

# Judicial Communications Office

Friday 22 October 2010

## COURT RULES FERMANAGH AND SOUTH TYRONE ELECTION TO BE VALID

### Summary of Judgment

The Lord Chief Justice and Mr Justice Gillen, sitting today in the High Court, determined that Michelle Gildernew was the duly elected member of Parliament for the Constituency of Fermanagh and South Tyrone. The Court concluded that although there had been an arguable breach of the statutory rules governing the conduct of the parliamentary election held in May 2010 it did not affect the result of the election.

Rodney Connor, the unsuccessful unionist unity candidate, had petitioned the court claiming that breaches of the Parliamentary Election Rules were committed by Electoral Office staff during the May election. He also claimed that his election agents did not have the opportunity to check voting papers that were deemed to be doubtful, and that voting papers which had been rejected during the first count were admitted on the third recount. Mr Connor felt that he had the majority of the votes of the electors and ought to have been returned as the successful candidate.

The Court determined that the instructions provided by the Chief Electoral Officer to Deputy Returning Officers for the May 2010 election resulted in an arguable breach of the rules. The Lord Chief Justice and Mr Justice Gillen found, however, that:

“... the election was conducted so as to be substantially in accordance with the law as to elections.”

The Court concluded that the breach of the rules did not affect the election result as there had been “extensive” opportunities for parties to examine and make representations about doubtful votes at the third recount. The Lord Chief Justice and Mr Justice Gillen noted that there were 3 extra votes, for which no satisfactory explanation had been provided. However they concluded that had the 3 votes been introduced and counted in favour of Ms Gildernew and then been subsequently excluded it would not have changed the election result as she would still have had a majority of one vote.

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## NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Court Service website ([www.courtsni.gov.uk](http://www.courtsni.gov.uk)).
2. The Parliamentary Election Rules are contained in Schedule 1 to the Representation of the People Act 1983.
3. At the third recount in the election there were 21,300 votes cast for Mr Connor (the petitioner) and 21,304 votes cast for Ms Gildernew (the first named respondent).

**ENDS**

If you have any further enquiries about this or other court related matters please contact:

Alison Houston  
Judicial Communications Officer  
Lord Chief Justice's Office  
Royal Courts of Justice  
Chichester Street  
BELFAST  
BT1 3JF

Telephone: 028 9072 5921

Fax: 028 9023 6838

E-mail: [alisonhouston@courtsni.gov.uk](mailto:alisonhouston@courtsni.gov.uk)