



THE COURT OF APPEAL

RECORD NO. 2022 237

[2024] IECA 2

Edwards J.

McCarthy J.

Burns J.

Between:

THE GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

APPLICANT

and

THE BOARD OF WILSON'S HOSPITAL SCHOOL & ENOCH BURKE

RESPONDENTS

RULINGS of the Court delivered by Mr Justice John Edwards on the 9th of January 2024

Introduction

1. These are the Court's rulings on issues raised in correspondence with the Court by Mr Enoch Burke in letters dated the 21st of December 2023 and the 4th of January 2024 respectively. To place these rulings in context it is necessary as a preliminary to set forth some of the relevant background.

Relevant background

2. The wider context in which these rulings are made is that an application to the Court of Appeal by the Garda Síochána Ombudsman Commission (GSOC), for the release to GSOC of any digital audio recording that may exist relating to Court No 1, Court of Appeal Building, Four Courts, Dublin 7 on the 7th of March 2023, has been listed for hearing before the full Court, sitting as a panel of three, in Court No 16, Criminal Courts of Justice Building, on Monday the 15th of January 2024 at 10.30am. The application names the Board of Management of Wilson's Hospital School and Mr Enoch Burke, respectively, as respondents.

3. On the 21st of December 2023 the Court issued case management directions concerning the hearing to be held on the 15th of January 2024 including directions that the said hearing should

be a hybrid hearing and that in the case of the 2nd named respondent, Mr Enoch Burke, who is currently committed to Mountjoy Prison for contempt of court, that he should not be produced and that he should participate instead by remote video and audio link from Mountjoy Prison.

4. The necessity for the hearing on the 15th of January 2024 arises in circumstances where at a case management hearing on the 8th of December 2023 it was determined by Edwards J, sitting alone for case management purposes, that a jurisdictional issue had been raised that could not be decided by a judge sitting alone in a case management list, and that instead it required to be determined by a full court of three judges.

5. The case management listing before Edwards J sitting alone on the 8th December 2023 was the latest of a series of such listings. At the penultimate such listing on the 10th of November 2023, Mr Enoch Burke, who was participating from prison by remote audio and video link, had persistently interrupted the judge and his opponent when they were speaking, had refused to abide by directions of the court to be silent until the person he was interrupting had finished speaking, and was argumentative with respect to the court's rulings. This was notwithstanding assurances given to Mr Burke that he would be allowed to fully respond and make his own submissions at the appropriate time. The court found that it was only possible to maintain order and decorum by directing the registrar to temporarily turn off Mr Burke's microphone. It also requires to be mentioned that the proceedings on the 10th of November 2023 were further disrupted by uninvited interruptions by Mr Burke's father, Mr Sean Burke and by his brother Mr Isaac Burke. It was necessary for the court to direct members of An Garda Síochána to remove those persons from the court and for the court to rise while this was happening.

6. In the course of the case management listing on the 10th of November 2023 a query which had been raised by the court itself was debated. This concerned whether the Court of Appeal had jurisdiction in principle to make the orders being sought by GSOC, and the presiding judge's (Edwards J's) further concern that any decision on that issue, which was a novel one which had not previously been substantively considered, might not be one that a judge sitting alone in a case management list could determine. On that occasion Edwards J had stated, *inter alia*, that his function in the case management list was a gate-keeping one in circumstances where an issue potentially going to jurisdiction had been raised. He stated that if, at a case management hearing such as he was conducting, a *prima facie* basis for contending that the Court of Appeal did indeed have the jurisdiction in controversy was put forward by the moving party (GSOC), it would be appropriate for him to transfer the matter to a panel of three Court of Appeal judges for a definitive ruling on the jurisdictional question. However, conversely, if no *prima facie* basis was put forward for contending that the Court of Appeal had jurisdiction to make the orders then being sought by GSOC, and if he was of the view that that party's contention was in effect unstateable, he could and would, in exercise of his gatekeeping function in the case management list, dismiss GSOC's application *in limine*. Accordingly, Edwards J adjourned the matter to a future management list scheduled for the 8th of December 2023 to enable the parties to make considered submissions on the issue of the Court's jurisdiction. In doing so, he stated that the parties would be required to address the Court exclusively on the issue of jurisdiction on the next occasion.

