

Airey, Johanna ('Josie')

by Patrick Long

Airey, Johanna ('Josie') (1932–2002), legal-aid campaigner, was born 4 May 1932 at 154 Bandon Road, Cork city, one of two daughters and two sons of Michael Lynch, labourer, and Eileen Lynch (née Sullivan). Her parents both died early, leaving her in the care of her grandmother, who lived in the south city Lough area of Cork. She was educated at the Mercy convent school, St Marie of the Isle, which she left early to work in retailing, including on a meat stall in the renowned English Market on Grand Parade.

Her marriage (1953), aged 21, to Timothy Airey resulted in a son, Thomas, and three daughters, Elaine, Jean, and Noreen. The marriage gradually broke down – precipitated, in her view, by her husband's abusive and drunken behaviour while she attempted to make a living for the family as a hospital cleaner. The situation deteriorated as her husband became increasingly aggressive and irresponsible. In 1972 he was fined for assaulting her and subsequently abandoned her. She went to court seeking maintenance and was even sent to prison for defaulting on a fine. When she sought a marital separation her husband refused to sign the deed, and Airey thus entered a world of legal and political inertia and obstruction. Unable to afford a high court separation order, she was trapped by an absence of civil legal aid although it had existed in criminal law since 1962.

Josie Airey's case became a *cause célèbre* after she unsuccessfully petitioned the Fianna Fáil government, the main opposition parties, and Cardinal William Conway (qv) in Armagh to redress a judicial trap in which many others would also find themselves. In spite of dismissal by influential politicians she persisted, receiving political support from Eileen Desmond (qv) (1932–2005), the Labour TD. In an ambience of church–state conservatism which resisted radical alterations to family law, and having been refused by those lawyers approached to act on her behalf, Airey presented her case in 1973 to the European commission of human rights in Strasbourg. The commission itself provided her with legal aid after it established the Irish state's position on the matter. One Dublin solicitor, Brendan Walsh, offered to take the case, and Airey herself chose the renowned liberal barrister and senator Mary Robinson (later president of Ireland) as counsel.

On 7 July 1977 the case opened in Strasbourg and Airey focused on the relevant articles in the 1950 European convention on human rights, in particular article 6, which provided for a 'fair and public hearing', access she and others were denied in Ireland owing to the expense of high court proceedings. Her case was deemed reasonable in Strasbourg and set for further examination. Meanwhile, the state did not use its opportunity to review the law, and in March 1978 the commission decided that Ireland was indeed in breach of the convention on human rights. It rejected

persistent Irish claims that Airey could have availed herself of the very services she was in Strasbourg to demand.

Airey was triumphant and awaited a judicial ruling. If her mind was sharp her tongue was blunt, and she hit a raw political nerve when in May 1978 she remarked how the same state that had taken Britain to the commission over mistreatment of prisoners in Northern Ireland had been torturing her for years. When the European court of human rights sat (22 February 1979), the Irish government maintained its rejection of the Airey case but also announced it was about to provide legal aid in family law. Without admission of guilt in breaching articles 6 and 8 of the convention, Ireland effectively admitted that it had been wrong. For Mary Robinson, the successful conclusion of Airey's test case was an important step towards Irish marital law reform in general. For Josie Airey personally, the realisation of victory was overwhelming after what she had described as years of loneliness, desperation, and blank walls. Her judicial separation was granted in the high court and she received costs and damages from the state, which established a legal aid board in December 1979.

Airey reverted to her original name of Lynch and tried to live a normal life once the landmark case and its attendant celebrity faded from public view. She lived at Bandon Road and returned to an ordinary working life at the local Ferrero chocolate factory. She wrote poetry and enjoyed time with her family and close friends. Her health declined in the 1980s and for the final years of her life she lived at Marymount Hospital in Cork. Aged 70, she died 26 August 2002 and was interred at St Joseph's cemetery.

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Gemma Hussey, *Ireland today: anatomy of a changing state* (1993), 123; Conor O'Clery, *Ireland in quotes* (1999), 159; Alan Hayes and Diane Urquhart (ed.), *The Irish women's history reader* (2001), 76; *Ir. Times*, 27, 31 Aug. 2002; *Ir. Examiner*, 27, 28 Aug. 2002