our recommendation that the government wouldn't just tick the box and then start cutting back on the funding." Professor Michael Zander, who was also part of the Runciman Commission, praised the organisation for making itself more accessible: "On the whole I think they've being doing quite well, given their resources. The admirable attempt to make their message better known to prisoners has resulted in them being deluged by even more applications. The increased funding is definitely a vote of confidence [in the CCRC] because everything has been going downhill and for anything to get more resources at the moment is remarkable. So that's a triumph, or it may be a recognition that they've been shortchanged over quite a long time and it's now got to a point where even this government has to do something about it, which I applaud. They need all the help they can get in terms of resources." Haemorrhaging of staff has now been halted and the CCRC is currently recruiting case review managers/commissioners/investigations specialists. "We will be spending this money on front-line staff. We aim not just to cope with a huge increase in applications but to maintain/improve waiting/turnaround times for cases," said Foster. We all know the pressure on public finances. Ministers would not have increased our funding if they did not recognise both the work the commission has done to make itself as efficient and effective as it can and the importance of identifying, and remedying, miscarriages of justice whenever and wherever they occur." For those working with prisoners who are maintaining their innocence – sometimes for decades – in prison, the increased funding is welcome, but concerns over the CCRC's approach remain. Maslen Merchant, a lawyer who specialises in miscarriage of justice cases, thinks that the CCRC should see this as an opportunity to refocus its approach. "The CCRC sometimes forgets who they're dealing with and also the effect that delays can have. It once took a year for the CCRC to publish a decision it had made on a case. The prisoner – had served 16 years already — was on suicide watch while waiting the decision. They need to meet the prisoners & the families so that they understand what's at stake. Otherwise it's just another file – just another name." Solicitor Glyn Maddocks, who worked for more than 12 years to get the conviction of Paul Blackburn quashed, agrees: "If the CCRC uses the money to properly and effectively investigate cases rather than doing desktop reviews as they have being doing in recent years, then I would applaud it," he said. But a better funded CCRC does not really address the real problem facing the wrongly convicted – namely a lack of legal representation, according to Maddocks. A shortage of solicitors to take on these difficult and complex cases has turned into a crisis, with most applicants to the CCRC now having no legal representation. With the MoJ aiming to cut £220m out of criminal legal aid the situation is unlikely to get any better. Maddocks and other criminal law experts have created the Centre for Criminal Appeals to try to address the shortfall in legal representation for those who claim to be victims of a miscarriage of justice.

Hostages: **Hostages:** Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 433 (011/07/2013)

Jeremy Bamber Should be Given a Possible Review of his Whole life Sentence

Grand Chamber Judgement of ECtHR - Vintner, Bamber & Moore

Whole life orders should include the possibility of review but this should not be understood as giving the prospect of imminent release

In Grand Chamber judgment in the case of Vinter and Others v. the United Kingdom (application nos. 66069/09, 130/10 and 3896/10), which is final", the European Court of Human Rights held, by 16 votes to one, that there had been: - a violation of Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights.

The case concerned three applicants' complaint that their imprisonment for life amounted to inhuman and degrading treatment as they had no hope of release.

The Court found in particular that, for a life sentence to remain compatible with Article 3, there had to be both a possibility of release and a possibility of review. It noted that there was clear support in European and international law and practice for those principles, with the large majority of Convention Contracting States not actually imposing life sentences at all or, if they did, providing for a review of life sentences after a set period (usually 25 years' imprisonment).

The domestic law concerning the Justice Secretary's power to release a person subject to a whole life order was unclear. In addition, prior to 2003 a review of the need for a whole life order had automatically been carried out by a Minister 25 years into the sentence. This had been eliminated in 2003 and no alternative review mechanism put in place. In these circumstances, the Court was not persuaded that the applicants' whole life sentences were compatible with the European Convention.

In finding a violation in this case, however, the Court did not intend to give the applicants any prospect of imminent release. Whether or not they should be released would depend, for example, on whether there were still legitimate penological grounds for their continued detention and whether they should continue to be detained on grounds of dangerousness. These questions were not in issue in this case and were not the subject of argument before the Court. The only claim for just satisfaction that had been made was by Mr Vinter and the Court declined to award any damages.

Principal facts: The applicants, Douglas Gary Vinter, Jeremy Neville Bamber and Peter Howard Moore, are British nationals who were born in 1969, 1961 and 1946 respectively. All three men are currently serving sentences of life imprisonment for murder. Mr Vinter was convicted of the murder of his wife in February 2008, having already been convicted of murdering a work colleague in 1996. Mr Bamber was convicted of the murders of his adoptive parents, sister and her two young children in August 1985. Mr Moore was convicted of the murders or four men between September and December 1995.

The applicants have been given whole life orders, meaning they cannot be released other than at the discretion of the Justice Secretary, who will only do so on compassionate grounds (for example, in case of terminal illness or serious incapacitation).

Until the entry into force of the Criminal Justice Act 2003, when a life sentence was imposed by a court, a Minister (at the time, the Home Secretary of the day) would decide on the min-

imum term the prisoner would have to serve (the "tariff"), including whether a whole life tariff should be set. All cases in which a whole life tariff had been set were automatically reviewed by the Home Secretary 25 years into the sentence. The 2003 Act provided that the sentencing judge would fix the tariff or make the whole life order, but removed the possibility for the whole life order to be reviewed after 25 years.

Complaints, procedure and composition of the Court

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, all three applicants complained that their imprisonment without hope of release amounted to inhuman and degrading treatment.

The applications were lodged with the European Court of Human Rights on 11 December 2009, 17 December 2009 and 6 January 2010, respectively. In its judgment of 17 January 2012,a Chamber of Court held, by four votes to three, that there had been no violation of Article 3 of the Convention as it did not consider that the applicants' sentences amounted to inhuman or degrading treatment. Notably, the majority of the Chamber considered that the applicants had failed to demonstrate that their continued detention served no legitimate penological purpose. The majority also laid emphasis on the fact that the applicants' whole life orders had either been recently imposed by a trial judge (in the case of Mr Vinter) or recently reviewed by the High Court (in the cases of Mr Bamber and Mr Moore).

The case (covering all three joined applications) was referred- to the Grand Chamber at the request of the applicants on 9 July 2012. A Grand Chamber hearing was held in Strasbourg on 28 November 2012. Judgment was given by the Grand Chamber of 17 judges .

Decision of the Court - Article 3 (inhuman and degrading treatment)

The Court considered that, for a life sentence to remain compatible with Article 3, there had to be both a possibility of release and a possibility of review. It was for the national authorities to decide when such a review should take place. However, the comparative and international law materials before the Court showed clear support for a mechanism guaranteeing a review no later than 25 years after the imposition of a life sentence.

A large majority of the Contracting States of the European Convention either do not impose life sentences at all or, if they do, provide some mechanism, guaranteeing a review of the life sentence after a set period, usually after 25 years' imprisonment. Furthermore, the Rome Statute of the International Criminal Court, to which 121 States (including the vast majority of Council of Europe member States) are parties, provides for review of a life sentence after 25 years, followed by periodic reviews thereafter.

The United Kingdom Government had argued before the Court that the aim of the 2003 Act was to remove the executive from the decision-making process concerning life sentences, and this was the reason for abolishing the 25 year review by the Home Secretary which had existed prior to 2003. However, the Court considered that it would have been more consistent with the legislative aim to provide that the 25-year review would be conducted within a judicial framework, rather than completely eliminated.

The Court also found that the current law concerning the prospect of release of life prisoners in England and Wales was unclear.

