

## Libel trial McCann v Gonçalo Amaral - Day 1

The testimony as it happened...

(12.09.2013, 11am) **Susan Hubbard** Occupation mid-wife. She speaks in a combination of Portuguese (more) and English (less). Mrs Hubbard admits her friendship with Kate McCann can influence her evidence.

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

ID – In this trial we're discussing the effects on the McCann family of the publication of GA's book and the documentary inspired by this book. As a close friend of KMC, can you tell how this family reacted to the thesis of the book?

**SH** answers that they are very strong persons, but any claims that their daughter is dead is terrible for them because it means she isn't looked for any more. She says the book finishes like it starts, not offering an alternative theory.

*One of the defence lawyers asks precise questions and answers. The judge overrules.*

ID – What impact had the book on their life, on their personal life, health, relationships?

**SH** answers that they were angry in having to spend a lot of energy due to the allegations in the book instead expelling their energies looking for Madeleine. She stated that everybody in Portugal believed the book.

*Defence lawyer protests and this time the judge admits the question is too vague.*

ID – How did they find out about the book ? What did they feel when they saw the book and the documentary?

**SH** doesn't know how they found out about the book, but says the people who saw the documentary believed a man who stated he said the truth. She says it made the McCanns angry, sad, scared and destroyed their hope.

ID – What have you observed in relation to the McCanns and the twins?

**SH** states they are good parents, the twins are happy, they have a normal life. She wonders, if in the future they read the book, what they will think about their parents.

ID – The book is published on the Internet, in English.

**SH** remarks the access to the book is very easy.

ID – This book and the documentary arouse suspicions? Could the twins have doubts about what happened ?

**SH** thinks so.

ID reads an extract from GA's book (p.193)

*Burla ou abuso de confiança?*

*Num momento de relaxe de uma destas reuniões, terei cometido um deslize ou, quiçá, terei sido inoportuno e pouco diplomático. Preocupado com a possibilidade de o casal McCann estar, de alguma forma, envolvido no desaparecimento de sua filha, e quando raciocinava quanto aos tipos de crime que os mesmos pudessem ter praticado, apercebi-me de um facto. Se, realmente, se viesse a confirmar qualquer tipo de responsabilidade do casal McCann, então poderia estar em causa, relativamente ao fundo criado para as buscas por Madeleine, que atingia mais de 2 milhões de*

*libras, um crime de burla ou abuso de confiança. Abriu-se então o debate e, de facto, com as premissas indicadas, os crimes de burla qualificada ou abuso de confiança poderiam existir, mas Portugal não teria jurisdição para investigar e julgar por tal crime. Esta pertenceria ao Reino Unido, por o fundo se encontrar registado naquele país. Os colegas ingleses aperceberam-se então de uma dura realidade: a forte possibilidade de terem um crime para investigar no seu país, tendo como eventuais suspeitos o casal McCann, coisa que parecia não lhes agradar muito.*

Translates as >

Fraud or abuse of trust ?

During a moment of relaxation at one of these meetings, I did a side step or I might have been inopportune and rather undiplomatic. Worried with the possibility that the McCann couple were somehow involved in their daughter's disappearance and reflecting about the kind of crime they might have committed, something occurred to me. If, really, any type of responsibility of the McCann couple was confirmed, then the fund set up to finance the search for Madeleine that had reached nearly €3 million could be a crime of fraud or abuse of trust. This question was debated and, in fact, with such premises the crimes of qualified fraud or abuse of trust could exist, but Portugal would have no jurisdiction to investigate and judge it. The fund being legally registered in England, it would be our English colleagues who would deal with the case. Our English colleagues then realised a hard reality: the strong possibility that they would have a crime to investigate in their own country, with the McCann couple as the main suspects: a prospect that left them rather reluctant.

ID – Did they react badly to this extract ?

*The judge criticizes the suggestion of the answer in the question.*

**SH** doesn't know. She doesn't think they concluded anything from this paragraph. She thinks the McCanns didn't fear a UK investigation and hoped their truth would be spoken about in Portugal.

## **2) Defence lawyers.**

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

TVI – You said that "everybody in Portugal believes the book". What makes you think this?