7. Prior to the next case management listing on the 8th of December 2023 Mr Burke applied to the Court through the Court of Appeal office for a production order to facilitate his physical

attendance in court at the case management listing. That application was refused by Edwards J, and his decision was communicated through the Court of Appeal office on the 4th of December 2023. This was in circumstances where there were late changes to judicial assignments and Edwards J found it necessary to specify that he would conduct the case management hearing remotely and was of the view that the matter could be conveniently dealt with remotely. A direction was issued in the following terms:

“As I will not personally be in Dublin on the date in question, and as the matter can conveniently be dealt with remotely, I am directing a remote hearing, in which I intend to preside remotely by video link and in which the parties to this matter are required to also participate by remote link. As on the previous occasions when this matter was in the CML, I would like it to be communicated to the prison where Mr Burke is being held that Mr Burke is to be afforded video and audio facilities to enable him to participate fully from the prison. The registrar will sit in Court 16 in the CCJ at the appointed time, to which the public and press will have access, with the proceedings being displayed on the large screen in the courtroom, and with audio on in Court, so that all present there may hear what is being said and so that they can follow the proceedings.”

8. In refusing to make a production order for Mr Burke the Court gave as its reasons that an in-person hearing, other than by video/audio link, was not required where the issue was a case management one, and not one which had anything to do with Mr Burke's present incarceration. It was stated that Mr Burke's personal liberty did not depend on any ruling that the court might make regarding case managing GSOC's application to be provided with the ambient DAR. The Court had already directed that Mr Burke was to be served with any submissions filed by GSOC in sufficient time to enable him to properly consider them, and it was made clear that he would be afforded the opportunity to file written submissions himself in reply. Further, it was stated that both sides would also be afforded the opportunity to make oral submissions at the remote hearing.

9. At the hearing on the 8th December 2023 Mr Burke participated by remote link as per the Court's direction. Although the eventuality had not been anticipated by the Court, for reasons then unknown and not apparent to the Court, counsel for GSOC had opted to attend physically in Court 16 in the CCJ, where the Registrar was based, and participated in the hearing from there rather than by logging on from some other location. (Edwards J was subsequently advised by the Court of Appeal office that the reason he did so was due to an administrative error wherein the solicitors for GSOC were not in fact informed by the Court of Appeal office that the Court had directed that all parties were required to participate by remote link. Apparently, counsel for GSOC had turned up in the physical courtroom believing that participation by remote link was optional). At any rate, in circumstances where the judge was sitting remotely, and Mr Burke was participating remotely, counsel for GSOC's participation from the courtroom utilising the courtroom's microphones, cameras, monitors and audio link, had the effect of rendering the hearing a hybrid one, rather than the fully remote one that the court had envisaged when giving its directions on the 4th of December. However, Mr Burke raised no issue about his opponent's attendance in the courtroom at the commencement of the proceedings. That being so, the court also raised no issue about it at the time in circumstances where, although technically contrary to the Court's directions, counsel's attendance in the courtroom was not to the apparent prejudice of any party. Rather, in

circumstances where no oral evidence was anticipated, where the parties were relying on affidavits, where written submissions had been exchanged, and where both counsel would still make any supplemental oral submissions they might wish to make to the presiding judge via video and audio link (albeit in one instance from a courtroom and in the other instance from a booth in Mountjoy prison) the Court considered that there was a sufficient equality of arms to obviate any need for judicial intervention in respect of what was ostensibly a technical non-compliance on GSOC's part with the letter of the Court's directions.

10. At the commencement of the case management hearing on the 8th of December 2023, Mr Burke raised the court's refusal to make a production order for him and it's direction requiring him to participate remotely as a preliminary matter, and sought to register a protest in respect of that, as was his entitlement.

11. Mr Burke then further complained that he had only received a hard copy of GSOC's submissions on the previous evening, and had not had sufficient time to transmit them to his legal advisor. He did not specifically identify who was the said legal advisor at the time, but in correspondence subsequently received by the Court from him dated the 21st of December 2023 he has since identified the legal advisor in question as being his sister Ammi Burke. Further, in the course of an uninvited interruption of the proceedings later on during the proceedings on the 8th of December, Ammi Burke purported to identify herself to the Court as being Mr Burke's legal advisor. The Court is now aware from correspondence received from Mr Enoch Burke dated the 21st of December 2023 that Ms Ammi Burke is a qualified solicitor. However, she is not on record for Mr Burke. It is not clear if Ms Ammi Burke currently holds a practising certificate or if she currently in practice as a solicitor. If she does not currently hold a practising certificate and is not in practice as a solicitor she can only assist Mr Burke as a lay legal advisor or McKenzie friend. At any rate, Mr Burke requested an adjournment of 10 minutes initially, but shortly thereafter revised this to 15 minutes, to enable an electronic copy of GSOC's submissions (which had been provided to him in the meantime) to be emailed across to his advisor. The Court said it would grant this application and afford him the requested 15 minute adjournment.