Section 30 of the 1997 Act gave the Justice Secretary the power to release any prisoner, including one serving a whole life order. The Court considered that this power was capable of being exercised in a matter which was compatible with Article 3 of the Convention. However, the power had to be contrasted with the relevant Prison Service Order which sets the con-

The principal grievance is California's unusual policy of indefinitely putting suspected gang members in solitary and moving them back into the regular jail only if they identify fellow gang members. The protest has united black, Latino and white inmates, including members of racist gangs. "It's phenomenal. They are coming together because they know in unity is where ultimate victory lies," said Dolores Canales, co-founder of California Families to Abolish Solitary Confinement. "The mood is hopeful, but this also shows how hard things are. They are sacrificing the one thing that is given to them to keep them alive." Many family members on the outside have joined the strike, she said.

The Pelican Bay leaders had defied their isolation, and the supposed mutual loathing between racial groups, to organise the mass protest, said Laura Magnani of the American Friends Service Committee, a Quaker advocacy group. "Prisoners have to communicate and find ways to do it. They have a grapevine. It's amazing."

Inmates in two-thirds of the state's 33 jails, as well as four out-of-state jails, started refusing meals on Monday, said corrections spokeswoman Terry Thornton. Inmates are deemed to be on hunger strike if they skip nine meals. Authorities said that about 30,000 are classified to be taking part on the action.Meanwhile, around 2,300 prisoners also refused to turn up for work or classes.

CCRC to Receive Increased Funds After Applications Rise

CCRC to receive a 10% increase in funding after a surge in applications from prisoners claiming they have been wrongfully convicted. Increase comes amid cuts to criminal legal aid, leading lawyers to ask whether a better funded CCRC will address the problem of lack of legal representation Last year the CCRC received 1,625 applications from people asking it to investigate their cases – a 64% increase on previous years.

The CCRC believes the dramatic rise in applications is the result of a change in the way that prisoners can apply to the commission. Richard Foster, chairman of the commission, said: "This is not about some sudden upsurge in miscarriages of justice. It is about the commission making itself much more accessible to those who may most need its help and allowing people to make applications in ways which best suit them personally." The new application form – which has been advertised in all prisons — includes pictures and simpler language so that prisoners with even the most basic reading and writing skills can complete it. Studies have found that more than 50% of prisoners have literacy levels below that expected of 11 year olds.

The Ministry of Justice's (MoJ) promise to give the CCRC nearly half a million pounds extra in funding is particularly noteworthy given the background of swingeing cuts to criminal legal aid. A MoJ spokeswoman said: "The Criminal Cases Review Commission is an integral part of our justice system. Over the past year they received a 64% increase in applications so we have granted them a small increase in their budget to deal with the workload and they have allocated more resources to processing applications to reduce delays."

The funding of the CCRC has long been a contentious issue. The body had suffered a funding cut of 30% in real terms over the last seven years, resulting in redundancies at the commission's Birmingham headquarters. This lead critics of the organisation to claim that it lacked the resources to tackle the volume of cases it had to deal with every year.

The idea of the CCRC was established by the Runciman Commission which was set up following numerous high profile miscarriages of justice such as the Guildford Four and Birmingham Six. Garry Runciman, chair of the Royal commission, admitted that it was the funding of the CCRC, rather than its structure that had concerned him. "I hoped that if a new independent authority was set up on

for the first mentioned offence; or

(c) an offence charged in an alternative count of the indictment in respect of the indictment in respect of which no verdict was given in consequence of his being convicted of the first mentioned offence."

The offence of possessing a firearm without a certificate, upon which the Crown, in reality, now wants a trial does not fall within any of the subsections of s.7 (2) of the Criminal Appeals Act 1968. Although there may be less justification for a strict construction in relation to s. 7 of the Criminal Appeals Act 1968, because it is not concerned with substituting a conviction, the language is clear and it is impossible to read s.7 (2) (a), (b) or (c) as including "or any other offence which might be included in the indictment by amendment if further evidence were to be served". So to read the provision would be to render the detail of s.7 (2) wholly redundant.- The only offence that can be remitted for a retrial is that of possessing a prohibited weapon. Proceeding in that way has its practical attractions but the question arises – a retrial of what? There can be no conviction in relation to that offence. When that is the position ordering a retrial is inappropriate. Whereas there may well be an amendment of an indictment in a case which has been sent back for a retrial, the requirements of s.7 of the Criminal Appeals Act 1968 having been met, this Court cannot order a retrial on a count where it is clear that there cannot be a conviction in order to circumvent the requirements of s.7 (2) of the Criminal Appeals Act 1968, i.e. the very provision which gives this Court the power to order a retrial at all.

10.We therefore grant the extension of time, give leave to appeal and quash the conviction. As we made clear to the parties when this matter was argued, there does not appear to be any bar to a charge of possessing a firearm without a certificate being brought now and it does not appear that there ever has been. This case serves to highlight that in relation to "streamlined" procedures directed at encouraging early guilty pleas it is important that all involved are alert to check that the necessary elements of what will sometimes be relatively specific offences are in fact provable.

30,000 California Prisoners on Hunger Strike *Rory Carroll, guardian.co.uk, 09/07/13*

An estimated 30,000 inmates in jails across California are participating in a hunger strike to protest against solitary confinement and other conditions they say amount to torture. Prisoners refused meals for a second day on Tuesday in about two dozen jails, signalling what was thought to be the biggest protest of its kind in California's history. The campaign is a ramped-up sequel to hunger strikes in 2011, which shone international attention on the state's troubled penal system but failed to wring significant concessions from authorities.

A group of inmates at the maximum security Pelican Bay state prison in Crescent City has organised the protest, saying they will starve themselves unless the California Department of Corrections and Rehabilitation (CDCR) agrees to meaningful negotiations. At any one time, California holds about 12,000 inmates in extreme isolation, including some who have been in windowless boxes known as security housing units (SHUs) for decades. They are allowed out for an hour a day to exercise – some in a yard, others in a kennel-size cage.

Supporters say the strike is a legitimate response to cruel and inhumane conditions. "The use of prolonged solitary confinement is a form of torture," said Laura Downton, director for US Policy and Program at the National Religious Campaign Against Torture. "We stand with them in their call for five core demands." 1) End to group punishment, 2) an overhaul to the policy of identifying suspected gang members, 3) an end to long-term solitary confinement, 4) better education and rehabilitation programmes, 5) and the provision of adequate and nutritious food.

ditions for release and which provides that release will only be ordered if a prisoner is terminally ill or physically incapacitated. Given this lack of clarity and the absence of a dedicated review mechanism for whole life orders, the Court was not persuaded that, at the present time, the applicants' life sentences were compatible with Article 3. It therefore found that there had been a violation of Article 3 in respect of each applicant.

The Court emphasised, however, that the finding of a violation in the applicants' cases should not be understood as giving them any prospect of imminent release. Whether or not they should be released would depend, for example, on whether there were still legitimate penological grounds for their continued detention and whether they should continue to be detained on grounds of dangerousness. These questions were not in issue in this case and were not the subject of argument before the Court.

Article 41 (just satisfaction): The only claim for just satisfaction was made on by Mr Vinter and the Court held that the finding of a violation constituted in itself just satisfaction for any non-pecuniary damage he had sustained. The Court did, however, award 40,000 euros for his lawyers' costs and expenses, including the costs of the hearing before the Grand Chamber.

Separate opinion:Judges Ziemele, Power-Forde and Mahoney expressed concurring opinions. Judge Villiger expressed a partly dissenting opinion.

