



UNAPPROVED

NO REDACTION NEEDED

**THE COURT OF APPEAL
CIVIL**

Court of Appeal Record Number: 2025/291

**High Court Record Number: 2023/1037 JR
Neutral Citation Number [2026] IECA 140**

**Butler J.
Meenan J.
Owens J.**

BETWEEN/

PATRICK JOHN RIGNEY

APPELLANT

- AND -

OFFALY COUNTY COUNCIL

RESPONDENT

JUDGMENT of Mr. Justice Charles Meenan delivered on the 24th day of July 2026

Introduction: –

1. This is an appeal against the judgment and order of the High Court (Phelan J. (Siobhán)) refusing to grant the appellant leave to seek certain reliefs by way of judicial review on the grounds that the application was brought outside the time provided for by Order 84, Rule 21 of the Rules of the Superior Courts (the “RSC”). In his judicial review

proceedings the appellant sought to challenge certain orders of the Circuit Court made on an appeal from the District Court.

2. Though the judicial review proceedings were out of time the trial judge did consider as to whether the appellant had identified an arguable case for challenging certain orders of the Circuit Court. The trial judge concluded that an arguable case had been established in respect of one ground, namely, that the provisions of section 1 (6)(e) of the Courts Act, 1986 (as amended) had not been complied with in that the name of the District Court Clerk who had issued the summons was not printed in legible form.

3. The appellant appeared as a litigant in person both in this court and the High Court.

Background: –

4. The appellant operates dog kennels and thus is subject to the provisions of the Dog Breeding Establishment Act, 2010 (hereinafter the “Act of 2010”).

5. Following an inspection of the appellant’s kennels a number of issues arose concerning compliance with the provisions of the Act of 2010. By summons dated 2 March 2022 the appellant was required to appear before the District Court sitting at Tullamore District to answer charges in respect of two offences. These offences were firstly, operating a dog breeding premises without being entered on the register and secondly, failing take measures specified in a closure notice dated 1 October 2021.

6. The matter proceeded before the District Court on 18 July 2022. The appellant was in attendance and represented himself. Following a hearing in which witnesses were examined and cross-examined the appellant was convicted of both offences.

7. The appellant appealed the convictions to the Circuit Court. The appellant raised the issue of the signature of the District Court Clerk on the summons. However, the Circuit Court judge ruled: –

“The jurisprudence would indicate that once you appear in court, that cures any defects with the summons... The summons says clearly on the page the complaint was made to the District Court Clerk in Tullamore... It’s quite clear from the face of it. I really don’t think it’s a great point, to be honest with you Mr Rigney, I don’t think you’re prejudiced in the slightest by it, and I am satisfied that the proceedings are properly before the Court, though I think we just ought to get on with it.”

8. The appeal was successful in respect of the charge that the appellant failed to comply with the closure notice. However, the conviction on the charge of operating a dog breeding premises without being registered with the local authority contrary to section 22 the Act of 2010 was affirmed by the Circuit Court. The hearing in the Circuit Court took place on 24 May 2023.

Judicial review proceedings: –

9. The application first came before the High Court on 16 October 2023 when the appellant sought leave *ex parte*. A statement of grounds and verifying affidavit had been filed in the Central Office on 16 September 2023.

10. Though opened in court, the leave application was not determined on 16 October 2023. It would appear that the matter was adjourned on several occasions due to issues with the supporting documentation.

11. An order directing the leave application to proceed on notice to the respondent was made by the High Court on 2 December 2024 (Gearty J).

12. At the hearing of the leave application (24 July 2025) the respondent raised the issue of time. It was submitted that the application for a judicial review was not opened before the High Court until 16 October 2023, well outside the three-month time limit specified under the then operable provisions of Order 84, Rule 21 RSC (since amended by SI 163/2024). As it happens, the date on which papers were filed in the Central Office was also outside this three month period.

Judgment of the High Court: –

13. The High Court held that even though the respondent’s objections on time grounds had been well signalled in an earlier affidavit filed in March 2025 the appellant “*has neither sought an extension of time in the papers filed before me nor has he sought to advance in the proper way an evidential basis for the grant of such an extension*”. (para. 52)

14. The High Court set out the requirements for an extension of time as follows: –

“51. To establish an entitlement to an extension of time, the applicant is required to demonstrate both good and sufficient reason for doing so (Order 84, Rule 21(3)(a)) RSC and that the circumstances that resulted in the failure to make the application for leave within three months was either outside the control of or could not reasonably have been anticipated by the applicant (Order 84, Rule 21 (3) (b)(i) and (ii)) RSC. Order 84, Rule 25(5) RSC expressly requires that an application for an extension of time shall be grounded upon an affidavit sworn by or on behalf of an applicant which shall set out the reasons for the applicant’s failure to make the application for leave within the prescribed period and shall verify any facts relied on in support of these reasons.”

