

Station Code: 3570L

Garda Station: Thomastown

Charge Sheet No. 223181

The Director of Public Prosecutions at the suit of

Prosecutor*/ Complainant* :

Sergeant Patrick J M Whelan

Accused*/ Defendant* :

Peter Dunne

Date of Birth :

24/10/1964

Offence Code : C2329

Offence Charged : That you the said Accused/Defendant did,

On 01/07/2001 at The Quay, Thomastown, Co. Kilkenny in
said District Court Area of Thomastown, had sexual
intercourse with a person who was mentally impaired.

Contrary to Section 5(1) of the Criminal Law (Sexual
Offences) Act, 1993.

FOR COURT USE ONLY

CCTS Verification Report Check:

Checked By		3. Offence Details	
Date		4. Bail Details	
1. Prosecutor Details		5. Legal Aid	
2. Defendant Details		6. Result	

* Delete As Appropriate

38

11.

COUNT NO. 2

Statement of Offence

Sexual intercourse with a mentally impaired person contrary to section 5 of the Criminal Law (Sexual Offences) Act, 1993.

Particulars of Offence

Peter Dunne, on the 1st day of July, 2001 at The Quay, Thomastown, in the County of Kilkenny, had sexual intercourse with Lorraine Cashin, a person who was mentally impaired.

AN CHÚIRT CHUARDA
(THE CIRCUIT COURT)

C.C. 15

Indictment No. KK 24/03

County of KILKENNY

Pulse WRT 361234

WARRANT

The People at the Suit of the Director of Public Prosecutions

v.

PETER DUNNE

To

The Superintendent, Garda Síochána at KILKENNY

By His Honour James Seaton Judge of the Circuit Court at

the Courthouse KILKENNY on the 19th day of October 2002

WHEREAS Peter Dunne stands indicted

before The Presiding Judge at this Sittings charged with the offence(s) as set out in the Schedule hereto and he/she has not appeared to stand his/her trial on the said Indictment.

THIS IS THEREFORE TO COMMAND YOU to whom this warrant is addressed to apprehend the said

Peter Dunne of

and to bring

him/her before The Presiding Judge at this present Sittings of the Circuit Court aforesaid if the same be then and

there sitting or if he/she cannot be taken during this present Sittings of said Court, but shall be taken during any

adjournment of this present Court of future Sittings thereof that then as soon after as he/she shall be taken you

bring or cause him/her to be brought before the Presiding Judge, or if he/she shall be taken at a time when the

Circuit Court shall not be sitting that then as soon after as he/she shall be taken you bring or cause him/her to be

brought before a Justice of the District Court of the said County to be sent to the next sittings of the Circuit Court in

custody or to admit him/her to bail conditioned for his/her personal appearance at the next sittings of the Circuit

Court at the Courthouse KILKENNY

aforesaid to answer as aforesaid and further to be dealt with according to law.

[Over]

SCHEDULE

By Order of the Court

Dated this 19th day of October 2007

Donal M. B.
County Registrar
Carat

To

TO

The Superintendent

SERGEANT WHELAN

Garda Síochána

FOR LEGAL EXECUTION

V. L. Kenny

Aiden Roche

(J. A. ROCHE)
SUPERINTENDENT.

"A"

This is the Warrant referred to in my Certificate dated the.....day of

Signed.....

This.....day of.....19.....

DEFENCE

SOCA
SERIOUS ORGANISED CRIME AGENCY



Serious Organised Crime Agency
PO Box 8000
London SE11 5EN

Tel: 020 7238 8115
Fax: 020 7238 8112

Part 1 Certificate issued pursuant to Section 2(7) of the Extradition Act 2003

On behalf of the Serious Organised Crime Agency I hereby certify that the Part 1 warrant issued by Mr Justice Michael Peart, The High Court, Republic of Ireland, on 30th July 2008 for the arrest of Peter Dunne for Sexual Intercourse With A Mentally Impaired Person was issued by a judicial authority of a category 1 territory which has the function of issuing arrest warrants.