Jimmy Mubenga Unlawfully Killed *"Hannah Ward" for INQUEST, 09/07/13*

A jury has returned a verdict of unlawful killing (unlawful act killing) in the inquest into the death of Jimmy Mubenga. Jimmy Mubenga, a healthy 46 year old Angolan man, died on 12 October 2010 following face-forward restraint in his seat by three G4S security guards on a British Airways flight from Heathrow airport to Angola.

The jury ruled that Jimmy Mubenga died on the plane. In their verdict they rule that based on the evidence heard, 'Mr Mubenga was pushed or held down by one or more of the guards causing his breathing to be impeded. 'We find they were using unreasonable force and acting in an unlawful manner. The fact that Mr Mubenga was pushed or held down, or a combination of the two, was a significant, that is, more than a minimal cause of death. 'The guards we believe would have known that they would have caused My Mubenga harm in their actions if not serious harm. We find that Mr Mubenga died in his seat at approximately 20:24 and before the paramedics boarded the aircraft at 20:38.' Mr Mubenga left behind a widow and five children aged one to 17 years at the time of his death.

Adrienne Makenda Kambana, Jimmy Mubenga's widow said: "The inquest helped me to understand what really happened in the plane. I now know how Jimmy died. I was so shocked to hear that a lot of people heard Jimmy asking for help but no-one helped him. This feels like a nightmare because Jimmy walked onto a plane feeling fine and came out of the plane dead. How can my family live with this pain. We're not going to forget this because the last time I spoke to him he said I will call you back and he will never call me back again. I want to thank the jury who have helped me get closer to justice for Jimmy which will only be fully achieved when I can tell my children that those responsible have been properly held to account and no other family suffers in the way we are."

Deborah Coles, co-director of INQUEST said: "The enormous sadness of this death was that it was the inevitable consequence of a privatised removals service that was out of control and where the duty of care and the wellbeing of deportees were undermined in the pursuit of profit. The Home Office must now learn the lessons of this death, bring the contract under control and save another

family from the devastation suffered by Mr Mubenga's widow and children. There are longstanding and well documented concerns about the conduct and accountability of the private removals industry and a pattern of complaints about the use of excessive force. As the passengers and crew on flight 777 sat by, Mr Mubenga met a horrific death at the hands of those who were charged with his care. The responsibility rests ultimately with the Home Office which devolved coercive powers without effective oversight and itself sat by while a culture of racism prevailed and the dangerous restraint of deportees became institutionalised."

Mark Scott, solicitor for the family said "The initial CPS decision not to bring charges was completely inexplicable to the lawyers and our client. We are seeking an urgent meeting with Keir Starmer the Director of Public Prosecutions. The rule of law is called into disrepute where evidence this strong is not placed before a jury in a criminal trial." G4S is a private security firm which was contracted by UK Border Agency to escort deportees on flights until the end of April 2011. Reliance (now known as Tascor), also a private security company, took over the contract in May 2011.

The inquest heard eight weeks of evidence. This included:

- Witnesses describing Mr Mubenga as being pushed forward in his seat shouting for help, saying that he couldn't breathe, repeatedly crying out for help
- The guards were trained in control and restraint and aware of the dangers of positional asphyxia when forcing someone forward
- Extreme racist texts were found on two of the guards' phones forwarded to friends and colleagues
- There was a technique of forcing a deportee forward so that their shouts and cries were muffled that was called 'carpet karaoke'. This was banned by G4S.
- No-one on the plane, passengers/BA staff/guards stepped in to help Mr Mubenga or offer first aid
- Guards were on "zero hour" contracts or retainers and their wages were dependent on the hours that were worked. It was important to "get the job away" as they were incentivised for a successful removal - G4S was paid by the hour and a failed removal had a direct impact on profits

INQUEST has been working with the family of Jimmy Mubenga since his death in 2010. The family was represented by INQUEST Lawyers Group members Mark Scott from Bhatt Murphy solicitors - barristers Henry Blaxland QC of Garden Court &Fiona Murphy of Doughty Street.

There have been 12 unlawful killing verdicts at inquests involving deaths in state custody since 1990. [Jimmy Mubenga, Ian Tomlinson, Mikey Powell, Robin Goodenough, Harry Stanley, Roger Sylvester, Christopher Alder, James Ashley, Ibrahima Sey, David Ewin, Shiji Lapite, Richard O'Brien, Joy Gardner, Leon Patterson, Omasase Lumumba, Omasase Lumumba.]

Azelle Rodney Unlawfully Killed

Family, Solicitor & 'INQUEST' Response**:** The report of the inquiry into the death of Azelle Rodney was published Frday 5th July 2013. Azelle Rodney was 24 when he died on 30 April 2005 after a police operation in which he was shot six times by a Metropolitan Police Service (MPS) officer. The shooting took place after the car he was in was brought to a halt in a 'hard stop' in Edgware, north London. Statements from Azelle Rodney's mother, Susan Alexander, her solicitor Daniel Machover and Helen Shaw, INQUEST co-director, follow in full:

Susan Alexander, Mother of Azelle Rodney said:

This report has found that there was no lawful justification for my son's killing by the police. He was fired at 8 times in only 2 seconds and not one of those shots was lawfully discharged by the officer concerned. I thank Sir Christopher Holland for his thorough and excellent report. I hope it will be

authorised by law for the other offence, not being a sentence of greater severity."

6.The indictment charging the offence of possessing a prohibited weapon did not and did not need to allege the absence of a firearm certificate. The Applicant "on the indictment" therefore could not have pleaded, or been found guilty of the offence sought to be substituted. Furthermore, whatever the overwhelming likelihood in relation to the absence of a firearm certificate, it cannot be said that "the plea of guilty indicates an admission of the other offence". The existence of a firearm certificate was irrelevant to the offence charged, not alleged in relation thereto and not admitted by the guilty plea. The substitution contended for does not in our judgement satisfy the statutory requirements. We also consider that no valid distinction can be drawn between cases where a conviction has to be quashed because it was for an offence which, for example, had been repealed, and an offence which had not as a matter of fact been committed. There is no basis for reading what a clear statutory provision with such a gloss is. That it might be convenient to do so in this instance is irrelevant. The simple test here is – could the Applicant have been convicted of the offence sought to be substituted on the indictment to which she pleaded? Yes or no. The answer is no.

7.In this case the Applicant had in fact originally been charged with possessing a prohibited weapon and possessing a shotgun without a certificate. Had the latter charge been included in the indictment that would have meant that the requirement under s. 3A (1) (b), (but not under s. 3A (1) (c)) would have been satisfied, albeit in relation to a charge of possessing a shotgun without a certificate contrary to s.2(1) of the Firearms Act 1968, rather than the appropriate charge, having regard to the length of the barrel of this shotgun as it is now known to be, of possessing a firearm without a certificate, contrary to s.1(1) (a) of the Firearms Act 1968. However a count reflecting either lesser charge was not included in the indictment.

8. The Crown raises a further argument. It is submitted that "the indictment" in s. 3A of the Criminal Appeals Act 1968 should be construed as meaning "the indictment in a potentially amended form". We do not consider that such an argument is sustainable. It is inconsistent with the approach taken in R. v. Graham and others [1997] 1 Cr. App. R. 302 C.A. It also needs to be remembered that the ability to substitute a conviction under s. 3A of the Criminal Appeal Act 1968 represents a limited exception to the fundamental rule that a defendant can only be convicted on his own plea or as a result of proof before a jury. Such a provision has to be construed strictly. In our view the operation of the provision must be confined to cases where the guilty plea inevitably involves an admission to the alternative offence, which was not the case here. Any other approach involves this court evaluating whether or not there might be a defence. That is not permissible given the importance of the right to a jury trial. Furthermore, on the particular facts of this case, at the time of the guilty plea, there could have been no amendment as required because no evidence had been served proving the want of a certificate. To proceed on the basis that that did not matter would tend towards reversing the burden of proof.