12. At this point, and before the Court had risen for the 15 minute adjournment, Mr Burke then further requested that he be allowed to make a phone-call to his legal advisor. The judge responded that he had no power to order the prison authorities to facilitate such a call, but said that he would certainly recommend and request that the prison authorities would facilitate Mr Burke in that regard.

13. The Court then rose for the agreed 15 minutes.

14. Following the Court's resumption of sitting at the end of the 15 minute adjournment, Mr Burke advised the Court that despite many efforts having been made in the prison it had not proved possible for him to speak with his legal advisor. The following exchange then took place:

Mr Burke: "I note that my legal advisor is there, and I wonder ... I know that they are not permitted to address the Court but I wonder if they might just be permitted to say whether there are satisfied with me proceeding or not, Judge? I can see my brother Isaac Burke is present there.

Judge: -- No. I mean, you can have a solicitor on record if you retain a solicitor. You ... Otherwise, Mr Burke, no, is the answer to that. I mean there is no halfway house here;

you are either legally represented or you appear in person -- with the assistance of a McKenzie friend if you wish -- but, you know, the situation is that you are in Mountjoy prison and there are difficulties arising from that it is accepted, but, you know, we are where we are, as I said."

15. The Court then invited Mr Burke to address the court on the issues about which the court had previously expressed concern. It emerged from exchanges between the presiding judge and Mr Burke that, up to that point, there had possibly been some degree of misunderstanding by the Court of Mr Burke's position in regard to the jurisdictional issue. Mr Burke appeared to be saying, contrary to what had been the Court's impression up to that point, that he was in agreement with counsel for GSOC that the Court had jurisdiction to make the orders being sought, but that it was his position that the Court would be quite wrong to do so.

16. The judge then informed Mr Burke that even if that were so, he (i.e. the judge) himself still harboured concerns on the issue of jurisdiction. That being so, he considered it necessary to list the matter before a full court of three for a definitive ruling on the issue of jurisdiction. At this point Mr Burke asserted that he still wished to make submissions on the matter, and the Court invited him to proceed with that, and to in effect speak in reply to the written submissions which the Court had received from GSOC which the presiding judge characterised to Mr Burke as making "an arguable case" on jurisdiction, but "not one that is a slam dunk as far as I'm concerned".

17. Mr Burke then made a lengthy oral submission to the Court, supplementing written submissions previously filed by him. Although in inviting submissions from the parties Edwards J had repeatedly made it clear that he was concerned to be addressed only on the issue of jurisdiction, and that he was not concerned at that point with the merits of GSOC's application, and did not require to be addressed on issues going to the merits, Mr Burke nevertheless addressed the court at length on the merits of why the Court should not release the ambient DAR to GSOC, contending *inter alia* that the ambient DAR was intended to be used solely as a backup to the main DAR system; that it is the Court itself and not the Courts Service that is the relevant data controller of the both main DAR system and the back-up ambient DAR system; that to allow the ambient DAR system to be used for any purpose other than as a back-up to the main system would amount to the Court sanctioning or endorsing a system of covert surveillance; and that the ambient DAR is in fact illegal because in his contention it amounts to an excessive intrusion on liberty.

18. After listening to Mr Burke's submission for a considerable period the Court interjected to say that the issues he was raising related to the substantive aspect of the case which was not then before the court. Mr Burke was advised that if he wished to say anything relevant to the jurisdictional issue the court would hear him further, but that otherwise the issues that he was canvassing were issues for another day. Mr Burke responded that he disputed that they were issues for another day, and in response to that the Court indicated that it was against him. Once again, Mr Burke refused to accept the court's ruling and continued to address the Court. Although the Court could at that point have ordered his microphone to be turned off, it opted to indulge him *pro tempore* and did not intervene at that point to prevent him from continuing to make submissions.