The Secretary of State has designated¹ the Serious Organised Crime Agency for the purposes of Part 1 Extradition Act 2003.

The Secretary of State has designated² Republic of Ireland for the purposes of Part 1 of the Extradition Act 2003 by virtue of section 1 of that enactment.

Date: Tuesday, 12 August 2008

Signed

#102908

¹ By virtue of an order made under section 2(9) of the Extradition Act 2003 – The Extradition Act 2003 (Part 1 Designated Authorities) Order 2003 No. 3109 as amended by the Serious Organised Crime and Police Act 2005 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006 No 594

² By virtue of an order made under section 1 of The Extradition Act 2003 – The Extradition Act 2003 (Designation of Part 1 Territories) Order 2003. 2003 No. 3333.

EUROPEAN ARREST WARRANT¹

¹ This warrant has been issued by a competent judicial authority. I request that the person mentioned below be arrested and surrendered for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.
This warrant must be written in, or translated into, one of the official languages of the executing Member State, when that State is known, or any other language accepted by that State.

(a) Information regarding the identity of the requested person:

Name: - Dunne

Forename(s):- Peter

Maiden name, where applicable:-

Aliases, where applicable:-...

Sex: - Male

Nationality: Irish

Date of birth: 24th October 1964

Place of birth: Republic of Ireland

Residence and/or known address: 193 Roland Avenue, Holbfooks, Coventry,
CV64HS

Language(s) which the requested person understands (if known):-...

English

Distinctive marks/description of the requested person:-

5ft 9"/10", medium build, dark hair, wearing glasses, large rims

Photo and fingerprints of the requested person, if they are available and can
be transmitted, or contact details of the person to be contacted in order to
obtain such information or a DNA profile (where this evidence can be supplied but has
not been included.

Fingerprints Attached. Photograph Attached

NODNA

(b) 1. Arrest warrant or judicial decision having the same effect:-

Warrant to arrest issued at Kilkenny Circuit Court on 19th October 2007.

Type (accused or convicted) : Convicted

2. Enforceable judgement:-.....

Certificate of Conviction on 19th October 2007 at Kilkenny Circuit Court, issued on 3rd January 2008

Reference:

(c) Indications on the length of the sentence:

1. Maximum length of the custodial sentence or detention order which may be imposed for the offence(s):-.....

Sexual Intercourse with a Mentally Impaired Person – 10 years imprisonment

2. Length of the custodial sentence or detention order imposed:-.....Not applicable

Remaining sentence to be served:-.....Not applicable

(d) Decision rendered in absentia and :- The requested person was present in court and legally represented for the hearing of all prosecution evidence as set out in box (e) below

Specify the legal guarantees:- Not applicable

(e) Offences:

This warrant relates to in total: One offence.

Description of the circumstances in which the offence(s) was (were) committed, including the time, place and degree of participation in the offence(s) by the requested person:

On 19th October 2007, Peter Dunne, the requested person, was convicted by a jury of having had sexual intercourse on Sunday 1st July 2001 with Lorraine Cashin (date of birth 17th December 1980) a person who was mentally impaired within the meaning of the Criminal Law (Sexual Offences) Act 1993. The facts of the case are as follows:

Lorraine Cashin was assessed by Martin Doolan, Clinical Psychologist, on the 20th May 2002. Mr Doolan concluded that Ms. Cashin was a person who is "mentally impaired" within the meaning of the Criminal Law (Sexual Offences) Act 1993. Mr Doolan concluded that the level of Ms. Cashin's intellectual and social skill disability would render her "incapable of living an independent life or of guarding against serious exploitation." He assessed Ms. Cashin formally as intellectually being within the lower limits of Mild Learning Disability range, intellectually equating to a mental age equivalent of 10/11 years. He assessed her general functioning at a level of the equivalent of 8 years at best. He opined that Ms. Cashin's disability and vulnerability would become clearly evident as a result of any engagement with her, through her demeanour, poor comprehension and conversation and content thereof. Ms. Cashin has grown up in the care of foster parents and as a result of an early

psychological assessment at age 4 or 5, she attended a school for children with mental and physical disabilities. At the time of this offence, July 2001, she was attending the National Training Disability Institute in Kilkenny, a training school for people with learning disabilities

