

COVERING C O N F I D E N T I A L

file please.

FROM: S L RICKARD
SIL Division
25 October 1989

M. Gurney 30/10
M. Murphy 30/10
M. McVeigh OR

A good reply
MB
30/10

All without attachments A-C

cc: PS/SofS (L&B)
Mr Thomas
Mr Maccabe
Mr Palmer CSO
Mr Bell *
Mr Masefield *
* With Kevin P Kilrane's
Letter of 3/10

Mr. L. Smith
27/10

1. MR BLACKWELL
2. PS/MofS (L&B)

Jaguar. Brian Flackall
25/10

MC7517: SOLICITORS TO MR OWEN CARRON

Owen Carron (Sinn Fein member and formerly, briefly, MP for Fermanagh and South Tyrone) is currently detained in the Republic awaiting the outcome of his appeal against extradition to Northern Ireland, where he is accused of possession offences. His solicitors wrote to the Minister of State on 3 October, asking him to confirm (on the basis of an alleged precedent, Sloan's case) that, should Mr Carron agree to return to Northern Ireland, the time spent in prison in the Republic resisting extradition will be taken into account in determining the period which he would have to serve in Northern Ireland, if convicted.

2. In fact, Mr Carron and his solicitors have misunderstood their precedent. The terms of the assurance given to the Irish authorities in Sloan's case are set out at flag A. (The background to the decision to give this assurance is set out in Mr Thomas' submission of 19 May, flag B, should the Minister wish to pursue it). The assurance so far given relates only to four Crumlin Road escapers; two more cases might be contemplated in future. They do not extend to periods which Sloan, or his co-escapees, may spend in prison awaiting extradition (hereafter "waiting time"). They are therefore not strictly relevant to Mr Carron's case at all.

COVERING C O N F I D E N T I A L

SIL/GH/13398

27 OCT 1989
M 354

3. Mr Carron's case differs in other ways. First, the court which sentenced the Crumlin Road escapers in the Republic did not (because the prosecution was conducted extraterritorially) have the opportunity to indicate whether the "escape" sentences it imposed should run consecutively, or concurrently, with the existing sentence in Northern Ireland. Mr Carron is not an escaper; when and if he is returned and convicted, the court which sentences him will have an opportunity, if it wishes, to take his 'waiting time' into account. (Although the one available precedent suggests that it will not do so.) There is no need - nor would it be desirable - for the Secretary of State to substitute his judgment for that of the court, as in effect he was compelled to do in the Crumlin Road cases. Second, if 'waiting time,' which can be as much as two years, were to be taken into account in future cases it would probably cease to be worthwhile to extradite anyone likely to be sentenced to less than, say, five years (which, with remission, would translate into a 6 month period of imprisonment for a pre-March 1989 offence). In such circumstances, a review of our extradition policy would be called for. The arguments in favour of neglecting "waiting time" are set out in Mr Thomas' submission of 23 June, flag C, and were endorsed by Mr. King.

5. I attach a draft reply to Messrs. Kilrane & Co's letter. It would be unusual for a firm of solicitors to receive a Ministerial or private secretary reply, and if the Minister approves the draft, I propose that it be signed at official level.

S. L. Rickard

S L RICKARD

SIL Division

25 October 1989

Ext: OAB 6466

COVERING C O N F I D E N T I A L

DRAFT LETTER

FILE NUMBER

ADDRESSEE'S REFERENCE

<u>TO</u>	<u>Enclosures</u>	<u>Copies to be sent to</u>
Kevin P Kilrane & Co Solicitors 27 Upper Ormond Quay Dublin		hcc Mr Thomas Mr Blackwell Mr Maccabe Mr Palmer, CSO

LETTER DRAFTED FOR SIGNATURE BY SECURITY AND INTERNATIONAL DIVISION

Thank you for your letter of 3 October to the Minister of State,
Northern Ireland Office, on whose behalf I have been asked to reply.

I can confirm that in the case of Anthony Gerard Sloan, the Secretary
of State for Northern Ireland will direct, should Mr Sloan be
returned to Northern Ireland, that full account be taken of the
period which he has spent in prison serving the sentences imposed on
him on 25 February 1982 by the Special Criminal Court sitting at
Green Street, Dublin, at his trial for extraterritorial offences
connected with his escape from custody.

The Secretary of State does not propose to direct that account be
taken of any period which Mr Sloan may spend in prison in the
Republic of Ireland on foot of an extradition warrant after the date
on which he would otherwise have been discharged from prison in
pursuance of the sentences imposed on 25 February 1982.

COVERING C O N F I D E N T I A L

SIL/GH/13398

The reason for the Secretary of State's decision in Mr Sloan's case lies in the special circumstances surrounding the extraterritorial conviction, for escape and related offences, of someone who has escaped from prison in Northern Ireland. Since the court which sentenced him for the escape offences had no means of indicating whether the sentences imposed for the escape offences should be consecutive, or concurrent, with his original sentence, the Secretary of State felt that it was right that he should direct that account be taken of the sentences imposed on 25 February 1982, as I have indicated.

Your client's case is not analogous to that of Mr Sloan, since he has neither escaped from prison nor been convicted extraterritorially of escape and related offences. Should your client be returned to Northern Ireland (or return voluntarily into the custody of the Northern Ireland authorities) he will be brought before a court. If convicted, it would be for the court to decide whether to take into account the period served awaiting extradition, or not.

I trust that this explanation is of assistance to your client.

FROM: PS/MINISTER OF STATE
2 NOVEMBER 1989

1 Mr. Murphy
2 File

[Handwritten signatures]

cc. PS/Secretary of State (L&B) - B
PS/Minister of State (L&B) - B
Mr Thomas - B
Mr Maccabe - B
Mr Palmer, CSO
Mr Bell - B
Mr Masefield - B

MR BLACKWELL

[Handwritten signature]
G/2/11

MC 7517: SOLICITORS TO MR OWEN CARRON

The Minister of State has seen Mr Rickard's submission of 25 October on Ministers Case no. 7517 regarding a letter from Kevin P Kilrane and Company, a firm of solicitors acting for Owen Carron (Sinn Fein member and formerly, briefly, MP for Fermanagh and South Tyrone). The Minister is content with the letter as drafted to the firm of solicitors and I understand that you will be arranging for it to be issued on to the signature of Security and International Division.

Signed:

C D KYLE
PS/MINISTER OF STATE
2 NOVEMBER 1989

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