19. What occurred next was that after Mr Burke had continued to speak for some considerable further period the proceedings were interrupted and disrupted in the following circumstances. Mr Burke's mother, Mrs Martina Burke, and Mr Burke's sister and supposed legal advisor, Ammi Burke, who by that stage were both present in Court 16, CCJ, stood up and began shouting at and haranguing the remotely presiding judge concerning the fact that GSOC's counsel was physically present in the courtroom and had been allowed to participate from there notwithstanding the Court's earlier direction issued on the 4th of December 2023. In response to this disruption, and interruption, Edwards J indicated that the court would rise and the remote link was terminated.

20. When Mrs Martina Burke and Ms Ammi Burke had been removed from the court and order had been restored the remote link was re-established. Edwards J then indicated that it was regrettable that once again proceedings had been interrupted by members of the Burke family but that he accepted that this was not Mr Burke's fault. He pointed out that Mr Burke had been addressing the court at length on issues which he regarded as relating to the merits of the case rather than the jurisdictional issue. At this point, Mr Burke interrupted him mid flow, and sought to speak across him. In response to this the judge directed the registrar to turn off Mr Burke's microphone. The court then ruled:

"I have heard Mr Burke at length and am satisfied on the basis of what he has said and what his opponent has said that, whether they agree or disagree, the court believes there is a substantive dispute as to jurisdiction and that is not something I can decide in a directions list. So, of my own motion, I am transferring this to a court of three to be convened on Monday, the 15th of January at 10.30."

21. The court concluded by saying that it would issue written directions through the Court of Appeal office in regard to the hearing to be convened on the 15th of January 2024.

22. On 21st of December 2023, Mr Enoch Burke wrote to the Court of Appeal office contending that the hearing on the 8th of December 2023 had been "void" on various grounds, *inter alia*, on the basis (and he is correct in this) that although the Court had directed all parties to participate by remote link, counsel for GSOC had been allowed to participate from courtroom no 16 in the CCJ where the registrar was based. Mr Burke complains that counsel for GSOC was not sanctioned by the court in any respect for his non-compliance with the court's direction. Further, he complains that he was not facilitated in Mountjoy in consulting with his sister and other members of his family, from whom he was seeking assistance. He characterised this as "a concerted effort to deny me assistance during the hearing" and as "an outright breach of my constitutional right to a fair hearing". He asks the court to set aside its decision of 8th December 2023 and to convene a fresh hearing "in which all parties must abide by the direction of the court."

23. This is the first application which this formal ruling must address. Before doing so, however, it is convenient at this point to describe a second application which has since been made and which also requires to be addressed.

24. By a further letter dated the 4th of January 2024 Mr Burke asks the court to revisit its directions of the 21st of December 2023, insofar as it has specified that the hearing on the 15th January 2024 shall be a hybrid hearing, and further refusing to grant a production order for Mr Burke and instead requiring him to participate remotely by video and audio link. This application is

expressed as being made pursuant to section 26(4) of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020.

25. In support of this application Mr Burke contends that GSOC's application is a serious and unprecedented one raising questions of constitutional and EU law. He submits that the interests of justice and fairness require that the hearing be conducted in person, in the ordinary course, with the Court and all parties attending in person. He complains that at several prior hearings before Mr Justice Edwards his participation was unlawfully frustrated by the turning off of his microphone and asserts that this is unacceptable.

26. Mr Burke makes the further point that due to the fact of his incarceration in Mountjoy Prison, if his attendance is by remote link, he will have no assistance or support whatsoever during the hearing. He says that this is unfair to him and contrary to the interests of justice. It is also discriminatory and prejudicial to him. He says that he will be forced to attend the hearing from a small prison cubicle, alone and deprived of any means of contact with others. By contrast, members of GSOC's legal team will have means of communicating with each other during the hearing.

27. In support of his argument Mr Burke cites practice direction HC 72, a practice direction of the High Court and Court of Appeal relating to McKenzie Friends, which provides *inter alia* that litigants may obtain reasonable assistance from a lay person, sometimes called a McKenzie friend, and that this assistance extends to, *inter alia*, the provision of moral support, helping with case papers, and quietly giving advice on any aspect of the conduct of the case. He states that "none of these are in any way possible if I am to attend the hearing by virtual means from Mountjoy prison". He complains that no reasons are given for the court's direction that the hearing is to be conducted by virtual means. He points out that the hearing scheduled for the 15th of January 2024 is not in the nature of the case management hearing. In conclusion Mr Burke requests that the court revoke that part of its directions of the 21st of December 2023 that relate to the format of the proceedings and further requests that it directs instead that the hearing scheduled for the 15th of January 2024 should be in person, as in the ordinary course. He further requests that the court should make a production order for his attendance in person at the hearing.