9. We therefore consider that the conviction cannot stand and that substitution is not possible. In that event the crown submits that this matter should be remitted for a retrial. As for that the position is governed by s. 7 of the Criminal Appeals Act 1968 which provides:

"(1) Where the Court of Appeal allow an appeal against conviction and it appears to the Court that the interests of justice so require, they may order the appellant to be retried.

(2) A person shall not under this section be ordered to be retried for any offence other than

(a) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as mentioned in subsection (1) above;

(b) an offence of which he could have been convicted at the original trial on an indictment

versal desire" for the Team to be retained if improvements were made.

The Inspectorate observed: "It is striking that not one state involvement case relating to the British army has to date been referred to the police for further investigation or prosecution."

The report found there had previously been no independent review of the HET's processes, that it treated cases involving soldiers differently as a matter of policy and that in important areas it did not conform to current policing standards.

The head of the HMIC, Stephen Otter, said: "The inconsistencies we found in our review may seriously undermine the capability of the HET's processes to determine whether the force used in killings during the troubles was justified in state involvement cases, therefore potentially preventing the identification and punishment of those responsible."

R v Lawrence - "Streamlined" Procedures, Specific Offences Must be Provable

1.On the 12th of October 2012 at the Kingston-upon-Thames Crown Court, after pleading guilty to an offence of possessing a prohibited weapon, Nyira Lawrence ("the Applicant") was sentenced by Her Honour Judge Kent to 5 years imprisonment, the mandatory minimum. 25 days were ordered to count off that sentence pursuant to s.240 of the Criminal Justice Act, 2003.

2.The Applicant now seeks an extension of time (89 days) and leave to appeal against her conviction despite her guilty plea. This matter has been referred to the full court by the Registrar.

3.The undisputed position before us is that the shotgun that the Applicant has admitted was in her possession was not in fact a prohibited weapon, although it was one for which a firearm certificate was required. The shotgun concerned had a barrel 45.6 centimetres (18 inches) in length and an overall length of 68.4 centimetres (26 7/8 inches). To be a prohibited weapon a shotgun has to have a barrel less than 30 centimetres (11 4/5 inches) in length and/or an overall length of less than 60 centimetres (23 3/5 inches). A shotgun with a barrel less than 24 inches in length (61 centimetres) requires a firearm certificate. We mention in passing that when the Firearms Act 1968 was enacted it dealt, unsurprisingly, in terms of inches, whereas when that Act was amended in relation to prohibited weapons, in so far as is relevant to this case, in 1997, the amendment proceeded by reference to centimetres.

4.The Applicant has therefore pleaded guilty, incidentally as part of a "streamlined" process after very limited disclosure, to an offence she had not committed. That being the case the extension of time sought - necessary because of the delay before the difficulty was appreciated and placed before this Court - must be granted, leave to appeal given and the conviction quashed.

5.The Crown does not resist the quashing of the conviction for the reasons we have outlined but submits that a conviction for possessing a firearm without a certificate, contrary to s.1(1)(a) of the Firearms Act 1968, should be substituted, pursuant to this Court's powers under s. 3A of the Criminal Appeals Act 1968. That section provides:

"(1) This subsection applies on an appeal against conviction where

(a) an appellant has been convicted of an offence to which he pleaded guilty,

(b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence,

(c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of the other offence.

(2) The Court of Appeal may, instead of allowing or dismissing

the appeal, substitute for the appellant's plea of guilty a plea of guilty of the other offence and pass such sentence in substitution for the sentence passed at the trial as may be

ground-breaking and cause a shift in thinking by the police. Azelle's death was wholly avoidable – I shouldn't be sitting here now, beginning another chapter in my fight for justice for him. When I gave evidence to the inquiry on 4 September 2012 I said that it seemed to me that Azelle "was executed". The chairman's report - after detailed study of the evidence - is that he is 'sure and satisfied' he shares my view. I do not seek to justify what Azelle was doing on the day he died. But he was entitled to be apprehended, and - if there was evidence - to be charged and brought before a court of law to face a trial before a jury. The fact that he was strongly suspected in being involved in crime does not justify him or anyone else being summarily killed.

The shooter's conduct is now a matter for the IPCC and the CPS to look at, just as if this was an unlawful killing verdict after an inquest, so I am not going to comment further on him. All I ask for is no more delays. What happens next must not drag on for years – I have lost too many years of my life already in trying to get justice, truth and accountability. Things have to move fast - I want regular progress reports and outcomes that can be measured in months, not years, given it has taken me over 8 years to get to this point.

What the IPCC and the CPS do now must be properly resourced: a large team needs to work tirelessly at both organisations to see what is possible within the law. I want an immediate promise from the Home Secretary, Theresa May, and the Chair of the IPCC, Dame Anne Owers, that no expense will be spared. However, in the meantime, I should not have to wait a moment longer for the police and IPCC to apologise unreservedly to me.

The police owe me an apology for the unlawful killing of my son, but they also owe me and everyone who was in Hale Lane, Edgware, when police carried out the hard stop an apology for the way tactics were decided that day, and for what the Chairman said was 'the astonishing deprivation of all that could have been provided by aerial surveillance' in Harlesden. I trust that the police fully accept Sir Christopher's recommendations and, as I said last September, that lessons are now finally learned by all police forces in this country and that similar deaths in the future are made less likely. I await an apology from the Commissioner himself.

The IPCC owe me an apology for a wholly inadequate investigation in 2005. Everyone involved in suppressing the aerial surveillance should be ashamed of themselves. The IPCC's failure to make proper use of the technical information, and their uncritical thinking about the police, is shocking. I hope Anne Owers has the courage to speak out truthfully and recognise that the public, my family and I have been poorly served by the police watchdog.

I want to thank my family for their support and the Chairman for all his work at the hearings and getting this report out, supported throughout by his legal team, who I also thank.

Daniel Machover, Solicitor for Susan Alexander said:

This was an unlawful killing. Uniquely, a police shooting has been found to violate the right to life of someone because of the planning of the police operation and the conduct of the officer who fired the shots. 1. The police failed in the planning and control on the day to avoid lethal force being used; and 2. the force used was not reasonably necessary; and 3. the force used was disproportionate: As to the planning and control:

1. There was no formal threat and risk assessments specifically directed at the arrests of the suspects, whether in Harlesden or in the context of a hard stop, that embraced police, public, suspects and victims.

2. The absence of such formal threat or risk assessments meant there was nothing to help the police to choose between tactical options, including making arrests in Harlesden

3. The Silver commander of the firearms operation had a dual role, also acting as the

Senior Investigating Officer, with the ambition of securing a significant amount of class A drugs, firearms and the arrests of members from two organised crime groups.

4. As Silver commander and SIO, he was not fully supported by his senior firearms officer on the scene, E1, who also had dual role– acting both as Bronze commander and tactical adviser to Silver.

5. There was a systemic failure of communication between the firearms team and others

6. The lack of any such exercise in threat and risk assessment had its impact.<#_ftn1>[1] Silver's tactics had no input by way of any such assessment over and above the assurances of the senior firearms officer that the tactics could be implemented simply by leaving everything to his officers' training, experience and courage. This reliance was clearly misplaced.

7. The senior firearms officer did not understand his tactical role to include proactively giving practical advice, for example to carry out the stop as quickly as possible after the suspects were thought to have become armed.

8. Silver was hampered by the system that meant that only the head of the surveillance team was aware of the aerial surveillance. This wrongly deprived Silver of vital information in Harlesden, which offered a safer opportunity to make arrests than Hale Lane, or give information whether the road ahead of the Golf was suitable for a hard stop, as was the case in Scrubs Lane.

