

The Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

Note on reporting restrictions

Note relating to the reporting restrictions made in the case of *R v Corporal Donald Payne, Lance Corporal Wayne Ashley Crowcroft, Private Darren Trevor Fallon, Sergeant Kevin Lee Stacey, Major Michael Edwin Peebles, Warrant Officer Mark Lester Davies and Colonel Jorge Emanuel Mendonca*

1. Further to the opening statement made by the Rt Hon Sir William Gage, Chairman of the Baha Mousa Public Inquiry, on Wednesday 15 October 2008, this note summarises the effect of the reporting restrictions that were made by the Hon Mr Justice McKinnon in the court martial proceedings in *R v Corporal Donald Payne and others* held at the Military Court Centre, Bulford from September 2006 to April 2007.
2. Previous orders made by Mr Justice McKinnon on 24 October, 3 March 2006 and 17 July 2006 respectively were replaced by a single order made on 19 September 2006. The key restrictions imposed by that order, as slightly amended by a further order made on 12 October 2006, are:
 - (1) The press and other media may not report or publish the personal addresses or the area of the country in which the defendants or (if different) their next-of-kin reside.
 - (2) Any description of the defendants which may lead to the identification of any of them in press and other media reports is to be restricted to their names, rank and military units only.
 - (3) No image of the face, or part of the face, of any defendant is to be reproduced publicly in any media (including but not restricted to newspapers, television or internet) to protect the lives and safety of the defendants and their families.
3. A further order, following an application made on behalf of Colonel Mendonca, was made on 14 February 2007 modifying the effect of the order set out in paragraph 2(3) so that as from that date it read as follows:

“No image of the face, or part of the face, of any defendant **with the exception of Colonel Mendonca** is to be reproduced publicly in any media (including but not restricted to newspapers, television or internet) to protect the lives and safety of the defendants and their families.”

[Amended text shown in bold type]

4. The above orders were made under section 11 of the Contempt of Court Act 1981 and the inherent jurisdiction of the court in the light of the Human Rights Act 1998 as well as under Article 2 of the European Convention on Human Rights, and sections 6 and 7 of the Human Rights Act. They were made having regard to the profile of the case and the general security risks associated with anyone who might be perceived to have taken part in operations in Iraq.
5. As indicated in the Chairman's opening statement, he had been advised that the orders remain in force.
6. Copies of the three orders referred to in this note are attached.



Duncan Henderson
Solicitor to the Inquiry

15 October 2008

Addendum

A further Order was made by Mr Justice McKinnon on 7 December 2006 which prohibited the reporting of the evidence in relation to parts of a Court Martial witness's diaries which were referred to at Day 52 of the Court Martial proceedings (pages 78 and 79 of the Court Martial transcript for 30 November 2006).



Duncan Henderson
Solicitor to the Inquiry

7 January 2009

OJAG Case Reference: 2005920

REGINA

- v -

Corporal Donald PAYNE
Lance Corporal Wayne Ashley CROWCROFT
Private Darren Trevor FALLON
Sergeant Kelvin Lee STACEY
Major Michael Edwin PEEBLES
WO II Mark Lester DAVIES
Colonel Jorge Emanuel MENDONCA

HEARING AT THE MILITARY COURT CENTRE
19 September, 2006
REPORTING RESTRICTIONS

1. This order is made under Section 11 of the Contempt of Court Act 1981 and the inherent jurisdiction of the court in the light of the Human Rights Act 1998 as well as under Article 2 of the European Convention on Human Rights and section 6 & 7 of the Human Rights Act. It replaces the previous orders on reporting restrictions made on 24 October 2005, 3 March 2006 and 17 July 2006.
2. In view of the profile of this case and the general security risks associated with anyone who might be perceived to have taken part in operations in Iraq, the press and other media may not report or publish the personal addresses or the area of the country in which they reside, of any of the defendants or their next of kin addresses if different. Any description of the defendants which may lead to the identification of any of them in press and other media reports is to be restricted to their names, rank and military units only. This restriction remains in force until specifically varied by further order.
3. No image of the face of any defendant is to be reproduced publicly in any media (including but not restricted to newspapers, television or internet) to protect the lives and safety of the defendants and their families.
4. The general security risk referred to in this order is not based on any specific intelligence but relates to the fact that there have been attacks on civilians in the UK by those expressing sympathy with religious extremism and the court is not prepared to expose named members of the Armed Forces or their families to any risk of similar attack. In balancing that risk against the public interest in justice, the latter can be satisfied by identifying the defendants in the way specified.

The Hon. Mr. Justice McKinnon
Judge Advocate.

19 September 2006



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Reference: MCS/BUL/2/13

Date: 12 October 2006

OJAG Case Reference: 2005920

REGINA

- v -

Corporal Donald PAYNE
Lance Corporal Wayne Ashley CROWCROFT
Private Darren Trevor FALLON
Sergeant Kelvin Lee STACEY
Major Michael Edwin PEEBLES
WO II Mark Lester DAVIES
Colonel Jorge Emanuel MENDONCA

HEARING AT THE MILITARY COURT CENTRE
19 September, 2006
REPORTING RESTRICTIONS

The Court has today amended Paragraph 3 of the above Reporting Restrictions, issued on 19 September 2006, as follows:

" 3. No image of the face or part of the face of any defendant is to be reproduced publicly in any media, including but not restricted to newspapers, television or internet, to protect the lives and safety of the defendants and their families."

Note: amendment shown in bold type.

The Hon. Mr. Justice McKinnon
Judge Advocate.

MCS
12 OCT 2006
MINISTRY OF DEFENCE

12 October 2006

OJAG Case Reference: 2005920

REGINA

- v -

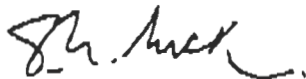
Corporal Donald PAYNE
Lance Corporal Wayne Ashley CROWCROFT
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HEARING AT THE MILITARY COURT CENTRE
19th September, 2006
REPORTING RESTRICTIONS

The Court has today amended Paragraph 3 of the above Reporting Restrictions, issued on 19th September 2006, as follows:

"3. No image of the face or part of the face of any defendant with the exception of Colonel Mendonca is to be reported publicly in any media, including but not restricted to newspapers, television or internet, to protect the lives and safety of the defendants and their families."

Note: amendment shown in bold type.



The Hon. Mr. Justice McKinnon
Judge Advocate

14 February 2007