Ruling No 1 – concerning the issues raised in Mr Burke's letter of the 21st of December 2023

28. The Court does not accept that the proceedings on the 8th of December were "void" as contended by Mr Burke. While it is regrettable that due to an administrative error the solicitors for GSOC were not informed by the Court of Appeal office that the Court had directed that all parties were required to participate by remote link, leading their counsel to turn up in the physical courtroom believing that participation by remote link was optional, these things happen. There was absolutely no prejudice to Mr Burke by virtue of his opponent presenting his case from the physical courtroom. Even if the Court's direction had been followed to the letter Mr Burke would still not have been produced, and he would still have been required to present his case by remote link.

29. The Court reiterates that the hearing was eminently suitable for being conducted by remote link. At that point the court was concerned solely with a case management issue, i.e. whether the application could be dealt with in the directions list or whether it would have to be

sent to a court of three. It did not involve the presentation of oral evidence. Both sides were afforded the facility of submitting written submissions and making further oral submissions to the court at the hearing, and availed of this.

30. In refusing him a production order the court did so because his physical attendance was not deemed necessary in the circumstances having regard to the nature of the proposed hearing and because conducting it by video and audio link was convenient and suitable in the circumstances.

31. The court is satisfied that it was justified in all the circumstances of the case in refusing to order the production of Mr Burke. He could participate adequately by means of a remote link.

32. Insofar as assistance from a lay legal advisor or McKenzie friend is concerned the court owes no duty to a litigant who is in custody to facilitate that litigant in availing of such assistance.

33. The court is satisfied that Mr Burke, who is highly intelligent, was well able to present his case notwithstanding that he was not permitted to be physically present in the courtroom and he was not prejudiced in any meaningful way by being required to present his case by remote link. The application to set aside the court's case management decisions and rulings of the 8th December 2023 and to have a fresh hearing in regard to those matters is accordingly refused.

Ruling No 2 – concerning the issues raised in Mr Burke's letter of the 4th of January 2024

34. Insofar as this application purports to be made pursuant to s.26(4) of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 ("the Act of 2020"), it is misconceived in the court's view. Section 26 (4) of the Act of 2020 is to be found in Part 4 of that Act which relates to criminal procedure. The application by GSOC is not a criminal proceeding.

35. Further, and in any case, s.26 of the Act of 2020, to the extent potentially relevant, provides:

"26. (1) Subject to this section, the Court of Appeal or the Supreme Court may direct that any category or type of appeal proceedings before the court concerned shall proceed by remote hearing.

(2) Without prejudice to the power of a court under subsection (1), and subject to this section, in any appeal proceedings before it, the Court of Appeal or the Supreme Court may, of its own motion or on the application of any of the parties, direct that the proceedings concerned shall proceed by remote hearing.

(3) A direction under subsection (1) or (2) may—

(a) specify the electronic communications technology by which the proceedings are to proceed, and

(b) include such ancillary or consequential directions as the court concerned considers appropriate.

(4) In any applicable proceedings, where it appears to the court that the conduct of the proceedings in accordance with such a direction would be unfair to any of the parties or otherwise be contrary to the interests of justice, the court, of its own motion or on the application of any of the parties, and having heard the parties, shall, as the case may be—

(a) direct that the direction under subsection (1) shall not apply in respect of the proceedings concerned, or

(b) revoke the direction under subsection (2).

[subsections (5) to (15) not relevant]

(16) In this section—

“appeal proceedings” means—

(a) an appeal in criminal proceedings whether against conviction or, sentence, or both, or

(b) an appeal in relevant proceedings;

“applicable proceedings” means proceedings that are the subject of a direction under subsection (1) or (2);

“electronic communications technology”, in relation to a remote hearing, means technology that enables real time transmission and real time two-way audio-visual communication that enables a person to participate in the hearing from a location other than the court itself;

“part”, in relation to proceedings, includes—

(a) any hearing in the proceedings, and

(b) the participation of a particular person in the proceedings;

“proceedings” includes a part of proceedings;

“remote hearing” means a hearing in proceedings in which one or more of the participants participates—

(a) from a location other than the court itself, whether within the State or outside the State, and

(b) by means of electronic communications technology.