Lorraine Cashin met a friend in Treacy's pub in Thomastown Co. Kilkenny on the night of Saturday 30th June 2001. They had four or five drinks of vodka and orange and Lorraine Cashin's friend left the pub at 12 midnight. Lorraine Cashin and Peter Dunne, the requested person, then got talking. The requested person was working at a Funfair that was camped in the town of Thomastown for the weekend. Peter Dunne was in the company of another funfair worker, Patrick McCarthy. Lorraine Cashin left the pub in the company of the requested person. They had walked a short distance when she realised she had forgotten her phone and they returned to the pub to look for it, but did not find it. They spoke to Patrick McCarthy who said he didn't see her phone. Lorraine Cashin and the requested person left the pub again and made their way to the car park at The Quay Thomastown, where the funfair was camped for the weekend. They went into the back of parked a lorry trailer, inside which were clothes and makeshift beds. The requested person had sexual intercourse with Lorraine Cashin. His colleague Patrick McCarthy subsequently arrived back at the trailer and at the requested person's invitation also had sexual intercourse with Ms. Cashin. When Patrick McCarthy arrived back at the trailer he gave Lorraine Cashin the phone she thought she had lost earlier. At around 5.30 am, the requested person drove Ms. Cashin to a junction about half a mile from her home. The following day, Ms. Cashin related the events of the previous night to her foster family and Social Workers at the Eastern Health Board and Gardai were advised. Lorraine Cashin accompanied Gardai to the car park where the funfair was camped and pointed out the trailer to Gardai. While Gardai were at the scene they were accompanied by a number of men and from the patrol car Lorraine Cashin identified the requested person and his colleague as the men who had had sexual intercourse with her the previous night. The suspects including the requested person were arrested and questioned and the requested person admitted having sexual intercourse with Lorraine Cashin twice in the trailer on the 1st of July 2001. Lorraine Cashin became pregnant as a result of this incident and had a baby boy in March 2003. DNA tests have established that the requested person is the father of the child.

A file was sent by the Garda Síochána to the Director of Public Prosecutions who directed in June 2002 that the requested person be charged with the offence of having sexual intercourse with a person who was mentally impaired contrary to Section 5 of the Criminal Law (Sexual Offences) Act 1993. The requested person had left the jurisdiction and was ultimately located in the United Kingdom and extradited from there in November 2003 and charged as directed by the Director of Public Prosecutions. The requested person instituted Judicial Review proceedings in February 2004 and ultimately withdrew these proceedings in April 2005. Two trials in respect of the offence commenced on 22nd March 2006 and 1st May 2007 and on both occasions the jury were discharged by the trial judge. A second retrial

began on 16th October 2007. The requested person was present for this trial and was represented by Senior and Junior Counsel. The prosecution case concluded on 17th October and the matter was adjourned to Friday 19th October to enable a psychologist retained by the defence to attend. Defence Counsel indicated that they would call this one professional witness only. On the 19th October, the requested person was present in Court and consulted with his Counsel. However as Defence Counsel was about to call his professional witness it became clear that the requested person had left the courthouse and had disappeared in a foreign registered jeep. A bench warrant was issued by the sitting Judge in the absence of the jury. At the application of the prosecution, the Judge allowed the trial to continue and on the jury's return the Judge advised them that the Accused had absented himself from court and warned them not to take any adverse implication from this in dealing with the case. The Defence professional witness was heard and the jury ultimately unanimously convicted the Accused on 19th October 2007 after 53 minutes deliberation.

