



THE COURT OF APPEAL

Record No. 2018/477

Neutral Citation Number [2021] IECA 318

**Woulfe J.
Donnelly J.
Barrett J.**

BETWEEN:

ROBERT MULLINS

PLAINTIFF/APPELLANT

– AND –

THE IRISH PRISON SERVICE, THE MINISTER FOR JUSTICE

AND EQUALITY, AND IRELAND

DEFENDANTS/RESPONDENTS

JUDGMENT of Mr Justice Max Barrett delivered on 29th November 2021.

1. I respectfully adopt the trial judge's description of the applicable facts.
2. The key legal question for the trial judge was essentially identified at paras.11 and 12 of his judgment: when did Mr Mullins know his alleged injury was significant for the purposes of s.2 of the Statute of Limitations (Amendment) Act 1991?

3. In his judgment, the trial judge (i) appears to indicate 8 January 2013 as a possible date of knowledge, (ii) certainly indicates sometime in October 2013 as a possible outside date. Save in an extreme case (such as loss of limb) a person cannot generally know on the date of injury that an injury is significant for the purposes of s.2; factually, this is not an extreme case. The October 2013 date involves a misunderstanding by the trial judge of the factual evidence before him in which October 2014 was at play. As both dates referenced by the trial judge were necessarily wrong for the reasons just stated, this matter falls to be remitted to the High Court.

4. To my mind, the foregoing suffices to dispense with this appeal. This is not a case where the trial judge misinterpreted the meaning of the word “*significant*” in s.2 but one where the date/s he elected upon could not, for the reasons stated above, be correct.