. The investigation was to be conducted by the Police Service's Legacy Investigations Branch.

Before the proposed further investigation took place, the respondent issued judicial review proceedings seeking a declaration that the proposed further investigation of the death conflicted with the requirements of article 2 ECHR on the basis that it lacked the requisite independence required to perform an Article 2 compliant investigation into the death.

The Court of Appeal found, in the appellant's favour, that article 2 was applicable and that the Police Service lacked the requisite independence to satisfy the requirements under article 2. The appellants appeal to this court against the Court of Appeal's findings. The respondent cross-appeals.

Judgment appealed

[\[2019\] NICA 13](#)

Parties

Appellant(s)

Chief Constable of the Police Service of Northern Ireland

Respondent(s)

1. Margaret McQuillan
2. Department of Justice

Appeal

Justices

Lord Hodge, Lord Lloyd-Jones, Lord Kitchin, Lord Sales, Lord Hamblen, Lord Leggatt, Lord Burrows

Hearing start date

14 June 2021

Hearing finish date

16 June 2021

Watch hearing

14 June 2021 [Morning session](#) [Afternoon session](#)

15 June 2021 [Morning session](#) [Afternoon session](#)

16 June 2021 [Morning session](#) [Afternoon session](#)

Judgment details

Judgment date

15 December 2021

Neutral citation

[2021] UKSC 55