

Neutral Citation No: [2026] NIMaster 11

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*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No: 19/035038

Delivered: 30/07/26

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

Between:

RAYMOND MCCORD

**on his own behalf and as personal representative of the estate of
RAYMOND MCCORD JUNIOR (DECEASED)**

Plaintiff/Applicant

and

CHIEF CONSTABLE OF THE POLICE SERVICE OF NORTHERN IRELAND

Respondent

and

**(1) MARK HADDOCK
(2) GARY HAGGARTY
(3) STEVEN LOGUE
(4) WILLIE YOUNG
(5) JOHN BOND
(6) DARREN MOORE
(7) JOHN GRAHAM**

Defendants

**Mr Ronan Lavery KC with Mr Conan Fegan (instructed by McIvor Farrell) for the
plaintiff/applicant.**

**Mr Joseph McEvoy (instructed by the Crown Solicitor's Office) for the
respondent.**

**Mr Colm Keenan KC with Mr Mark Farrell (instructed by McConnell Kelly) for
the first defendant.**

**Mr Brian Fee KC with Ms Lara Smyth (instructed by Madden & Finucane) for the
second defendant.**

Mr Sean Mullan (instructed by Hunt & Co) for the third defendant.

**Ms Sinead Kyle (instructed by Wilson Nesbitt) for the fourth defendant.
Mr Sean Devine (instructed by Finucane Toner) for the fifth defendant.
Mr John O'Hare KC with Mr Sean Devine (instructed by Arthur J Downey & Co)
for the sixth defendant.
Mr Paul Bacon (instructed by Reavey & Co) for the seventh defendant.**

MASTER HARVEY

Introduction

[1] The plaintiff's writ and concurrent writ are dated 5 April 2019. The plaintiff served a statement of claim dated 7 June 2021. On 16 August 2019, the plaintiff issued a summons pursuant to Section 32 of the Administration of Justice Act 1970, and Order 24 Rule 8 of the Rules of the Court of Judicature (NI) 1980 against the Police Service of Northern Ireland.

[2] Previously on 22 March 2007 the plaintiff commenced proceedings against the Chief Constable of the Police Service of Northern Ireland alleging negligence, assault, battery, trespass to the person and misfeasance in public office. The respondent asserts the plaintiff sought discovery in those proceedings of the same material as is being sought in the present application. The proceedings were stayed on terms endorsed on counsel's brief in March 2014 save that the court was informed that the defendant would be responsible for the plaintiff's costs.

[3] In the proceedings which are the subject of this application, the plaintiff alleges the seven defendants were members of the Mount Vernon Ulster Volunteer Force. It is further alleged that each was either involved in and/or conspired to murder Raymond McCord Junior. The plaintiff seeks damages from the defendants for personal injuries, loss and damage. The Chief Constable is not a defendant in the action.

[4] Although the seven defendants were not respondents to the summons, each was given notice of the application. Save for the second defendant, the defendants' legal representatives attended the various review hearings and the substantive interlocutory hearing. Detailed written and oral submissions were advanced on behalf of the defendants, as well as by the applicant and the respondent. All of the defendants oppose the making of an order for discovery. I am grateful to counsel for their comprehensive and considered submissions, which were of considerable assistance to the court.

[5] In discussions between the plaintiff's representatives and the respondent to the summons, the schedule of documentation sought has been refined and it has been proposed by the respondent to provide documentation of a limited nature representing:

1. All intelligence relating to the identity of those persons involved in the murder of Raymond McCord Junior.
2. Any document containing evidence implicating those persons in the murder of Raymond McCord Junior.

[6] The respondent asserts this process would have no merit if the names identified in the material are redacted thus rendering what they claim an expensive discovery exercise futile.

[7] The respondent provided the material from the “Assisting offender” Gary Haggarty interviews to the court in unredacted form. It is proposed that the same non-redaction will be reflected in the remainder of the discoverable documentation referred to in (a) and (b) above. The respondent confirms all documentation will be subject to the usual scrutiny in respect of public interest immunity and undergo an Article 2 and Article 8 ECHR screening process.

Legal principles

[8] Section 32 of the Administration of Justice Act 1970 provides:

“On the application, in accordance with rules of court, of a party to any proceedings in which a claim in respect of personal injuries to a person or in respect of a persons’ death is made, the High Court shall, in such circumstances as may be specified in the rules, have power to order a person who is not a party to the proceedings and who appears to the court to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising out of that claim –

3. to disclose whether those documents are in his possession, custody or power; and
4. to produce to the applicant such of those documents as are in his possession, custody or power.”

[9] Order 24 Rule 8(3) provides that a summons must be supported by an affidavit which specifies or describes the documents in respect of which the order is sought and show that the documents are relevant to an issue arising or likely to arise out of the plaintiff’s claim and that the person against whom the order is sought is likely to have or have had them in his possession, custody or power.