The person in respect of whom this warrant is issued was tried in his presence and convicted, is unlawfully at large and the warrant is issued with a view to his arrest and extradition to Ireland to be sentenced and to serve any term of imprisonment imposed.

Nature and legal classification of the offence(s) and the applicable statutory provision/code:-

Sexual intercourse with a mentally impaired person

Sexual intercourse with a mentally impaired person is an offence created by statute under Irish Law.

Section 5(1) of the Criminal Law (Sexual Offences) Act 1993 provides as follows:

A person who—

- (a) has or attempts to have sexual intercourse, or
- (b) commits or attempts to commit an act of buggery, with a person who is mentally impaired (other than a person to whom he is married or to whom he believes with reasonable cause he is married) shall be guilty of an offence and shall be liable on conviction on indictment to—
 - (i) in the case of having sexual intercourse or committing an act of buggery, imprisonment for a term not exceeding 10 years, and
 - (ii) in the case of an attempt to have sexual intercourse or an attempt to commit an act of buggery, imprisonment for a term not exceeding 3 years in the case of a first

conviction, and in the case of a second or any subsequent conviction imprisonment for a term not exceeding 5 years.

The legislation makes the following provisions for the purposes of Section 5(1) of the Criminal Law (Sexual Offences) Act 1993:

- "mentally impaired" means suffering from a disorder of the mind, whether through mental handicap or mental illness, which is of such a nature or degree as to render a person incapable of living an independent life or of guarding against serious exploitation

- It shall be a defence for the accused to show that at the time of the alleged commission of the offence he did not know and had no reason to suspect that the person in respect of whom he is charged was mentally impaired.

- References to sexual intercourse shall be construed as references to carnal knowledge as defined in section 63 of the Offences against the Person Act, 1861, which provides that wherever it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge but shall be deemed complete upon proof of penetration only

I. If applicable, tick one or more of the following offences punishable in the issuing Member State by a custodial sentence or detention order of a maximum of at least 3 years as defined by the laws of the issuing Member State:

- ☐ participation in a criminal organisation;
- ☐ terrorism;
- ☐ trafficking in human beings;
- ☐ sexual exploitation of children and child pornography;
- ☐ illicit trafficking in narcotic drugs and psychotropic substances;
- ☐ illicit trafficking in weapons, munitions and explosives;
- ☐ corruption;
- ☐ fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of European Communities' financial interests;
- ☐ laundering of the proceeds of crime;
- ☐ counterfeiting of currency, including the euro;
- ☐ computer-related crime;
- ☐ environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- ☐ facilitation of unauthorised entry and residence;

0 murder, grievous bodily injury;
 0 illicit trade in human organs and tissue;
 0 kidnapping, illegal restraint and hostage-taking;
 0 racism and xenophobia;
 0 organised or armed robbery;
 0 illicit trafficking in cultural goods, including antiques and works of art;
 0 swindling;
 0 racketeering and extortion;
 0 counterfeiting and piracy of products;
 0 forgery of administrative documents and trafficking therein;
 0 forgery of means of payment;
 0 illicit trafficking in hormonal substances and other growth promoters;
 0 illicit trafficking in nuclear or radioactive materials;
 0 trafficking in stolen vehicles;
 0 rape;
 0 arson;
 0 crimes within the jurisdiction of the International Criminal Court;
 0 unlawful seizure of aircraft/ships;
 0 sabotage.

II. Full descriptions of offence(s) not covered by section I above:-

Sexual intercourse with a mentally impaired person

Sexual intercourse with a mentally impaired person is an offence created by statute under Irish Law.