15. It would appear that in the High Court the appellant sought some latitude on the basis that he was a litigant in person and had encountered difficulties in securing legal representation. The respondent submitted that no such latitude should be given as he had secured legal aid in other unrelated proceedings and that he should not be permitted to circumvent the rules by reason of him being a litigant in person.

16. Having referred to the principles set out in cases such as *MO'S v. Residential Institutions Redress Board* [2018] IESC 61 and *Arthroparm (Europe) Ltd v. The Health Products Regulatory Authority* [2022] IECA 109 the trial judge concluded: -

“55. ... I would not give leave to proceed to seek an extension of time, an important prerequisite to the grant of leave in respect of the substantive matters arising, where an application for an extension of time has not been properly presented in accordance with the Rules of the Superior Courts. It is not in the interests of justice, particularly having regard to the rights of expedition enjoyed by the respondent, the proper use of court resources and the nature of the issues in this case, that a further adjournment be afforded to applicant to see if he could rectify the pleading deficit regarding a necessary extension of time.”

Notice of appeal: –

17. There are some five grounds of appeal advanced by the appellant. Ground 1 is central to what this court has to consider: -

“1. The learned judge erred in placing procedural defects above justice of the case in her decision. The applicant admits there were defects in relation to the application for an extension of time, however this aspect of matters concerned the lack of legal assistance ...”

Consideration of appeal: –

18. The appellant is a litigant in person and is entitled to represent himself in this litigation. A litigant in person may be given a degree of latitude, particularly in respect of court procedures. However, this latitude does not extend to either applying different rules or applying the rules with less rigour. Such would have the perverse effect of penalising a litigant because he/she chose to be legally represented.

19. On the issue of time, the judgment of the High Court clearly set out the requirements of Order 84, Rule 20 RSC for time to be extended. The appellant is required to demonstrate both good and sufficient reason for extending time and that the circumstances that resulted in his failure to make the application for leave within three months were either outside his control or could reasonably not have been anticipated by him. Further, the High Court noted that the appellant had not sought an extension of time in his pleadings despite the fact that the respondent had made it clear in a replying affidavit that time was an issue. It is beyond doubt that the appellant was fully aware that time was an issue and what was required to extend it.

20. A litigant, such as the appellant, when time is clearly put in issue does not face an insurmountable obstacle. However, the rule sets out specific criteria, and those criteria must be met. In his written submissions to this court, which run to some 14 pages, the only submission in respect of time is: –

*“1.2 The appellant contends that the Learned High Court Judge erred in law by prioritising procedural rules over the **interests of justice**, particularly where the delay in filing was caused by a third-party Commissioner for Oaths and was outside the appellant’s control.”*

There was no request that time be extended though in the course of his oral submissions to this court, the appellant appeared to indicate that he wished for time to be extended.

21. Turning to his submission, the jurisdiction of the courts to grant orders such as *certiorari* or *mandamus* in judicial review proceedings is a very important part of our legal system. The power of the courts to make such orders is extensive and is likely to have serious consequences for the parties involved. That an application for leave to bring judicial review proceedings must be initiated within a particular time, subject to extension, is more than simply a procedural matter.

22. The appellant identified the delay as being caused by “*a third-party Commissioner for Oaths and was outside the appellant’s control*” is difficult to comprehend.

Commissioners for Oaths are readily available throughout the State. Practising solicitors, of whom there are several thousand, may act as Commissioners for Oaths. In addition, being a Commissioner for Oaths is not confined to members of the solicitors profession. If the reference to a “*third party*” Commissioner for Oaths means that solicitors and other qualified persons who have no knowledge or involvement in the proceedings are excluded it is difficult to see how such would materially affect the availability of other Commissioners for Oaths. This has to be seen in the context of the fact that, apparently, the appellant has been involved in other legal proceedings.

23. I am satisfied that the appellant has identified no error in the judgment of the High Court refusing to extend time. Indeed, it is difficult to comprehend that, despite the requirements for an extension of time being clearly set out in the judgment of the High Court, there was no serious attempt by the appellant “mend his hand” even at this late stage.

24. By reason of the foregoing I will dismiss the appeal. As for costs, the provisional view of the court is that as the respondent has been “entirely successful” in resisting the appeal that it is entitled to its costs. Should the appellant wish to dispute this he may do so by written submissions (not in excess of 1000 words) to be delivered within 14 days of the delivery of this judgment. Should the respondent wish to reply it may do so by written submissions, not more than 1000 words) within 14 days thereafter.

25. As this judgment is being delivered electronically both Butler and Owens JJ. have authorised me to record their agreement with it.