[10] An application for disclosure is required to satisfy the same tests as it would in a specific discovery application under Order 24 Rule 7 which provides:

“(1) Subject to rule 9, the court may at any time, on the application of any party to a cause or matter, make an order requiring any other party to make an affidavit stating whether any document specified or described in the application or any class of document so specified or described is, or has at any time been, in his possession, custody or power, and if not then in his possession, custody or power when he parted with it and what has become of it.

...

(3) An application for an order under this rule must be supported by an affidavit stating the belief of the deponent that the party from whom discovery is sought under this rule has, or at some time had, in his possession, custody or power the document, or class of document, specified as described in the application and that it relates to one or more of the matters in question in the cause or matter."

[11] Order 24 Rule 9 provides that discovery will be ordered only where necessary and with due regard to the overriding objective at Order 1, Rule 1A.

Plaintiff submissions

[12] The plaintiff submits that any issue relating to public interest immunity or issues concerning the policy of "neither confirm nor deny" with regard to state agents is a matter for the PSNI to determine and cannot conceivably prevent the making of the order. The purpose of the application and proceedings is not to reveal whether any of the defendants were covert human intelligence sources and acting on behalf of state bodies, who are not defendants. The material sought is to assist in determining involvement in the murder. Further he states that a lot of this material has already been disclosed in separate proceedings. The provision of the material may not be used by any party outside of these proceedings because it is privileged and subject to the usual undertakings.

[13] Further it is submitted that no plausible argument can be made about increased exposure to danger by the provision of this material as the allegation that the defendants are/were in the UVF and responsible for the murder is already in the public domain. The key question for the court to determine is whether the documents are necessary and relevant to the fair disposal of the proceedings. The PSNI has agreed to provide it on that basis but makes the point that it is only

relevant and material if the plaintiff has access to the identities of those implicated by the material.

PSNI Submissions

[14] It is submitted that the original schedule of documents and affidavit of the plaintiff was not specific and failed to identify only documents that are relevant to the issues in the pleaded case. That schedule has now been refined to material the PSNI is willing to disclose to the plaintiff and includes intelligence and evidential material. It had been anticipated the related coronial proceedings would produce all material relevant to the murder of Raymond McCord Junior and the further cost of seeking the material in the present application could not be justified; however, that process was closed in light of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023. The PSNI assert that if the court decides that the names of the defendants should be redacted, discovery will serve no purpose, and the plaintiff's application should be dismissed. It argues the court may wish to exercise its power under Order 24 Rule 15 (2) to inspect "...the documents for the purpose of deciding whether the claim or objection is valid".

[15] As also asserted by the plaintiff, it submits the material may not be used by any party outside of these proceedings and is subject to such undertakings. In the circumstances, there is no risk of the material being released to the public. Furthermore, the plaintiff's allegations in respect of the involvement of the defendants in the murder of Raymond McCord Junior will be the subject of evidence in open court. The defendants can challenge the reliability of the intelligence in whichever way they see fit. It also contends a Closed Material Proceeding is not required nor merited. The PSNI states it previously offered to provide copies of some of the material to the defendants with appropriate cyphers, but this was declined by the defendants. Subsequently this was provided but limited to transcripts of the assisting offender interviews with one of the defendants, unredacted copies of which were provided to the court.

Defendant's submissions

[16] The defendants assert that some of the material derives from assisting offender interviews and intelligence-led processes which they say carries with it a substantial risk of harm. They further claim there is lack of any risk assessment. They argue the PSNI needs to address such risk to the defendants which includes paramilitary reprisal, community retaliation, and vigilante violence and that there is a lack of engagement with ECHR rights. The application is in their view premature, disproportionate and unsafe. Moreover, they assert the material is from an unreliable and deceptive source and using the evidence beyond criminal processes multiplies the risks.

[17] They submit the material to be disclosed is limited and absent the full context. It is claimed this will lead to applications by defendants for further surrounding

material. In short, they claim the process is unlawful, procedurally irregular, contrary to established legal principles, prejudicial to the defendants' convention rights and, incapable of being implemented without judicial oversight. They argue the plaintiff's naming of the defendants in these proceedings does not justify disclosure of unredacted intelligence which may be inaccurate, untested, third-hand or based on flawed or misleading sources.

Consideration

[18] In my judgment the applicant has satisfied the statutory requirements contained in Section 32 of the Administration of Justice Act 1970 and Order 24 Rule 8 of the Rules of the Court of Judicature (Northern Ireland) 1980. The documents presently sought are clearly relevant to matters arising in the action. I have considered the initial limited unredacted material provided by the respondent consisting of interviews of Gary Haggarty in his capacity of an assisting offender. They are plainly relevant to the issues at the heart of this claim. The pleaded case alleges that the defendants were involved in, or conspired in, the murder of Raymond McCord Junior. The categories of material now sought have been substantially narrowed during the course of the application and are confined to intelligence and evidential material relating to the identity of those allegedly involved in that murder. On any view, such material bears directly upon issues which are central to the determination of the proceedings.

