

Libel trial McCann v Gonçalo Amaral - Day 7 Witness No1

(08.10.2013 10:10 am)

The Metro is on strike today. Everyone is present in Court except for the Judge. The plaintiff's lawyer, Dra Isabel Duarte, is not present but substituted by her assistant Dr Ricardo Alfonso, he sits in her chair.

The session eventually starts by considering several requests by the two parties. The first request (from the plaintiffs) concerns documents. The Judge reminds the Court that only documents which are relevant will be admitted in the process. G&P's lawyer, Dra Fatima Esteves, makes an objection on the basis that first three documents aren't legible. The Judge says they are. It seems the origin of these documents was with the Madeleine Fund site. The Judge eventually finds unjustified the presentation of these documents.

The Judge then refers to the late formal request by Gerald McCann and Gonçalo Amaral to take the stand to which now is added a similar request by Kate McCann. The Judge says that the Court will decide about the relevance or not of these requests, when the presentation of the matter of proof indicated by the parties is concluded.

Now follows a request by Gonçalo Amaral's lawyer, Dr Santos de Oliveira, regarding an Application dated 27th September 2013 concerning the substitution of two witnesses. The Judge observes that this request, not being grounded as it should, according to the Law, can't be conceded.

SO then reads an extended statement relating the technical and financial difficulty which his client is experiencing in researching information which is available concerning the effect on the McCanns of the book publication. He states that due to this complex research it was only now that GA found the complete version of an interview by the McCanns in the weekly *Expresso* dated 6th September 2008 (online on the 7th) entitled *Gonçalo Amaral é uma vergonha* ("GA is a shame"), i.e a month and a half after the publication of the book.

Link to *Expresso* article in English > <http://www.mccannfiles.com/id163.html>

SO continues. This interview raises the issue of the reaction of the McCanns to the publication of the book and mentions their intention to publicise the process related to the disappearance of their daughter.

SO quotes the McCanns as answering "no" to one journalist when asked if they had read the book. Kate McCann added, "*Why would I (read it)?*" and Gerald McCann claimed, "*I won't learn anything from reading it.*"

SO quotes further comments where the McCanns are asked about suing Gonçalo Amaral. Gerald McCann says they are, "*...focused on what they can do to find Madeleine and not on suing anyone.*" whereas Kate McCann observes that she, "*...will not lose time with Mr Amaral.*"

SO observes that the McCanns also claim in the interview that the twins, "*...are very, very happy.*" and do not mention any problems related to the book. SO suggests that a month and a half after the book was published they seem not to feel shame, lack of appetite, anxiety, and insomnia etc., all psychological arguments for the case.

Apparently, the two journalists who conducted the interview, namely, Raquel Moleiro and Rui

Gustavo, have been asked to take the stand to confirm the accuracy of the McCann's statements. There is some confusion about the Expresso article, which is in the *providência cautelar* (injunction) files, but not in its full version.

Photocopies of the Expresso article which SO brought to Court are distributed to all lawyers with the assistance of the Clerk of the Court.

RA, Dra Duarte's substitute, opposes the request for the interview to be included in the process because it was already appended to in the injunction. He adds that it is not necessary to hear the journalists because the court does not seek to prove whether or not the plaintiff's statements are accurately reproduced in the written text. He asks for the request to include the document to be rejected.

The Judge disagrees and declares that this document will be included within this trial's files because it constitutes a more legible version than the one which was joined to the *providência cautelar* (injunction) relating to the banning of the book. The Judge adds that the comments of the readers about the interview have to be included in the files because they illustrate the reactions of the public to the contents of the article.

The testimony as it happened...

(08.10.2013, 11am) **Ricardo Paiva**, Police Inspector now working in Funchal, Madeira gives his evidence via video-link.

Gonçalo Amaral, who without exception attended all sessions so far, leaves the court room.

The Judge asks the witness if he knows why he is here by video-link.
RP says he knows.

The Judge asks if **RP** if he was a colleague to Gonçalo Amaral.
RP says "yes" and adds **GA** was the Coordinator of the investigation team.

The Judge asks the witness when he was a Police Inspector in Portimão.
RP says he commenced in 2004 and finished in November 2012.

The Judge asks when he participated in the investigation.
RP says it was from the very beginning and lasted up to the shelving of the process. He adds that even afterwards, he continued to analyse information which kept arriving at the Portimão Criminal Investigation Department (DIC).

The Judge asks if the witness' relations with Gonçalo Amaral are professional or personal.
RP replies that he had a professional relationship with **GA**, as one has with one's superior but also a friendly relation, as with colleagues.

The Judge asks whether this friendship lasted.
RP says "yes".

Asked, **RP** swears that he will answer the truth.

1) Defence lawyers

a) Guerra & Paz's lawyer, Dra Fátima Esteves, is the first to question the witness.

GP – Considering the investigation, can you affirm whether, because of the book, the PJ stopped collecting information?

RP As I said to the Court, there was no effect on the collection and subsequent examination of new information on this case.

GP – Is the investigation continuing?

RP says he's not involved with this investigation any more, but he read in the media that it was.