**SH** says that in PDL some people believe Kate and Gerald, but outside they don't.

TVI – Do you suppose so? Have you any objective basis to think so?

**SH** says she has knows a Portuguese nurse, in the hospital where she works in Canada, who believes what the book says.

TVI – Do you know if this book and the documentary were broadcast at the same moment ?

**SH** says when one and the other were launched.

TVI – Are the thesis identical?

**SH** notes that in the documentary the actors representing Kate and Gerald were depicted drinking a lot, but the underlying theories are similar. She adds one must pay for the book whereas the access to the documentary is free.

TVI – Have you seen "Madeleine was here"?

**SH** did, as many people.

TVI – Then why should one believe more a documentary than the other?

**SH** argues the Amaral documentary had more audience.

TVI – Why?

**SH** doesn't know. She hasn't watched all the programs.

TVI – Then why do you think that one is more watched than the other?

*The judge overrules : the issue is "what kind of effect ?"*

### **b) Valentim de Carvalho (DVD production/distribution) lawyer's questions**

VC : You don't know if Madeleine died. Your conviction is she's alive. The idea that something happened to her other than abduction is also a possibility. Do you think the McCanns are angry because such a theory exists that is different from theirs?

**SH** hesitates, then says she doesn't think so, refers to the loss of hope.

VC – Have you seen the TVI documentary, have you read the final conclusion?

*The judge overrules.*

### **c) Guerra & Paz's lawyer's questions**

GP first asks if SH knows GA and when she met the McCanns for the first time.

**SH** answers she once saw GA somewhere in PDL and met the McCanns a few days after her arrival in PDL (3 days after Madeleine disappeared).

GP – How did the couple react when they were made *arguidos*?

**SH** says the McCanns didn't fear the *arguido* status because they knew they were innocent.

GP – We could then expect the same reaction after the book was published.

You, as a close friend who saw them almost every day, must know better than anyone. How did they react when they were made *arguidos*?

**SH** answers they wanted to protect the twins and didn't know what to do. They thought of taking them to Spain. They reacted with sadness (GMC with anger) because the police wouldn't be looking for their daughter.

GP – Did the Fund and the private investigators go on searching for Madeleine?

**SH** answers yes.

GP – And after the book was published?

**SH** answers yes.

GP – There's a website with an English version of the book. Do you know to whom this site belongs?

**SH** answers no.

GP – Do you know the Oprah Winfrey TV program?

**SH** answers no.

### **d) Santos Oliveira (GA lawyer) questions**

SO – How many times a week did the McCanns come to your place?

**SH** says about once a week. She adds she saw mainly Kate and that Kate cried when she was with her.

SO – Was there a difference between the sorrow due to the disappearance and the sorrow due to the loss?

*The judge reacts, the lawyer argues the feelings can be the same and the motives different. The*

*judge agrees but warns that the question shouldn't imply the conclusion.*

SO – Do you recall the interview they gave in October to the Expresso ?  
**SH** doesn't.

SO – Do you know who Clarence Mitchell is?  
**SH** does.

SO – Do you know if they spoke about the possibility that their daughter had died ?  
**SH** says they did.

SO – Then why were they angry with the book?  
**SH** says they don't fear what the book says.

SO – Do you know if the book hampered the investigation?  
**SH** says she can't answer.

SO – Have you talked with the McCanns about the book?  
**SH** says yes, 3 months later.

SO – What did they say about the book?  
**SH** answers they were worried about what the people would think and, if they did nothing, the people would think the book was telling the truth. They spoke of the effect on the search for Madeleine, the public attention diverted. They didn't want to waste energy on this issue. They spoke about the way to protect the twins from what was in the book.

SO – Did they feel indicted by the book?  
**SH** apparently doesn't understand.

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

MC – Did they feel ashamed, anxious?  
**SH** doesn't (doesn't want to?) answer.

MC – Did they feel offended?  
**SH** sighs then says they were surprised by the book.

MC – Did the documentary change something?  
**SH** says it increased the damage. She says that, after the book was published, some people turned their back on them. And some people wanted the tragedy to stop there.

To be continued...