

Libel trial McCann v Gonçalo Amaral - Day 13 – Final claimant speech

The hearing as it happened

(10.12.2014, 10 am)

All lawyers are present, except for Dra Isabel Duarte, substituted (no reason given) by her assistant, who therefore occupies her chair. Each lawyer will stand up while speaking (whereas up to this hearing they always remained sitting when speaking).

The judge Maria Emília de Melo e Castro opens the session alluding to the 30 days that are granted to the plaintiffs to obtain from the High Court the authorisation to legally represent, in this trial, their missing daughter. After this time, the lawyers (all requested it) will have 10 days to hand written *alegações de direito* (*allegations concerning points of law and their interpretation*) over to the court (*whereas the matter of fact concerns what happened and how it happened, the matter of law comes under the conformity to law and justice*).

The McCann lawyer, Dr Ricardo Correia Afonso, shows first a copy of Gonçalo Amaral's book, says it is the 4th edition and he bought it recently, hence it is findable. He starts reading a list of numerous points with a rather monotonous voice and at top speed, only sometimes using an ironic intonation.

– RCA refers to the Correio da Manhã interview (with title on the first page)

<http://joana-morais.blogspot.com/2014/06/hidden-evidence.html>

where Gonçalo Amaral, last June, repeats that the parents were guilty and mentions a cremation story.

– RCA speaks of bookshops selling GA's book and compares prices. He states how much money GA made with his book : over 342 thousand euros and over 22 thousand euros of foreign copy rights, etc. (no Brazilian specific edition).

– RCA then speaks of the DVD's price (6,95 €). GA made over 37.000 € with the DVD and got 10% of the 330 thousand paid by TVI to VC filmes. VC filmes and VC multimedia ceded the documentary only to Portugal and PALOP countries.

He mentions a site where the DVD could be bought but that doesn't exist any more.

– About the number of people who watched the documentary, RCA says that the audience was the biggest ever for Portuguese TV : over 2.200.000 spectators, 61,8% dos Portuguese who watch TV. He refers to the Group Marktest study about this.

[http://webcache.googleusercontent.com/search?](http://webcache.googleusercontent.com/search?q=cache:bY6zyTSuFhQJ:media.iolnegocios.pt/media1201/06dec159728e1d013ad0320f746537bf/)

[q=cache:bY6zyTSuFhQJ:media.iolnegocios.pt/media1201/06dec159728e1d013ad0320f746537bf/+&cd=1&hl=fr&ct=clnk&gl=pt&client=firefox-a](http://webcache.googleusercontent.com/search?q=cache:bY6zyTSuFhQJ:media.iolnegocios.pt/media1201/06dec159728e1d013ad0320f746537bf/+&cd=1&hl=fr&ct=clnk&gl=pt&client=firefox-a)

– RCA summarises briefly what the MC's witnesses have stated before the Court, from Emma Loach to Trish Cameron.

<http://www.gerrymccannsblogs.co.uk/AnneGuedes.htm>

– Concerning the 75 thousand DVDs sold, RCA observes that the destruction of the remaining copies needs to be clarified. He notes contradictions between numbers and finally concludes that 745 copies are missing. Where are they ?

– RCA qualifies GA's activity as "criminal mischief" since the judicial secrecy had to be respected, as required by the PGR, up to the first half of August (2008).

– RCA alludes chronologically to 15 news articles (some of them in Spanish), after the book was published, accusing the McCanns of concealing the body or suggesting that the child had died in the bedroom or wondering whether she's alive, etc. He observes that those national and international articles on the alleged death of the child increased the sales of the book. He refers also to various authorities to demonstrate that the book and the documentary were essential elements to convince people that the child had died. He quotes page 221 of *A verdade da mentira* :

Ocorreu uma simulação de rapto ;

There was a simulation of abduction.

Kate Healy e Gerald McCann são suspeitos de envolvimento na ocultação do cadáver da sua filha ;

Kate Healy and Gerald McCann are suspects of involvement in the concealment of their daughter's body.