GP – Do you know when the shelving report was published?

RP says "in June?", then corrects saying he doesn't know the exact date.

GP – Do you know if the investigation was reopened later, with new information?

RP It wasn't formally reopened. However, several pieces of information arrived about possible places where Madeleine could be. Individuals also said they had information. All this was investigated and the proceedings were released to the Portimão Court.

GP – Have you read the GA book?

RP says "yes" and adds he read various books by Gonçalo Amaral.

GP – Are the facts mentioned in this book those of the investigation or are they new?

RP says he can affirm that what's in the book is backed by the investigation data. He adds that the content of the book mirrors the investigation and can be checked since the public has access to the files.

b) GA's lawyer, Dr Santos de Oliveira.

SO – You stated that the facts in the book are in the investigation which you were part of. Was that up until the shelving of the process?

RP says "yes" and that, afterwards, he sorted out and worked on the incoming information.

SO asks whether the facts then were insignificant...

The Judge overrules.

SO – What about the possibility that the child had died?

RP says that after a certain time it is normal to start thinking of death. He says that the investigation took various avenues, one of them being the death of the child. He says their British colleagues even contemplated the possible concealment of a cadaver.

SO – So you went on working on this case. What did you do?

RP says his task was to examine the new information. He processed it, introducing it into a data base in order to cross reference with other data. When it was necessary the PJ made external interventions. He thinks that information still arrives even now and is given the same treatment.

SO – During this processing of data retrieval and comparing, did you notice a change after the book was published?

RP says he didn't at all.

SO – What happened then?

RP says the volume of information was more or less the same. He adds that none of the various published books or newspaper articles stopped the information flow.

SO – When the files are shelved, is it normal to continue to process information?

RP says "yes". The police have to examine every piece of information in order to establish whether it is relevant or not.

SO – Was a work team constituted to process information?

RP says they were two officers for that job, both of them having knowledge about the case. The witness then alludes to the Scotland Yard review and says that the processed information was transmitted to the team that worked with SY.

SO asks when this team was formed, if it was after the publication of the book.

RP says it was much later.

c) The Producer and Publisher of the documentary (VC)'s lawyer, Dr Henrique Costa Pinto.

VC – Have you watched the documentary?

RP says he did.

VC – This documentary was based on Gonçalo Amaral's book. Does it refer to facts that aren't mentioned in the investigation?

RP answers that the documentary was synonymous with the book. He says that if the documentary was based on the book then that in turn by inference was also based on the investigation...

VC interrupts and insists, repeating his question.

RP says the book both exhibits what is in the investigation and the author's opinion about it.

VC observes that an opinion is an opinion and facts are facts. He wants the witness to tell the Court if the documentary contains facts that aren't in the criminal process.

RP says the documentary, according to his understanding, is based on the facts of the criminal process.

VC - Only on facts?

RP – Yes, facts complemented by an opinion about them.

VC – And the book?

RP says that the book is based on the investigation, contains an opinion about the investigation data and also refers to GA's experience as a police inspector.

VC – Do you remember the conclusions (of the documentary)?

RP says he remembers vaguely.

VC – Have you found conclusions that are in conflict with the content of the criminal process?

The Judge overrules saying that it is not what they are here trying to establish. She says that the Court is attempting to ascertain facts, not opinions.

d) TVI's lawyer, Dr Miguel Coroadinha.

TVI - Up to what date were you involved in sorting out the incoming information?

RP Until the start of 2012.

TVI – Between 2008 and 2012, did you note a difference...

The Judge interrupts again saying that the witness has already answered that question and adds that the witness hasn't observed any differences.

TVI – Was the new team to help Scotland Yard constituted before you left?

RP says the media informed us about this, he says the new team is in Porto to reanimate the process.

2) McCann's lawyer, Dr Ricardo Afonso.

RA - Can you explain to the Court how this team was constituted and why it wasn't constituted earlier?

RP answers that the lawyer must ask this question to the PJ National Director as he is not familiar with the reasons that led to the formation of this team.

RA – You said that what is in the book is also in the criminal process?

RP replies that he said that the book is based on the criminal process and supports the opinion of the author.

RA says he wants to know whether the final part of the book which states, "Para mim e os investigadores..." (For me and my team)...

The judge overrules saying this is not a fact, but a conclusion. She observes that the lawyers will have to work for the final allegations; they'll have to distinguish between what is fact, indication or conclusion.

The Judge (Maria Emília de Melo e Castro) is now asking

MC – What are the revelations of the book?

RP asks the Judge to explain...

MC interrupts and repeats – What is new in this book?

RP Compared to the investigation, nothing.

The Judge seizes the book, on her desk, and waves it in the direction of the screen.

MC – Doesn't the cover say it has unique revelations?

TVI's lawyer says "no".

The Judge asks him to kindly not comment.

RP answers that there is nothing new in the book.

MC – Shall I have to conclude then that what's on the cover is misleading publicity?

RP mumbles.

MC – Is there or is there not?

RP mumbles.

MC insists again and again **RP** mumbles.

MC – Then there are no revelations!

There is a few seconds silence, like a relief after a tension.

Evidence ends.