

## **Libel trial > McCann v Gonçalo Amaral - Day 3 Witness No 1**

The session commences with a discussion on the order in which witnesses are to be heard. The McCann family lawyer Isabel Duarte requests a modification because some witnesses reside in the UK (the last session on 13<sup>th</sup> September, was shortened due to the judge's personal problem). Isabel Duarte had proposed written statements but defence lawyers Fatima Esteves and Santos Oliveira objected (all parties must agree). This protest has to be written down.

The judge then reminds the clerk to record the reaction by the plaintiff to the request of "exclusion of publicity" by the defender, a request the judge considered without merit.

All this took an hour because each request must comply strictly with and be recorded in accordance with Portugal's Civil Procedure Code.

The testimony as it happened...

(19.09.2013, 10:30am) **Alan Robert Pike** is currently a Clinical Partner & Trauma Consultant at The Centre for Crisis Psychology (CCP), a private Company which provides psychological care for traumatised individuals. He is a Crisis Counsellor and holds an honours degree in Social Science.

He first met the McCanns on the 5<sup>th</sup> May 2007. His first contact was a phone call from the Mark Warner Group at 4am in the morning. He says it is quite normal to be woken up in the middle of the night in a case of psychological traumatic.

MW requested he take the next possible flight to the Algarve. He says he provided professional services to the McCann family on a regular basis up until September 2007. After they went back to the UK he continued to counsel them up until about 3 years ago. He is now in contact with them on a *pro bono* (no charge) basis by e-mail and telephone. From the end of 2007, he was engaged by the McCanns directly. He says MW did much more than would have normally been expected of such a company.

### **1) McCann family lawyer, Isabel Duarte, is the first to question the witness.**

ID asks whether she can question him on his professional relationship with the McCanns, whether there is a confidentiality clause.

**AP** says he anticipated this question and talked to the McCanns before coming to Lisbon. He says the confidentiality is normal but the McCanns authorized him to provide information.

ID says the issue is the effect of the Amaral book and the documentary on the McCann family.

– Do you know of these?

**AP** says he read the book and has seen the documentary.

ID – In what circumstances did you come across them?

**AP** says it was very easy. The documentary was on YouTube and Kate McCann sent him a translated copy of the book.

ID – This book had great impact on Kate, Gerald, Sean and Amelie McCann. Why? Can you explain?

**AP** says that, in order to understand the effect of the publication of the book on the McCann family, it is necessary to understand something about this family.

In the first 12 months after the abduction (*note: he always speaks of "abduction"*), the most dramatic episode of their life, the McCanns were in recuperation mode. In the first weeks they had all the symptoms of a family badly hurt, Kate McCann in particular. It was terrible for her to leave Portugal where she had been with Madeleine for the last time, very tough too to return home, to see Madeleine's bedroom, her toys, clothes, friends, etc.

The investigation was going on in Portugal and because they were so far away it was difficult to keep up with developments. For someone who experiences an abduction trauma, the most important aspect is information. Ultimately, the friends and the family helped considerably and the McCanns followed the advice of professionals concerning the twins. The McCanns worked with the twins' school and taking the circumstances into account the twins got on well. The routine after a time had returned and things had stabilised. Gerald McCann was involved in a research project while Kate worked on the search for Madeleine, supported her husband and took care of the kids, everything was functioning as best as could be expected given the circumstances

The publication of the Amaral book caused a bombshell. It was not so much the content of the book, but what one could deduce from it as the book had been published so soon after the shelving of the case. The famous secret of the instruction had been broken by the author of the book. There was a feeling of dire frustration and helplessness, the McCanns could speak to nobody, they had been told so.

ID - How did the book speak whereas they weren't allowed to?

**AP** – It suggested Gonçalo Amaral and the PJ had relationships before the shelving.

AP doesn't understand how the book could be published, considers that it was a violation of the secret. The fact the book was written by a police officer gave credibility to the book. When, 14 months after the abduction, the McCanns found out about the content of the book and its conclusions (a simulated abduction), their anxiety increased. The McCanns started to worry about public opinion in Portugal, if people thought Madeleine was dead, they wouldn't look for her. Since it was then accepted that the greatest chance of finding Madeleine was still in Portugal, that possibility declined significantly if the public believed her to be dead.

