



AN CHÚIRT UACHTARACH

The Supreme Court

S:AP:IE:2022:000031

**O'Donnell C.J.
Charleton J.,
O'Malley J.,
Hogan J.,
Murray J.**

Between/

Jonathan Dowdall

Appellant/Applicant

-and-

The Director of Public Prosecutions, The Minister for Justice, Dáil

Eireann, Seanad Eireann, Ireland and the Attorney General

Respondents

And

S:AP:IE:2022:000032

Gerard Hutch

Appellant/Applicant

-and-

**The Director of Public Prosecutions, The Minister for Justice, Dáil
Eireann, Seanad Eireann, Ireland and the Attorney General**

Respondents

Ruling as to Costs

1. Further to the order of this Court made on the 29th day of July, 2022 dismissing both appellants' appeals herein, the successful respondents, namely the DPP, the Minister for Justice, Ireland and the Attorney General ("the State respondents") and Dáil Eireann and Seanad Eireann ("the Oireachtas respondents") seek an order for the costs of the appeal. The High Court (Barr J.) made no order as to costs on the basis of what he considered to be the general importance of the case, and this Court is not asked to interfere with that order.
2. Both the State respondents and the Oireachtas respondents have informed the Court that they do not seek costs against Jonathan Dowdall the applicant in the first appeal on the basis that he has the benefit of legal aid. However, both sets of respondents seek their costs against Gerard Hutch. Both respondents acknowledge that any costs recovered should not extend to the costs connected to the application by IHREC to participate in the appeal. Submissions have been exchanged between the parties who have also agreed that the matter can be dealt with by a ruling of this Court.

3. The jurisdiction to award costs is now regulated by s.169 of the Legal Services Regulation Act, 2015. The effect of the provision is that a party who is wholly successful should obtain its costs unless the Court for good reason and in accordance with the terms of the Act otherwise orders. Both the State respondents and the Oireachtas respondents have been successful in the appeal, and are thus *prima facie* entitled to their costs, unless the Court considers there is a reason to depart from that position. However, in this case it is argued on behalf of Mr Hutch, that no order for costs should be made against him because the point had first been made by a co-accused Mr Dowdall and that Mr Hutch has merely adopted the arguments made. The cases were in every respect identical.
4. The Court does not consider that the case is one in which it would be appropriate to make no order for costs. The applicants had a significant personal interest in bringing these proceedings and this appeal. They had the benefit of a decision of the High Court dismissing the claim. In principle costs should follow the event. However, this Court considers that it would not be appropriate to visit the entire costs of this appeal on one appellant when no order is being sought against the other. Accordingly, the Court will order that the State respondents and the Oireachtas respondents are entitled to 50% of their costs of this appeal against Mr Hutch. The Court does not interfere with the Order made in the High Court in respect of the costs in that Court by which that Court made no order as to costs.