9. The hard stop itself was botched, with deliberate ramming of the Golf, which wasn't supposed to happen, officers were not wearing caps identifying themselves as police and the misuse of Hatton guns, used to flatten the Golf's tyres.

The police must take ownership of all these findings, but also conduct their own further review and come up with their own learning, as the Chairman has recommended. Susan still needs more questions answered about the IPCC's decision to suppress the aerial footage once they learned about it in November 2005, because she has not heard anything during this inquiry which makes her confident that the IPCC has not made the same mistakes which have yet to come to light or would not make the same mistakes in the future. In his report, the Chairman has made an understated criticism of the IPCC and CPS: "the contrast between my conclusions on justification for the shooting and those of the IPCC (as adopted by the CPS) is unfortunate." Susan does not need to be so diplomatic. Not only is it shocking that the IPCC's investigation found nothing to criticise as regards the shooting itself, but it found the whole operation virtually faultless, whereas this inquiry has found the whole operation deeply flawed. As to the shooter, E7, as Susan has already said his conduct must now be the subject of fresh consideration by the IPCC and CPS, who will no doubt confirm their own positions today. So, I will only refer you to the key findings

1. The Chairman finds he is 'sure and satisfied' that the shooter did not honestly believe that Susan's son had (1) picked up a weapon and (2) was about to use one.[3]

2. The shooter's honest belief was no more or less than the existence of a generalised threat; and he acted on that 'by way of an immediate burst of fire seemingly as a pre-emptive measure'.

3. Sir Christopher Holland find [4] that, as Azelle was not engaged in any attack justifying shooting at sight, it was not reasonably necessary for E7 to shoot at him, even once.

4. The Chairman finds [5] there was no lawful justification for shooting to kill, whether applying the domestic criminal law or otherwise.

5. But, even if contrary to his clear findings, the shooter did have an honest belief in an imminent threat, the Chairman is "wholly satisfied that firing so as to kill Azelle (shots 5 onwards) was disproportionate, unreasonable and unlawful."

ness managed to pick out Cole in an identification parade, but his appeal barrister.

Last month, his case reached the Court of Appeal after a reference by the Criminal Cases Review Commission (CCRC), the body which investigates potential miscarriages of justice. Top lawyers said problems in the identification of Cole, late disclosure of evidence relating to it and a "flawed" legal direction by the trial judge meant the conviction should be quashed. But after taking a fortnight to consider the case, the country's senior judge, the Lord Chief Justice, Lord Judge, returned to court to dismiss the appeal and condemn Cole to potentially spending the rest of his life in jail.

Henry Blaxland QC, told the court last month that there were serious problems with the evidence. He told Lord Judge, sitting with Mr Justice Mackay and Mr Justice Griffith Williams, it was a "classic problematic identification case". The witness had incorrectly described Cole's height and spoke of clothing which did not match his, he said. He argued that the witness should never have been invited to an identification parade which included Cole and complained that evidence of her description of the attacker was not disclosed before the parade. The crown court judge had also given a "flawed" direction to the jury about how to consider the fact that Cole did not go into the witness box to give evidence at his trial, making the conviction unsafe.

Giving judgment and dismissing the appeal, Lord Judge said it was - 'a *breach of the Police and Criminal Evidence Act that Cole's solicitor was not informed of the contents of the witness' initial description of the attacker before the parade.'* But he continued: "In our judgment, the proper investigation of a fight in the street with fatal consequences to one protagonist and serious injury to another, witnessed by a number of people who have given different descriptions of the assailants, would normally make a series of identification parades not merely 'useful', but probably essential. n our view, in this particular case it would have been remiss of the investigating officer not to have made the appropriate arrangements." Other evidence also backed the prosecution case, he said, including telephone and pager traffic and the fact that Cole had "lied repeatedly", changing his account of where he was at the time of the attack. "In reality, the correctness of her identification of the appellant was given very powerful support by the remaining evidence," he said, adding that the directions given by the trial judge to the jury were "amply justified". [Sam Cole joined MOJUK's list of 'Miscarriages of Justice in 2002, his campaign was run with great vigour by his mother]

Northern Ireland Killings Team Criticised For 'Inconsistencies'

A major "cold cases" team which investigates thousands of Northern Ireland troubles killings treated deaths caused by troops and police with less rigour than others, according to an official report. The review of the work of the Historical Enquiries Team concluded it treated state cases in a way which was inconsistent and had serious shortcomings. It found that the Team's approach to state cases did not conform to the European Convention on Human Rights, and risked undermining the confidence of relatives of those who died during the troubles.

The Team, which is part of the Police Service of Northern Ireland, was set up in 2005 to examine more than 3,000 murders. Its workforce has included hundreds of former officers from both Northern Ireland and GB forces. The review was carried out by HM Inspectorate of Constabulary following criticism in an academic report which said cases concerning members of the security forces were given differential treatment.

While various criticisms of its work have been made over the years, many bereaved families have said they regarded its work as valuable. The Inspectorate said that when it had interviewed more than a hundred people from a range of organisations it found an "almost uni-

heard Brady was given special treatment, with Dr Caroline Logan, a psychologist at the hospital, admitting he was treated as a "special case" because of his notoriety. Patients being considered for entry were vetted so as not to antagonise him, no agency nurses were involved in his care and he was allowed to walk around at night, she said. There is a phone in his corridor he can apparently use freely to call his long-suffering solicitor whenever he wants to make a complaint, the tribunal heard. At one point he had a computer, he said, though not any more. He seems to have access to newspapers, though he claimed to have given up reading them 12 years ago. He can make himself toast and mix packet soups – both daily occurrences, according to his nurse, Mark Sheppard, who told the tribunal on Monday: "If I observe he's eating, I knock on the door to give him the opportunity to put it aside and save him the embarrassment."

Time and again Brady dismissed "ordinary people". They would fail to recognise the "psychological advantage" of being locked up in an inner city jail like Wormwood Scrubs in west London, he said – one of Brady's favourite prisons, where he worked as a cleaner on the psychiatric ward and as a barber cutting the hair of both wardens and prisoners.

But he saved his real invective for psychiatrists, who he said he would "throw a net over" and not let out on the street. He insisted he was not, and never had been, mentally ill. Talk of him having paranoid schizophrenia was, he said, science fiction. Personality disorders do not exist, he said – and even if they did, he does not have one.

It is often said that a psychopath is unable to feel empathy or see their behaviour from a "normal" perspective. But Brady occasionally showed that he was aware of the true horror of his crimes, even if he did refer to them blithely as "recreational killing" carried out for the "existential experience". He is capable of looking objectively at his crimes, he said: "If I stand back and look at the past and think: what would I do if someone came up to me – a criminal – and said … 'Oh, by the way, I recreationally killed,' well you would immediately say: 'Jesus Christ! He's mad … I can't believe what he has just said.'" He admitted that "if someone said it to me, I would immediately say: 'Mad!' I would immediately say: 'Extreme danger!' And three: 'No way! Eradicate!' Just as you would in any situation, military or otherwise." And yet he insisted he was but "a petty criminal in comparison to global serial killers, thieves like [Tony Blair, and George W] Bush"].

We never really learned whether Brady actually wants to die. Back in the 1980s, when presented with details that Hindley had provided of the pair's abduction of Pauline Reade, a 16-year-old who became their first victim in 1963, Brady decided that he too was prepared to confess, but on one condition: that immediately afterwards he be given the means to kill himself. His request was turned down. When the tribunal began it was assumed that his bid to go to jail was in order to continue his hunger strike to the death, believing he would not be force fed in jail. But it is far from clear that is what he wants. In a roundabout way he admitted that he had thought about ending his life, saying: "Who doesn't at one time or another feel like that?" One word in his evidence perhaps gave the biggest hint as to his true desire. He was nothing more than a "monkey in a cage being poked by a stick", he said, and "you can't make plans when you have no freedom of control, movement or anything". Control. That's what this is all about.

