

# Judicial Communications Office

23 June 2011

## JUDGE DISMISSES APPLICATION TO STAY CIVIL PROCEEDINGS

### Summary of Judgment

Mr Justice Treacy, sitting on 23 June in the High Court, dismissed an application by Sean Mullan to stay civil proceedings brought against him by the Serious and Organised Crime Agency (SOCA).

Mr Mullan sought a stay of the proceedings as an abuse of process on the basis that he was unable to give instructions to his legal team due to his medical condition thus rendering him unable to effectively participate in the proceedings. He considered this would constitute a breach of his human rights under Article 6 of the European Convention on Human Rights, namely the right to a fair trial.

In his judgment Mr Justice Treacy stated that persons appearing before a court under a perceived disadvantage or disability may require a court to take reasonable mitigating measures to enhance an individual's participation in the trial process. However the Judge ruled that Mr Mullan's contention that the inability to give instructions due to an underlying medical condition must lead to a stay in proceedings was unsupported by authority and was unsound in principle:

"It is unsound in principle because it would necessarily involve depriving other parties of *their* rights to a fair, or any, hearing to determine their civil rights and obligations."

Mr Justice Treacy went on to point out that not only was Mr Mullan's submission unsupported by authority but in fact there was powerful jurisprudence to the contrary and that a defendant's disability or matters related to it could not in themselves found a successful application to stay proceedings on the grounds of abuse.

The Judge stated that while a party's disability will inevitably impact on their effective participation in the trial process it does not follow that a fair hearing is not possible:

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“If the court were to hold otherwise a very dangerous precedent would be established creating a class of persons under a disability who could not sue or be sued.”

The Judge held Mr Mullan’s argument to be unsound in principle but also contrary to authority and on that basis he dismissed the application to stay proceedings.

## 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 Courts and Tribunals Service website ([www.courtsni.gov.uk](http://www.courtsni.gov.uk)).

**ENDS**

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