A morte poderá ter sobrevivido em resultado de um trágico acidente ;

Death could have occurred as a result of a tragic accident.

– RCA mentions the report that the inspector Tavares de Almeida sent to GA on the 10.09.2007, and its implications : if the child is dead, finding her ceases being an emergency. Comparing this report with the book he finds differences.

http://www.mccannpjfiles.co.uk/PJ/TAVARES_ALMEIDA.htm#p10p2603

– He describes GA as pretending to be magnanimous, knowledgeable and punitive and qualifies his conclusions as "primary". In the perspective of a semantical and graphical analysis of the book, the cover, for instance, was conceived to suggest a police file. RCA observes that there is no discrimination between reality and fiction.

– RCA points to the beginning of the DVD : *I will prove...*

O meu nome is Gonçalo Amaral, fui investigador da Polícia Judiciária durante 27 anos. Coordenei a investigação do desaparecimento de Madeleine McCann no 3 de Maio de 2007. Nas próximas 50 minutos, vou provar que a criança não foi raptada e que morreu no apartamento de férias na Praia da Luz.

My name is Gonçalo Amaral, I've been an investigator with the Polícia Judiciária during 27 years, I coordinated the investigation into the disappearance of Madeleine McCann on the 3rd of May 2007. During the following 50 minutes, I will prove that the child wasn't abducted and that she died in the holiday apartment in Praia da Luz.

– To illustrate the argument that the book tends to rely on lies to deceive the reader, RCA mentions GA referring to Carnival day (in 2008 on the 5th of February) as being a Sunday (when it's always on Tuesday). Though the legal hunt period was then finished, GA writes he can hear hare hunters.

– RCA qualifies GA's wish to defend his good name as a kind of poetical surge. In contrast and though the McCann couple were cleared, GA produces judgements of value like calling

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que atingiu mais de 2 milhões de libras, um crime de burla ou abuso de confiança.

that had reached over 2 millions pounds, a fraud or a breach of trust.

Or, speaking of the home country of the MC,

Para mim a investigação estava morta desde 2 de Outubro de 2007, quando parecia ter vingado um novo ultimatum inglês no próprio dia em que se discutia o Tratado de Lisboa..

For me the investigation was dead from the 2nd of October 2007, when a new English ultimatum seemed to have won out on the precise day the Lisbon Treaty was discussed..

– RCA argues that GA dropped the elements that could cast doubt on his thesis, destroying the processual evidence and fuelling the uncertainties about what happened on that night. GA always said, in order to stimulate the expectancies, that he detained much more evidence than what had been made public.

– RCA underlines that the highest authorities of the PJ, like Alípio Ribeiro, talked of precipitation concerning the statute of *arguido* (formal suspect).

– RCA refers to the doubts related to the Jane Tanner statements..

Estas (Jane's declarações) não batem certo. Qual a necessidade de o eventual raptor ter caminhado para a zona mais aberta, apesar de não existir luminosidade suficiente que permitisse a Jane Tanner aperceber-se de tantos pormenores? These (Jane's statements) don't match. Why should the eventual abductor (in a planned abduction) have walked toward a more open area, whereas there was no sufficient luminosity to allow JT to note so many details (on the pyjamas).

.. though, he notes, GA insists on the importance of the first statement

São essas primeiras declarações que passam, quase sempre, a ser as mais importantes, por serem contemporâneas ao acontecimento.

The first statements almost always appear to be the most important, because they're contemporaneous to the event.

– RCA observes that vague and inconsistent sentences end up making it complicated for the reader to make their own analysis and notes a difference between Jane's statements and the way that they are reported by GA (for instance 'Tanner' carrier's hair), a police authority. He recalls that truncation can be used for manipulation purpose.

– Considering the Smith family episode, RCA observes that GA describes their route in a condensed manner and, in spite of the similarity between the 'S' carrier and the 'Tanner' one, in equivalent conditions of street lighting, isn't capable to compare the first to the second, whom he depreciates and considers inconsistent. The presence of this family of 9 refutes GA's argument that streets were deserted.