Samuel Cole has Lost his Appeal over Murder of John Dookie in 1997.

Kevin Samuel Cole, 36, formerly of Wavertree, claims he was wrongly identified as the man who killed John Dookie in a pub car park in St Peter's Street, Preston, on St Valentine's Day 1997. Mr Dookie, then of Princes Reach, Riversway, Preston, died in hospital two days after he was stabbed in a suspected ambush. His friend, James Handyside, also suffered serious injuries. One wit-

Helen Shaw, Co-director of INQUEST said: INQUEST commends the Judge for his highly significant findings at the end of this unique inquiry. The finding that Azelle Rodney was unlawfully killed demonstrates what is possible when the state affords appropriate resources and takes a robust independent approach to an investigation into a contentious death. This Inquiry shows that thorough investigation and scrutiny can ensure that the right conclusions are reached that reflect the evidence heard. What this exposes is the systemic inadequacy of the current mechanisms for scrutinising deaths following the use of force by state agents that are characterised by poor resources, a closed mindset that assumes immediately that there is no possible criminality, and an expectation that the legal proceedings where the death will be examined will be the inquest. We hope that outcome of the IPCC's current review of the way it investigates deaths, due to be published later this year, will mark a sea change in both attitude and approach. But it is the Metropolitan police who must act upon the findings of the whole report and the Chairman's recommendations. That should involve asking themselves serious questions about the culture and management of firearms officers and undertaking a fundamental review of the whole governance framework. That should address the culture, ethos and approach that creates the perception that firearms officers view themselves and are viewed by others as a uniquely privileged group. This systemic problem contributes to a lack of management accountability and control. If firearms tactical officers had felt themselves to be and were seen by the other police officers as being totally integrated into making decisions about risk this and similar situations could be avoided. That will serve the public best. We have repeatedly raised questions about the planning and control of these operations. Whilst these events occurred in 2005 there have been other fatal shootings by police since then, some which are still under investigation, and we cannot be confident that any lessons have been learned and that further lives (both suspects and the public) will not be put at risk.

Susan Alexander was represented by INQUEST Lawyers Group members Daniel Machover, partner, and Helen Stone, assistant solicitor, both at Hickman and Rose Solicitors and Leslie Thomas, barrister, Garden Court Chambers and Adam Straw, barrister, Tooks Court Chambers.

Barry George - 'Not Innocent Enough to be Compensated' *John Hall, Indpendent, 09/07/13*

Barry George spent eight years in prison after being wrongfully convicted of killing the Crimewatch presenter in April 1999. In August 2008, Mr George was acquitted of the crime. The latest legal move, in which Mr George demanded compensation as a victim of a "'miscarriage of justice", followed the dismissal of his claim by two High Court judges in January.

Lord Justice Beatson and Mr Justice Irwin had rejected his claim that the Justice Secretary unfairly and unlawfully decided he was "not innocent enough to be compensated". They ruled that the Secretary of State was "entirely justified in the conclusion he reached".

Lord Justice Richards, sitting at the Court of Appeal in London, today rejected an application by Mr George for permission to challenge the January decision. He announced that the 53-year-old - who was present in court for the ruling - had "no realistic prospects" of success on appeal.

Mr George went to the High Court seeking a reconsideration of his case which could have opened the way for him to claim an award of up to £500,000 for lost earnings and wrongful imprisonment. It was argued on his behalf that the decision to refuse compensation was "defective and contrary to natural justice". But Lord Justice Beatson and Mr Justice Irwin ruled that he had "failed the legal test" to receive an award.

After today's ruling, Mr George's sister Michelle Diskin said outside the Royal Courts of Justice that the Court of Appeal judge's decision was a "travesty of justice". With her brother standing by her side, she told reporters: "There never was any viable evidence against Barry. This whole case

from April 2000 until today has been a smoke and mirrors exercise designed to placate a worried public, and give the impression that justice had been done. Well neither the Dando family, nor our family, has seen any justice in the past 13 years. We are extremely disappointed with today's decision and will need to go away and regroup to decide what to do next. We cannot let this go unchallenged. Serving eight years in prison for someone else's crime is not acceptable. Everything was taken from this man when the police started what we believe to be a malicious prosecution. He lost his home, his furniture, his clothing and all of his possessions, his place within his community and his church family." How did this unjust legal system expect him to start his life over? He can never get back everything that was taken from him. He has had to rely on his pensioner mother, now deceased, on me, and on the Miscarriages of Justice Support Services, who help those poor, wrongly convicted souls to move back into society. This Government-appointed body recognised that Barry is a miscarriage of justice. They do not work with offenders." Ms Diskin said the family would prepare to "stand against this latest travesty of justice, Barry is innocent. He deserves a financial settlement to compensate for all that was taken from him - everything he owned and eight years of his life."

Secret Can of Worms Untouched as Government Fail Barry George Again!

David Cameron should hang his head in shame at this 'heavily influenced' legal outcome but is probably regretting the fact that Barry does not have a hook on one hand and a suspect foreign background so that he could be quickly and safely flown out of his jurisdiction

Don Hale OBE, comments on Barry George decision

This is yet another shocking but highly predictable decision from a potentially biased judiciary, ably supported by a cruel, uncaring Government that still don't believe there are any innocent people in prison. They are also so conceited to believe that our once proud British justice system is still the best in the world. Rubbish! It may have been once upon a time - but that was a very long, long time ago - and has now become a huge joke! The world is not laughing with them, but at them!

After their recent series of failures with high profile extradition cases and taken to task over numerous human rights issues, we have become a global laughing stock! This government still refuses to accept the legal decisions of an appeal court who quashed the conviction of man jailed for a murder he did not commit. Irrespective of the claimant's potential earning capacity or the long hours charged for unwanted bed & breakfast, Barry George is innocent. He was cleared of the murder of Jill Dando and should be ably compensated for his unlawful detention.

It highlights the ignorance of this Government when they are prepared to shell out thousands of pounds to Westminster favoured barristers eager for their next Knighthood or senior title, to fight appeals, instigate retrials, and challenge genuine compensation claims - and yet refuse to pay for their blatant errors and false imprisonment. It is a scandal of the highest level!

I think there is potentially a similar claim for unfair detention against the Met Police for false imprisonment and for intensive victimisation of this particular individual.

Everyone and his dog knew Barry was innocent of this crime but it was deemed 'politically incorrect' to allow him an easy ride in his miscarriage appeals, and the powers that be are still smarting from his appeal success. Barry was just an unfortunate but ideal scapegoat for this crime. I, like many other investigate journalists, believe this assassination was a political killing. The precise reasons why, and the identification and nationality of the real killer, will probably remain a mystery forever. Only certain senior members of NATO, the Met Police, Britain's security services and key Government officials will ever know the true facts.

The unexpected release of Barry caused an embarrassment for the Prime Minister and

killer had aged. He remained forever the imperious young man of his monochrome mugshot: teddy boy quiff, blank eyes, narrow nose and down-turned lips.