36. It is clear that the provisions of s. 26 of the Act of 2020 are confined in their application to appeal proceedings as defined in subsection 16. The application by GSOC, insofar as it relates to the ambient DAR, is not in the nature of an appeal proceeding. There is no order which is currently being appealed against. Rather, GSOC’s application is *sui generis*, and one in which it is contended that the Court has jurisdiction under a statutory instrument, alternatively on the basis of its inherent jurisdiction, to make the order sought. Whether GSOC is right or wrong in its contention in that respect, the current application does not constitute an appeal proceeding to which s. 26 of the Act of 2020 ostensibly applies.

37. Further, insofar as Mr Burke complains that if the proceedings on the 15th January 2024 are to take place remotely he will be at a disadvantage because he will have no assistance or support during the hearing, we reject any suggestion that this is unfair to him and contrary to the interests of justice. It is not discriminatory and prejudicial to him in circumstances where in large measure he has control over the court’s attitude to his appearance in person. He is aware that he has been criticised by the court for his behaviour in the past. He acknowledges in his correspondence that heretofore the court has dealt with perceived misbehaviour by him during previous hearings by directing the registrar to turn off his microphone. Despite knowing what is expected of him in terms of behaviour in court, in applying to be produced in person he has not volunteered an undertaking that if he is produced he will behave himself, that he will not interrupt either the judge or his opponent, that he will not attempt to speak across other people as they are speaking, that he will behave respectfully, that he will not be argumentative in regard to rulings of the court, that he will abide by instructions and rulings made by the judges in regulation of the

conduct of the hearing, and that he will otherwise behave with decorum and observe appropriate court etiquette.

38. Further, insofar as he has previously asserted a desire to have the assistance of Ms Ammi Burke, and requires to have assistance and support during the hearing on the 15th of January 2024, it requires to be recorded that she herself has behaved disgracefully on numerous occasions before both this court, and before the High Court as recorded in judgments of that court. As a qualified solicitor (whether or not she is in practice,) she ought to be more acutely aware than any layperson of what is required in terms of behaviour in court and of the decorum that must be observed. Even if Mr Burke were to be permitted to attend court in person she would not be a suitable person, having regard to her track record of disruptions and interruptions of court proceedings, to be present in court as Mr Burke's McKenzie friend.

39. We are convinced that in the interests of the court being able to control its own process and maintain order and decorum at the scheduled hearing it is necessary at the present time to conduct the proceedings in a hybrid fashion and to require Mr Burke to participate by remote link. We reject any suggestion that Mr Burke's right of access to justice is being fettered and that he is being denied fairness. We consider the direction we have made to be both necessary and proportionate. On previous occasions Mr Burke has behaved disrespectfully and inappropriately towards the court. He has interrupted the judge, he has interrupted his opponent, he has spoken across other people who were speaking, he has refused to abide by instructions to be silent and to wait his turn, and in other respects has refused to abide by rulings of the court. The expedient of requiring him to participate remotely on the 15th of January 2024 allows for the possibility of turning off his microphone when it is required to do so in the interests of maintaining order and decorum in the court. If Mr Burke, in applying for a production order, had volunteered an undertaking to behave himself, to follow court etiquette of which he is well aware, to abide by rulings of the court, and to conduct himself respectfully it would have been a different matter. In such circumstances the court might well have viewed his application to be produced and to be allowed to attend in person more sympathetically. However, to allow a litigant to continue to behave in the manner in which Mr Burke has behaved on previous occasions unchecked, would be undermining of the administration of justice and inimical to the maintenance of public confidence in the courts and justice system.

40. We therefore refuse his application to revoke the direction that the hearing be a hybrid one, and we further refuse his application at this time for a production order permitting him to attend in person on the 15th of January 2024. If circumstances change, for example were he now to express a willingness to give a sworn undertaking to behave himself, to follow court etiquette, to abide by rulings of the court, and to conduct himself respectfully and with decorum, he is at liberty to make a renewed application to be produced on the 15th January 2024 and the court would consider it. For the moment, the applications contained in Mr Burke's letter of the 21st of January 2024 are refused.