

TRIBUNAL OF INQUIRY
INTO
COMPLAINTS CONCERNING SOME
GARDAÍ IN THE DONEGAL DIVISION

Appointed by Instrument made by the
Minister for Justice, Equality and Law Reform
on the 24th day of April, 2002 entitled
Tribunals of Inquiry (Evidence) Act, 1921
(Establishment of Tribunal), 2002

ADDENDUM TO RULING ON APPLICATIONS
FOR COSTS

Concerning Hearings of the Tribunal in respect of Terms of
Reference (b), (d), and (f)

Ruling of Mr. Justice Frederick Morris on an application for costs
made on behalf of Mr. John White

On the 30th of October 2008 a written submission was received by the Tribunal for payment of legal costs to Mr. John White arising out of the publication of the Tribunal's sixth report. The Tribunal being satisfied that there was a genuine reason as to why this application had not been submitted within the proper time, the Tribunal extended the time for submitting an application for costs on behalf of Mr. White.

While the application submitted was somewhat difficult to understand, it seems to be an application for an order for payment of Mr. White's legal costs in connection with the sub-module dealing with the arrest and detention of Mr. Frank McBrearty Junior in December 1996 as part of the Barron Death investigation. Mr. White did not have any dealings with Mr. McBrearty Junior during that period of detention. On that occasion he was part of the interviewing teams who interviewed Róisín McConnell and Katrina Brolly. He has already received orders for payment of his costs in the sub-modules dealing with the arrests and detentions of Ms. McConnell and Ms. Brolly. As Mr. White did not have any interaction with Mr. McBrearty Junior during that period of detention, nor were any allegations made against him by Mr. McBrearty Junior concerning that period of detention, it would be inappropriate to grant Mr.

White any order for costs on the sub-module dealing with the detention of Mr. McBrearty Junior in December 1996.

Mr. White did have extensive dealings with Mr. McBrearty Junior as part of the Edmond Moss investigation and in particular, during Mr. McBrearty Junior's second arrest and detention in February 1997. That matter was dealt with as part of the Edmond Moss sub-module. Mr. White has already applied for and has been granted his costs in that sub-module. The reasons grounding the award of his costs in that sub-module have been set out at page 16 of the Tribunal's ruling on costs applications arising out of the sixth report.

The sub-module dealing with the arrest and detention of Mr. Frank McBrearty Junior in December 1996 and the sub-module dealing with his arrest as part of the Edmond Moss investigation in February 1997, were heard simultaneously. Accordingly, where a person has received an order in either sub-module they would be entitled to recover payment in respect of all the days spent dealing with the arrests and detentions of Frank McBrearty Junior. This is due to the fact that both arrests were dealt with simultaneously by the Tribunal. Therefore, while it is not appropriate for Mr. White to obtain a separate order for costs arising out of the sub-module dealing with the detention of Frank McBrearty Junior in December 1996, the order for payment of his costs in respect of the Edmond Moss sub-module will entitle him to recover costs in respect of all the days on which the Tribunal held hearings concerning both arrests of Frank McBrearty Junior.

For the reasons set out herein, I refuse the applicant's application for costs in respect of the sub-module dealing with the arrest and detention of Frank McBrearty Junior in December 1996.

Signed:

Frederick Morris
The Hon Mr. Justice Frederick Morris
Sole Member of the Tribunal

Date:

13th November 2008