Now we know. He has almost exactly the same hairstyle, now grey and out of time. His face is less lined than most other 75-year-olds', his cataract-plagued eyes now almost always shielded by a pair of tinted aviator-style glasses. His Scottish accent is intact, though his voice is gruff, perhaps as a result of decades of smoking the strong tobacco he has often complained has not killed him. He remains slim, save for a slight double chin and paunch which were a mystery to those watching the video relay of the tribunal – until his nurse revealed that the "hunger strike" he claims to have been observing for the past 14 years involved him snacking daily on toast and soup, supplemented by the feeding tube hanging out of his right nostril. Still present is his superior attitude to everyone around him. Giving evidence on Tuesday, he was keen to demonstrate an advanced grasp of language and learning. Explaining why he sometimes listened to "white noise" while taking his daily feeds through a nasal tube, he said it was simply to block out the racket his fellow patients were making. It was better than listening to "nattering disc jockeys". To do so was, he said, pragmatic – something which would be "axiomatic to anybody with sense".

When faced with a question about the future, particularly when asked why he wanted to be transferred to prison and whether he planned to kill himself there, he frequently said: "I'm not omnipotent." He was keen to boast of the battles he had won with the authorities. He talked of setting up a prison braille unit to make children's books, against the Home Office's wishes – he even claimed he made a deal so that "whatever the prison I went to, I would take the braille machine with me". He bragged of using "simple syllogistic argument" to win legal cases "with no solicitors, no lawyers". One of his earlier hunger strikes, in 1975, prompted questions in "both houses of parliament", he said. Ashworth, he argued at one point, traded on his reputation, as their "most high-profile prisoner". It was best known, he said, as "Brady's hospital". Claiming to have feigned psychosis for 18 months in order to be transferred from prison to Ashworth, he said he practised Stanislavski system of acting, expressing contempt when asked by Dr Cameron Boyd, a forensic psychiatrist sitting on the tribunal panel, to explain what he meant. "I would have thought any informed person would grasp the meaning immediately," Brady scoffed. He used to memorise pages of Plato and Shakespeare, he crowed, and said he once discussed Russian literature in his cell with James Callaghan when the Labour MP was home secretary. Dostoyevsky was a particular favourite, it seemed, and he once compared his situation to a scenario in The Brothers Karamazov. When challenged about his claim that he killed five children for the "existential experience", instead of answering he said: "The definition of existentialism takes up two whole pages in the Oxford Companion to Literature."

Brady's testimony was peppered with name-dropping, repeatedly listing the famous people he had met during almost half a century in captivity. He boasted he had been seen by Dr Peter Scott, "the most eminent and talented psychiatrist" and erstwhile chair of the Royal College of Psychiatrists' Forensic Psychiatry Committee. He played chess in Wormwood Scrubs with another home secretary, John Stonehouse. Over and over again he listed the criminals he had mingled with in jail, reminiscing like a faded starlet harking back to their glory days mixing with the cream of Hollywood. His cell in Durham was next door to the train robber Buster Edwards, he said, and Ronnie Kray would cook steak "for his whole landing". John Vassall, the British civil servant who was blackmailed by the KGB to spy for Moscow, was another contemporary.

He hated life in Ashworth, he said, despite all the evidence in the eight-day tribunal showing just what a permissive regime he was enjoying inside the Merseyside hospital. The tribunal

Sentences of IPP were fitted into the pre-existing framework established for mandatory or discretionary life sentences [22], under which the criteria for imposition of a discretionary life sentence were, broadly, the commission of a very serious offence and a conclusion that the offender was a serious danger to the public and likely to remain so for an indeterminate period.

In imposing a discretionary life sentence the court makes, at least in part, a predictive judgment as to the risk the offender will pose in the post-tariff period [32]. Nothing in section 225(1)(b) of the 2003 Act suggests a distinction between the approach required when imposing a discretionary life sentence and when imposing a sentence of IPP [33]. It is difficult to square the reasoning in R v Smith (Nicholas) [2011] UKSC 37 that no such predictive judgment is involved when imposing a sentence of IPP with other case-law or to see why Smith needed to address that point. The reasoning in Smith is thus questionable, but since it was not challenged on this appeal and is not ultimately decisive, no more need be said about it. [34-38].

The suggestion in R v Parole Board, Ex parte Bradley [1991] 1 WLR 134, 143F, 144H, 145F-G and 146A-C that the reference to future offending being "likely" involves a test of mathematical probability is unsound. It is not helpful to define "significant risk" in terms of numerical probability, whether as 'more probable than not' or by any other percentage of likelihood [17]. A test of "good grounds" is more appropriate [28].

The test to be applied by the Parole Board when considering whether to direct release on licence from IPP is not the same as the test applied by the sentencing judge when imposing the sentence of IPP in the first place [39]. The two tests are, both in their terms and in their default position, substantially different [41].

By introducing a sentence of IPP into the framework applicable to discretionary life sentences, Parliament must on the face of it have intended that release from a sentence of IPP should be subject to the like test as release from a discretionary life sentence [42].

There is no reason why the statutory scheme should not involve a high threshold for imposition of a sentence of IPP than for continuing detention post-tariff [44, 48].

The European Convention on Human Rights does not require a different result. Strasbourg case-law accepts a sufficient causal connection between the imposition of a sentence of IPP and the deprivation of the offender's liberty in the post-tariff period when release is contingent on him demonstrating to the Parole Board that he no longer poses a risk [48].

There was not basis for interfering with the decisions below that the appellant had not established that the Parole Board wrongly took into account directions by the Secretary of State on the test to apply, which the Secretary of State had no power to give [50-53].

References in square brackets are to paragraphs in the judgment

Ian Brady: What we Have Learned About the Moors Murderer *Helen Pidd, guardian.co.uk*

Fifty years after his crimes, the killer is still boastful, still dismissive of 'ordinary people' and still chillingly unrepentantAfter sentencing Ian Brady to life in May 1966, the trial judge, Mr Justice Fenton Atkinson, described the then 28-year-old as "wicked beyond belief".

For the next 47 years, Brady's voice was not heard in public, though he wrote a steady stream of letters to the outside world moaning about life inside Ashworth, the secure psychiatric hospital where he has been sectioned since 1985. Nor did we know what he looked like. Save for a grainy long-lens shot of Brady in 1987 – snapped when he was taken back on to the Moors to search for the body of Keith Bennett, a 12-year-old he and Myra Hindley murdered in 1964 – there was no reliable indication of how Britain's most notorious living serial

the Home Secretary and threatens to open a rotting, controversial and volatile can of worms. Barry George was not involved in this killing at all. He inadvertently became a convenient political pawn - someone who be tucked away and forgotten. They thought nobody cared about him! I did, and so did his family and team of supporters. I am proud to say that I played a small but valuable part in the initial preparation and presentation of his second appeal. I even visited him in his high security cell and told the world about his story of innocence! The real truth is out there somewhere but the SIS shredders may still be on overtime; and as for Barry, he should continue with his claim. He deserves something for eight unlawful years in jail.

My advice is keep going Barry - you deserve much better than this! Don Hale OBE

Martin Corey – Irish Political Prisoner Held Without Charge, Trial

Martin Corey has spent more than three years in Northern Ireland's Maghaberry Prison. Although he hasn't been charged with any crime, there is little prospect that he will be released any time in the foreseeable future. The Secretary of State for Northern Ireland, a British Cabinet Minister, has revoked his license – parole in American terms - which means that he can be imprisoned indefinitely without a trial, sentence or release date.

Martin received a life sentence in December 1973, when he was 19 years old for killing two members of the Royal Ulster Constabulary, the Northern Ireland police force, in an IRA operation. He served 19 years and was released in June 1992. Martin Corey returned home to Lurgan, County Armagh. He started a business, formed an ongoing relationship, and became a highly respected member of the local community.