– In the perspective of the demonisation by GA of the McCann couple, RCA compares the MS statement to the way it is reported in the book. In the book MS recognized (in the statement he thought it could be the same man) the carrier he saw when watching on TV Gerald McCann getting out of the plane carrying his little son in September 2007. GA insists on the same uncomfortable way to carry the child, whereas anyone can see on the photograph that the father is very much at ease doing this. It is very likely that MS was influenced by what he saw on TV, since this plane episode happened two days after the McCanns were made *arguidos*. RCA underlines that the rest of the family didn't confirm the impression of MS. Facts are omitted in order to amplify the negative effects.

– The sketch of the route taken by the S carrier is exemplary (p. 116 of the book). Though he could come from many directions, one is imposed.

– GA says that Mark Harrison (the NPIA expert in missing persons who offered to call for specialized dogs among many other things) studied a death scenario whereas, in the translation of MH's report, there's no conclusion that the child was killed, it is just a possibility and MH says that other scenarios could be considered, which is confirmed in his second report.

– About the EVRD and CSI dogs, Mark Harrison claims that their alerts are only police clues and not proofs, they need to be corroborated. The important place given to the dogs in GA's book is explained just by the fact that the dogs don't lie.

– The passage..

foi comunicado o seguinte: o ADN do sangue encontrado na bagageira da viatura usada pelo casal McCann tem uma correspondência de 50% com Gerald McCann, devendo ser de um descendente seu.

We were told this : the DNA in the blood found in the boot of the car used by the McCann couple shows a 50% match with Gerald McCann, implying a filiation link.

.. sounds like a fiction novel, the objective being to manipulate the reader.

– In the following passage (p. 184) starting with..

Nos primeiros dias de Setembro...

On the first days of September...

.. logic is missing.

Lemos o relatório e não concordamos com a desilusão de Stuart (Prior, Leicestershire Constabulary superintendent)

We read the report (of the FFS Birmingham) and we don't agree with Stuart's delusion,

... which is however confirmed by the second report from the FFS.

Here RCA is trying to show that neither MH (who spoke of intelligence, nothing else), nor MG (who spoke of contamination, nothing else) nor SP supported the decision to make the McCanns *arguidos*. He mentions the EVRD's discoveries in the McCann flat, examines the handler's report that, contrary to the book, says that no human residues were localised and interprets the unsupported evidence as intending to manipulate. The statements of the British experts were wrongly interpreted by the Portuguese investigators and the result was the *arguido* statute imposed on the McCanns, as it is suggested by the then head of the PJ, Alípio Ribeiro.

– RCA refers to John Lowe (the head of the FFS) who clearly said that the DNA was incomplete and was a mixture of various persons' DNA, making any conclusion impossible. RCA notes that the Portuguese investigation team had time to contact John Lowe before drastically deciding to make the McCanns *arguidos*.

– Back to the dogs, an issue that GA's book emphasises, RCA questions the necessary handling rigour and quotes MG and MH while underlining that no evidence can be drawn from the dogs' alerts, a claim that is repeated in various reports and explains the UK tensions.

At that point, the judge Maria Emília de Melo e Castro, who has been listening with attention but without taking notes (is the hearing recorded as the other were ?) interrupts Dr Ricardo Afonso, telling him that he only has 5 minutes left and must conclude.

As another lawyer needs a short break, Dr Ricardo Afonso has some time to prepare his conclusion. Nevertheless, after the break, he repeats details of the dogs' operation in the flat and wonders why the CC toy wasn't tested. He was obviously taken by surprise at the judge cutting him short. There's a moment of attempts to speak, hesitations and silences, ending with the lawyer simply saying "nothing more".

And so it was.

This rather unexpected end gains sense if all lawyers, including Dra Isabel Duarte, will produce written allegations.

It should be kept in mind that this speech lasted for about 2 hours. This is far to be a verbatim.

Thanks to Astro for clarifying some points.

Many thanks for smoothing the English to Ima, CPN and SP from QV whose members always welcome opponent opinions.