Section 5(1) of the Criminal Law (Sexual Offences) Act 1993 provides as follows:

A person who—

- (a) has or attempts to have sexual intercourse, or
- (b) commits or attempts to commit an act of buggery,

with a person who is mentally impaired (other than a person to whom he is married or to whom he believes with reasonable cause he is married) shall be guilty of an offence and shall be liable on conviction on indictment to—

(i) in the case of having sexual intercourse or committing an act of buggery, imprisonment for a term not exceeding 10 years, and

(ii) in the case of an attempt to have sexual intercourse or an attempt to commit an act of buggery, imprisonment for a term not exceeding 3 years in the case of a first conviction, and in the case of a second or any subsequent conviction imprisonment for a term not exceeding 5 years.

The legislation makes the following provisions for the purposes of Section 5(1) of the Criminal Law (Sexual Offences) Act 1993:

- "mentally impaired" means suffering from a disorder of the mind, whether through mental handicap or mental illness, which is of such a nature or degree as to render a person incapable of living an independent life or of guarding against serious exploitation

- It shall be a defence for the accused to show that at the time of the alleged commission of the offence he did not know and had no reason to suspect that the person in respect of whom he is charged was mentally impaired.

- References to sexual intercourse shall be construed as references to carnal knowledge as defined in section 63 of the Offences against the Person Act, 1861, which provides that wherever it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge but shall be deemed complete upon proof of penetration only

(f) Other circumstances relevant to the case (optional information): Not applicable

(NB: This could cover remarks on extraterritoriality, interruption of periods of time limitation and other consequences of the offence)

(g) This warrant pertains also to the seizure and handing over of property which may be required as evidence: Not applicable

This warrant pertains also to the seizure and handing over of property acquired by the requested person as a result of the offence: Not applicable

Description of the property (and location) (if known):-

(h) The offence(s) on the basis of which this warrant has been issued is (are) punishable by/has(have) led to a custodial life sentence or lifetime detention order: Not applicable

– the legal system of the issuing Member State allows for a review of the penalty or measure imposed – on request or at least after 20 years – aiming at a non-execution of such penalty or measure,

and/or

– the legal system of the issuing Member State allows for the application of measures of clemency to which the person is entitled under the law or practice of the issuing Member State, aiming at non-execution of such penalty or measure.

(i) The judicial authority which issued the warrant:

Official name:- **THE HIGH COURT.**

Name of its representative ¹:- **MR. JUSTICE MICHAEL PEART.**

Post held (title/grade):- **JUDGE OF THE HIGH COURT.**

File reference:-

Address:- **FOUR COURTS, INNS QUAY, DUBLIN 7.**

Tel. No.: **00 353 1 8886000.**

Fax No. **00 353 1 8725669.**

E-mail:- **DavidNeenan@courts.ie**

Contact details of the person to contact to make necessary practical arrangements for the surrender:- **MARTIN O'NEILL OR ANTHONY LINEHAN. GARDA EXTRADITION SECTION, GARDA HEADQUARTERS, PHOENIX PARK, DUBLIN 8, IRELAND. TEL: 00 353 1 6662633/4.**

¹ In the different language versions a reference to the "holder" of the judicial authority will be included.

Where a central authority has been made responsible for the transmission and administrative reception of European arrest warrants:

Name of the central authority: **Minister for Justice, Equality and Law Reform**

Contact person, if applicable (title/grade and name): Ms Anne Farrell

Address: Central Authority for the European Arrest Warrant, Mutual Assistance and Extradition Division, Department of Justice, Equality and Law Reform, Room F025, Third Floor, Pinebrook House, 71 - 74 Harcourt Street, Dublin 2

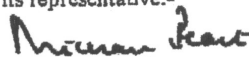
Tel. No.: (353) (1) (6028275).

Fax No.: (353) (1) (6028462).

E-mail: warrantsmall@justice.ie

Signature of the issuing judicial authority and/or its representative:-

Name: Mr. Justice Michael Peart



Post held (title/grade): Judge of the High Court

Date: 30th July 2008.

Official stamp (if available)