*Then something unexpected happened. Alan Pike asked if he could use notes that were on his iPad. The judge said "yes of course" but when it became clear that Alan Pike was going to read extracts from the McCann book "Madeleine", the judge instructed that he couldn't read the book to the Court.*

**AP** says the activities and reactions of Gonçalo Amaral were unpleasant and distressing. At that time it was very difficult to tolerate his campaign of trashing the McCann's reputation.

*(Note: AP repeats, repeats what he has already said. It is not clear why he needed his iPad)*

**AP** says Kate McCann passed days in a terrible state because of the injustice of the book. She was hurt and angry.

*The judge asks whether he recorded this information and then repeats them.*

**AP** says these are things Kate told him when he asked her. When he had regular contact with them he realised that the McCanns feared that nobody would now look for Madeleine in Portugal. They were at that time also very much concerned with the translation of the PJ files.

**AP** says he must read his notes. He reads.

**AP** – They received information from Portugal in the summer of 2008 about the Amaral book, the support it had, the TV shows... That created a great distress. Nobody in Portugal challenged the conclusions of the book, whereas the judge (*note; he means the AG*) said there was no evidence they were involved. So how could Gonalo Amaral arrive at the conclusion he did? Nobody challenged him.

The McCanns decided to do nothing at that time and concentrate on the most important thing which was the search for Madeleine. They hoped the publicity around the book would diminish slowly with time. But in 2009 Kate told AP about a documentary based on that book. A friend in Portugal had told her about it and said the conclusions were similar. When Kate watched the film, AP remembers she was even more devastated. He says this was the secondary trauma.

The secondary trauma is sometimes more violent, more rooted and more extreme than the original trauma. It is more difficult to cope with. (*note: this notion of "secondary trauma" will be invoked a few times afterwards by the defence lawyers, likely in order to understand it better*).

The family was disappointed and angry, in Portugal the people would stop searching for Madeleine. Kate was in such a bad state that Gerald had to quit his job for some time to care for her. In the summer of 2009 Kate was not well at all as a direct result of reactions to the documentary. She was helpless; she said she'd prefer not to be there. She was anxious (he thinks he's the only one with whom she shared), that is when the idea of an action against the book in Portugal first arose. There was an injunction, the book was banned, but even so the book was available on the internet in the UK, there was also much publicity about it consequently the doubts of their involvement had spread to the UK.

The book surprised Kate who lived a normal life of a mother, doing shopping, driving the kids to school, chatting with other kids' parents, etc. Most people in Portugal and an increasing number in the UK were also convinced by Amaral's theory. Kate feared her closest friends would be convinced too. This also contributed to the secondary trauma.

ID – What did you mean when you spoke of the book and the secrecy of the instruction?

**AP** – It was impossible for Gonalo Amaral to write the book without inside knowledge about the process before the shelving of the investigation. They saw that Gonalo Amaral managed to obtain inside information and that worried them.

## **2) Defence lawyers.**

### **a) TVI lawyers' questions.**

TVI – When you referred to notes, did you mean Kate McCann's diary or book?

**AP** says "both".

TVI – Have you read "Madeleine"?

**AP** says he did.

*The TVI lawyer wants to know what "Madeleine" is about. The judge says the facts to be examined by this court are listed and this issue isn't part of it.*

TVI – Do you know who put the documentary on YouTube?

*The judge overrules again, saying it is off topic.*

**b) Guerra & Paz's lawyer's questions**

GP – What exactly is your profession?

AP answer he is a Crisis Counsellor.

GP asks whether he is a psychologist?

AP says he has some competences in psychology (psychology was one of the elements in his degree).

GP asks again "are you a psychologist?"

AP says no.

GP asks which tour operator contacted him

AP says it was Mark Warner.

GP – When you were contracted and came to Portugal, was it because of a trauma situation? Which situation?

AP – A little girl had been abducted, the family and friends needed support.

GP – Are all your actions around the disappearance of Madeleine?

AP says yes.

GP - Between the 3<sup>rd</sup> May and September 2007 you accompanied the McCanns. How? On the phone, being present?

AP says he saw the twins; he had contact many times a day (*implies went to and fro*).

GP – You said it was Kate who provided the book for you?

AP – Yes, she sent it to me.

GP – It was translated by whom?

AP doesn't know.

GP - asks if AP understands Portuguese.

*The judge overrules question saying that it's clear AP doesn't speak Portuguese.*

*GP asks another question which is overruled because it is related to British Justice.*

GP - asks if the constitution of the *arguido* status created a secondary trauma.