[19] I am also satisfied that the respondent has the material within its possession, custody or power. Indeed, the respondent does not dispute that such documents exist. Rather, the PSNI has indicated its willingness, subject to public interest immunity and Convention rights screening, to disclose material falling within the refined categories identified during the hearing. The principal debate before the court therefore concerns not the existence of the documents, nor their relevance, but whether disclosure should be ordered having regard to the objections raised by the defendants.

[20] In considering necessity, I remind myself that discovery is not ordered merely because documents may be relevant. Order 24 Rule 9 requires the court to be satisfied that disclosure is necessary either for disposing fairly of the proceedings or for saving costs. The present proceedings concern allegations of exceptional seriousness. The plaintiff seeks to establish the involvement of the defendants in the murder of his son. The material sought is said to contain intelligence and evidential information identifying those responsible. Such information is plainly capable of assisting the court in determining the issues raised by the pleadings and in enabling the parties to prepare their cases for trial. In these circumstances I am satisfied that the threshold of necessity is met.

[21] I accept the plaintiff's submission that questions concerning public interest immunity, national security sensitivities, or any policy of neither confirming nor

denying matters relating to covert human intelligence sources are primarily matters for the PSNI as holder of the material. The present application is not concerned with determining whether any defendant was a covert source nor with adjudicating upon any claim to public interest immunity. Those issues may arise during the review process undertaken by the respondent and, if necessary, may be the subject of further judicial consideration. They do not, however, provide a basis for refusing a discovery order where the statutory criteria have otherwise been satisfied.

[22] I also attach significance to the position adopted by the respondent itself. The PSNI has not opposed disclosure of the refined categories of material. Rather, it contends that disclosure of the material would be rendered largely meaningless if all identifying information were redacted. The respondent's position is that the documents have evidential utility only if the identities of those implicated are understood. Whilst that issue may ultimately require careful management through the disclosure process, the respondent's stance reinforces the conclusion that the material is potentially relevant and material to the fair resolution of the action.

[23] I have carefully considered the submissions advanced on behalf of the defendants. I recognise the concerns expressed regarding alleged risks to them and potential interference with rights protected by the European Convention on Human Rights. I also note the submissions questioning the reliability of intelligence material and information derived from assisting offender interviews. However, those arguments do not persuade me that discovery should be refused.

[24] Firstly, the purpose of discovery is to facilitate the disclosure of potentially relevant material. It is not a process by which the court determines the reliability, weight or ultimate admissibility of the documents produced. Questions as to the credibility of sources, the accuracy of intelligence assessments, or the extent to which any document can properly support the plaintiff's case are matters to be evaluated in due course and, if necessary, tested through evidence and cross-examination at trial. The fact that material may be disputed or vulnerable to challenge does not render it irrelevant for the purposes of discovery.

[25] Secondly, many of the concerns advanced by the defendants relate to the consequences of disclosure rather than the legal entitlement to disclosure. The court is entitled to take into account that any material disclosed pursuant to these proceedings remains subject to the control of the court and to the usual implied undertakings restricting its use. Both the plaintiff and the respondent emphasised that the material cannot properly be deployed outside the litigation. The existence of those protections is an important factor in assessing the proportionality of the order sought.

[26] Thirdly, I am satisfied that the respondent has proposed safeguards which are capable of addressing the legitimate concerns raised. The PSNI has confirmed that all documentation will be scrutinised for public interest immunity issues and will

undergo Article 2 and Article 8 screening prior to disclosure. Those processes provide an important mechanism for balancing the competing interests engaged in this application. The court is therefore not being asked to order unrestricted disclosure without regard to risk. Rather, disclosure will occur within a structured framework which expressly recognises the need to protect Convention rights and sensitive information where appropriate.

[27] Finally, I must have regard to the overriding objective. The court is required to deal with cases justly and proportionately, ensuring that the parties are on an equal footing while saving expense and allocating resources appropriately. Refusing disclosure of material which goes directly to the central allegations in the proceedings would risk placing the plaintiff at a substantial disadvantage and may impede the fair determination of the claim. In contrast, an order for disclosure, subject to the safeguards identified by the respondent, promotes the efficient and just progression of the litigation.

Conclusion

[28] For the reasons set out above, I grant the application for disclosure of the material in the refined schedule to the summons at para 5 above and order that the respondent shall have its costs of complying with the Order. Such costs shall become costs in the cause in the main action in the normal way and I certify for counsel.