



An Chartlann Náisiúnta National Archives

Reference Code:	2017/10/19
Creation Dates:	2 December 1987
Extent and medium:	5 pages
Creator(s):	Department of the Taoiseach
Accession Conditions:	Open
Copyright:	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

fhreagra ar an litir seo, is mar
ba choir e stiuradh:—

Any reply to this communication
should be addressed to:—

An Rúnaí
(The Secretary)

fe'n uimhir seo:—
and the following number quoted:—

Telephone (01) 789711



ROINN DÍ AGUS CIRT,
(Department of Justice),

72-76 FAICHE STIABHNA,
(72-76 St. Stephen's Green),

BAILE ATHA CLIATH, 2.
(Dublin, 2)

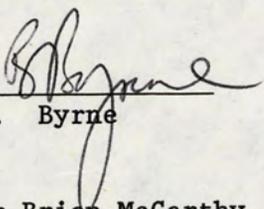
2 December 1987

Dear Brian

With reference to your request for details of ("failed") applications for extradition due to defects in the warrants I am enclosing material for your information. The draft for the material was prepared by the Gardai from their records and was referred to the Office of the Attorney-General where certain suggestions for amendments were made and these have been included.

The attached paper is divided into two parts, the first dealing with applications from Northern Ireland and the second with applications from England and Wales. The cases are set out in date order. The majority of those in the second part could be described, perhaps, as 'non-controversial' apart from (F) and (G).

Yours sincerely


W. Byrne

Mr Brian McCarthy
Principal
Department of the Taoiseach
Government Buildings
Dublin 2

Extradition Act, 1965

"Failed" Applications - 1st January 1985 to 1st December 1987

1. Applications from Northern Ireland

(A) Brendan Burns - Murder and Explosives Charges.

In December, 1985 the High Court ordered his release on the grounds that the Northern Ireland warrants had been invalidly issued. The British authorities subsequently informed the Office of the Attorney-General that, on re-examination of the evidence available against Mr Burns in the light of a recent decision of the Northern Ireland Court of Appeal, they felt that the case was not at all strong and they had decided not to continue to seek his extradition.

(B) John Gerard O'Reilly - Conspiracy to Murder and Explosives Charges.

In August, 1986 the High Court ordered his release on the grounds that the Northern Ireland warrants had been invalidly issued. The Irish and British legal authorities were in agreement that the release could not be contested.

(C) Patrick John McIntyre - Escape, Murder, Firearms and Explosives Charges.

In May, 1987 subject was released by the High Court on the grounds that he had been held under Section 30 of the Offences Against the State Act,

1939 for the purpose of making him available for extradition (the Gardai are in possession of warrants for his re-arrest, and there is no legal bar to fresh extradition proceedings when he is located).

2. Applications from England and Wales

(A) Thomas Ryan - Deception (£60) Charge.

In February, 1985 refused by District Court on question of identification.

(B) Thomas O'Sullivan (alias John Aloysious Driscoll) - Murder and Receiving Charges.

In June, 1985 the District Court held that the murder warrant was not valid as part of the sentence had already been served and his parole was being revoked. In November, 1986 the Extradition Order in the receiving case was withdrawn following discussions between the Law Officers in Dublin and London.

(C) Bernadette Mary Clowry - Shoplifting Charge.

In October, 1985 an Extradition Order which had been made was subsequently discharged by the District Court under Section 53 (2) of the Extradition Act, 1965 at the request of the British Police Force

concerned. Subject's sister, Pauline Clowry, had used the name Bernadette Mary Clowry when arrested and charged in England.

(D) Anthony Kelly - Robbery Charge.

In November, 1985 refused by District Court on the grounds that there was not a comparable offence in the State.

(E) Alan Morgan - Robbery Charge.

In February, 1986 refused by District Court on question of identification.

(F) Evelyn Glenholmes - Firearms and Explosives Charges.

In March, 1986 the District Court held that warrants had been invalidly issued by the London Court (the [British] Law Society's Gazette of 30 April 1986 described the decision of the District Court as being "the proper approach" and said: "it would be totally contrary to the rule of law to turn a blind eye to a palpable defect in a legal document which clearly rendered it invalid").

(G) Kevin McDonald - Corruption - Conspiracy Charges.

Refused by District Court in September, 1987 on the grounds (i) that the British authorities had not proved that a Law Officers consent to the bringing of the prosecutions had been given and (ii) that at the time of the commission of the offences he was entitled to diplomatic immunity in the absence of proof of waiver. A case stated, requested by the State, is pending to the High Court.

NOTE:

Of the above ten decisions, only that at 2 (G) is considered by the Office of the Attorney-General to have been incorrect in law, and it is under appeal (in addition, that Office considers that the decision at 1 (C) may or may not have been correct as it depended on the facts as found by the Judge).