AP says the McCanns were confused about not having been made *arguidos* sooner, because it was quite normal in an investigation for people close to the victim to be investigated first. He says they expected it.

GP suggests (*as her question wasn't answered*) that AP consult his notes since he saw the McCanns before and after they were made *arguidos*. Has he notes about his sessions with Kate when she was an *arguida*?

AP says that being made an *arguido* wasn't traumatic, but the things that were said, the way to interview them were.

GP – Can it be considered as a secondary trauma?

AP says it is a continuation.

GP – Do you know if the fact of being made an *arguido* was related to the suspicion of some crime?

AP says he knows some facts, they weren't surprised.

GP – What is the difference with the book?

AP doesn't understand.

GP repeats her question.

AP – They were surprised with the book because the final Report said they were innocent.

GP – Have you read the final report?

AP says "no".

GP – How do you know then what its conclusions are?

AP says the McCanns told him.

GP says the investigation was closed because of lack of evidence in respect of what the actual crime was. How did this affect the emotional state of people?

AP – They were disappointed the case was closed. This meant that the case might never again be investigated. However, they were relieved that they were no longer considered to have been involved; they were no longer official suspects.

GP says that the final Report states that there is no evidence, neither positive nor negative. Can you speak about the speculations concerning the case?

AP says there was much human interest in this case. Everybody had an opinion about it. He says it's like when there's a football match (*note: a similar comparison in Ms Stilwell's statement on 20.09.13*)

GP – In what way is the publication of this book different? What kind of secondary trauma did it lead to? Did the opinions of the world favour the book or not?

AP says that the difference lay in 1) the importance of who wrote the book and 2) the violation of the secrecy of the instruction as the book was published very quickly.

GP – The McCanns said they didn't believe the book was written in 3 days?

Do you know if the book was publicised before the final Report was released?

AP says "yes", was aware the book was going to be published.

### **c) Gonçalo Amaral lawyer's questions**

SO – About your competences and professional capacities, what does a specialist of trauma do?

AP says he works with groups, families and individuals.

SO – Is a disappearance a trauma?

AP says "yes".

SO – Did you advise the McCanns to promote news of the disappearance using the media?

AP says it wasn't his advice. The McCanns were advised by an organisation which specialises in missing people.

SO – What part does excessive publicity play in primary trauma? Does it increase the stress and the anxiety?

AP – Yes it does.

SO – Do you know the importance of publicity in the case?

AP – says yes, I know, I was there.

SO – Would you agree it doesn't favour recuperation in the long term?

AP – The media are useful in the beginning.

SO – The motivation was to find the little girl?

AP – Yes, it was to look for her.

SO – Is it not true that the principal factor of the secondary trauma was because the McCanns were considered suspects?

AP – No.

*The judge now explains that "suspect" is different from "arguido". "Arguido" means there are indications that will lead a person to have to defend her/himself. It's a statute created for the defence of the person. "Suspect" means a hypothesis is formed about someone.*

*The judge repeats that which AP had already indicated and that was if the McCanns hadn't been investigated as suspects then they would have thought the investigation was incomplete.*

*There is now a long debate between the judge and SO. SO says he has to insist because the witness uses too much hearsay in his responses. The judge points out that there is no need to repeat the same question over simply in order to see if the answer will vary.*

SO – Was the fact that they were considered *arguidos* the principal reason for the secondary trauma?

AP says "no".

SO – You said psychology was one of the elements comprising your degree, does this allow you to give evaluation of psychological situations?

AP says "yes". The Social Science degree he has permits it.

SO – Did you have contact with the McCanns in the UK by phone e-mail?

AP says yes, between 2011 and 2013.

SO – So what occurred between 2007 and 2011?

AP says he saw the family regularly in their home or in his office up to 2009. Thereafter only when they contacted him.

SO – For support or psychological evaluation?

AP – Support.

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

MC – For how long have you been in this line of work?

AP – I started in 1993. I have been working for the institution for 7 years.

MC – In which situations have you worked?

AP – Families with domestic violence, maltreatment, children taken from their families (this is a bit like grieving), families who have lost a child. He works for the UK organisation called "Missing People".

MC – Which strong negative feeling did Kate McCann report to you in the summer of 2009?

AP – She was afraid, she wished she wasn't there; she talked of killing herself as an option.

Continues...