The police appeared at Martin Corey's door and took him away to prison in the early hours of April 16, 2010, almost 18 years after his release. His younger brother Joe described what happened. "They came to the door at around 6 a.m. There was about 12 of them standing there when I answered the door. They asked for Martin and told me the Secretary of State had revoked his licence." 'They gave no reason for this. There was no struggle. He just got up and walked out with them. They brought him to Maghaberry, where he has been ever since."

He was informed that the Secretary of State for Northern Ireland had revoked his license because he was a "security risk." Later it was claimed that "he was involved with dissident republicans." The Northern Ireland Parole Commission, which is appointed by the Secretary of State for Northern Ireland, held secret hearings where neither Corey nor his lawyers could see the evidence. They returned him to prison, saying he was "a risk to the public."

A Belfast judge ordered him released on unconditional bail on July 9th because he was being held on the basis of secret evidence. His family rushed to the prison to bring him home. But while Martin Corey was sitting in the prison reception area and they were waiting outside, the Secretary of State for Northern Ireland overruled the judge and ordered him re-arrested. His lawyers have announced that they will appeal to the European Court of Human Rights. But this is a time-consuming process that can consume a year or more.

In 2011, Martin Corey told The Lurgan Mail that "I have been in prison for nearly a year and a half, and I still haven't been given a reason. They have put forward a number of allegations against me, and I'm not able to defend myself against any of them. They say I have been seen speaking to known republicans, and that I visited a number of houses. What does that matter? It doesn't mean I've done anything wrong. They have absolutely nothing on me, and that's why they haven't charged me." His partner, Lynda Magee, said: "He does not know what he has done and has been told nothing about why he is being held He has already served his time

and he was willing to do it. But now he is being held for no reason."

Martin Corey is a member of Republican Sinn Fein, a legal political party throughout Ireland. They are opposed to the Good Friday Agreement because they believe it perpetuates British rule in Northern Ireland. Republican Sinn Fein is almost universally believed to be affiliated with the Continuity IRA in the same way that Sinn Fein was traditionally affiliated with the IRA. This can be used by British authorities to justify imprisoning Martin Corey because he is a "dissident republican" and a threat to the peace process.

However people on both sides of the Atlantic who have little or no sympathy with Martin Corey's politics are demanding that he be released. Gerry Adams, the president of Sinn Fein, met the Secretary of State for Northern Ireland, in the Dáil (Irish parliament) and urged him to free Martin Corey. Adams stated that "Martin Corey was released by the courts… [He] should be released and I put it very strongly … that this should be done." At its last convention, the AOH passed a resolution "that the Ancient Order of Hibernians in America condemns Owen Patterson [the Secretary of State for Northern Ireland] for the continued imprisonment of Martin Corey and urge that be released immediately on unconditional bail. "

Like Martin Corey, Marian Price was imprisoned without charge or trial on the basis of secret evidence until she was released in May after her heath was all but broken. They are the most recent targets of the ongoing policy of interning political prisoners. Martin Corey is only one more victim of the permanent human rights emergency in Northern Ireland. Just in the last few months:

Stephen Murney has been charged with "possession of materials of use to terrorists" for taking photographs of the Northern Ireland police in action. The police tried to intimidate a key witness in order to prevent Brendan McConville and John Paul Wooten from appealing their conviction. In May, John Downey was suddenly charged with a 1982 bombing when he went to London from his home in Donegal.

We will need to build campaigns for each of them. If Marian Price is at home today, it is only because there was a very public, very determined campaign to set her free both in Ireland and throughout the world. As essential as campaigns for individual prisoners are, it's no longer enough to campaign for one or another of the political prisoners. Both in Ireland and the United States we need to try to broaden our campaign to include as many prisoners as possible and challenge the whole attack on basic human rights. Otherwise, there will be more political prisoners in the very near future.

As Northern Ireland civil rights leader Bernadette Devlin McAliskey put it: "The Good Friday Agreement promised and end to this abuse of human rights and democracy. It is long past time it delivered on this promise. It is also time the international power players who created this deformity of democracy held it to account." *(The Wild Geese - 03/07/13)*

R (application of Sturnham) v Parole Board of England and Wales

and anor (Respondents) (No. 2) [2013] UKSC 47 On appeal from [2012] EWCA Civ 452

The case is before the Supreme Court is an application for permission to appeal, with the appeal to follow if permission be granted. Having heard the submissions, I consider that it raises issues of importance which merit the Court's consideration and would therefore grant permission. On that basis, there are two grounds of appeal before the Supreme Court. The first focuses on the relationship between the criteria for the court to impose a sentence of IPP and for the Parole Board to direct release on licence. The appellant submits that they must, though differently worded, be read as involving the same substantive test. The Parole Board and the Secretary of State submit that the

difference in wording represents a difference in substance. The second ground of appeal is that, even if the criteria differ in substance, the Parole Board in fact applied a wrong test when deciding whether to order the appellant's release. Although Mr Hugh Southey QC for the appellant accepts that this ground is now largely, if not entirely, academic in view of the appellant's release, he submits that the court should address it to clarify the test for release.

Judgment: The Supreme Court grants permission to appeal but unanimously dismisses the appeal. The judgment of the Court is given by Lord Mance. Justices: Lord Neuberger (President), Lord Mance, Lord Sumption, Lord Reed and Lord Carnwath

Background To The Appeals: This case concerns the issue of which test should be applied by the Parole Board in determining whether to direct the release on parole, under section 28(6) of the Crime (Sentences) Act 1997, of a prisoner serving an Indeterminate Sentence For Public Protection (IPP). In particular, the question is whether that test should be the same as the test governing the imposition of such a sentence by a sentencing judge, which is contained in section 225(1)(b) of the Criminal Justice Act 2003.

On 19 May 2006 the appellant punched a man during a fight outside a pub. The man fell backwards, struck his head on the ground and died the next day. The appellant was duly convicted of manslaughter. The judge concluded that the appellant was dangerous; he was forceful, physically strong and considered that he had the right to respond with violence to any tendered or threatened towards him. Accordingly the judge decided to impose a sentence of imprisonment for public protection on the basis that there was "a significant risk to members of the public of serious harm occasioned by the commission by [the offender] of further specified offences" (Criminal Justice Act 2003, section 225(1)(b)).

The judge fixed a minimum term ("tariff period") of 2 years 108 days. The tariff period expired on 19 May 2009. Following the expiry of this tariff period it was the responsibility of the Parole Board to decide whether the appellant should be released on licence. In conducting this assessment the Parole Board are required not to order release unless "satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined" (Crime (Sentences) Act 1997, section 28(6)(b)).

The Parole Board review took place on 10 May 2010. The Parole Board concluded that the appellant had made significant progress but continued to present a low risk of re-offending and a medium risk of serious harm. As a result the Parole Board declined to order release. The appellant issued proceedings for judicial review, claiming (a) that the Parole Board had applied the wrong test; and (b) damages for the delay of almost one year in holding the review. The claim for damages was disposed of by the Supreme Court by judgment dated 1 May 2013, [2013] UKSC 23. Consequently, only the claim that the wrong test was applied remains for determination.

Subsequent to the commencement of the judicial review proceedings, the Parole Board directed that the appellant be released on licence. As a result the present appeal has no direct significance for the appellant's detention. Nonetheless, the matter was of significance for the Parole Board when it came before the Court of Appeal and may have a continuing significance in future cases. Consequently, the appellant seeks permissions to appeal to the Supreme Court.

Reasons for the judgment

Section 225(3) of the Criminal Justice Act 2003 ("the 2003 Act") introduced a new form of indeterminate sentence, imprisonment for public protection, based on offending which was either of a kind for which a life sentence was not available or not of such seriousness as to justify a life sentence [21].