

## Libel trial McCann v Gonçalo Amaral - Day 7 Witness No 5

The testimony as it happened...

{08.10.2013, 2:45pm}

**Francisco Moita Flores** is a retired Polícia Judiciária (PJ) Inspector, he is also a writer.

*He is the only witness who has greeted the public before sitting in the witness chair. This was repeated at the end of the session when the witness turned towards the public and again acknowledged them with a smile and a slight nod.*

The Judge asks the witness what sort of contact he has with the McCann process.

**MF** says he has known Gonçalo Amaral since the time they were both in the PJ. He says they are more or less contemporaneous; although GA is younger than him.

The Judge asks whether apart from professional relations they are friends.

**MF** says they know each other, he says they never went to each other's home.

The Judge asks if the witness knows the McCanns.

**MF** says "no".

The Judge asks MF if he wrote a book on this case.

**MF** says he didn't, but commented on the case many times, particularly on TV.

The Judge – Have you read the book?

**MF** says he did.

The Judge – Have you watched the documentary?

**MF** says he didn't.

The Judge – Then you were a commentator on TV and also wrote chronicles?

**MF** answers "yes".

### **1) Defence lawyers**

#### **a) Dr Santos de Oliveira, GA's lawyer, is the first to question the witness.**

SO – What reason did you have to comment on this case?

**MF** says that first it is his job. He does it professionally because he has experience of being a police inspector and has connections with the police. In this particular case he says that very early he claimed that the police were making errors.

SO – Why?

**MF** Because they should have considered all the possible hypotheses instead of restricting the investigation to the prefabricated idea of abduction.

SO – When did you read the book?

**MF** says he only read it after it was published. He adds that he first read the book and then read the criminal process report.

SO – Through those readings do you consider that the "death" theory...  
*The Judge overrules, she says the questions cannot be commented upon.*

SO – When you became aware of the book and the Report have you heard...  
*The Judge overrules.*

SO protests' arguing the issue is to consider the conclusions. He asks about the "death" theory. MF says it is more likely that the child died. And he adds it is impossible that someone passed through the window with a child. He says the abduction theory then doesn't make sense. He observes that there are many possibilities, it's perfectly admissible for instance that the child went out to search for her parents. If the child died, it could have been outside of the flat or in the flat. But, he says, the disappearance never could have happened through the window, he insists that it is essential to understand that it is technically, humanly, impossible. The witness concludes affirming that all the hypotheses are possible, except for the abduction "through that window".

#### **b) G&P's lawyer, Dra Fatima Esteves.**

GP – Is it possible to determine a "before" and an "after" the book's publication, in a media perspective?

MF says he was in Greece at the time. He learnt about the disappearance of Madeleine McCann through CNN or Sky News. He returned to Portugal a few days later and doesn't remember having ever seen such a large media circus. It was so enormous that it lasted for weeks and even months. The witness recalls how the parents were filmed every time they went out. When they were made *arguidos*, he claimed that they should be well treated. Eventually they could be blamed for having neglected their children. Many TV programmes were done. He says the book was published in the continuity of chronicles, interviews, documentaries that this case elicited: the witness statement of an inspector.

GP – What about the documentary?

MF only remembers that someone talked to him about it, nothing more.

GP – Do you think that, because of the book, they stopped investigating the case?

MF says he was perplexed when the case was shelved. He feels he has to say that the case was very well investigated. If the Public Ministry doesn't reopen the case, it's because no relevant piece of evidence has been brought. The witness suggests that the case suffered carnival aspects and early errors, the biggest being not to have investigated the parents. Life shows us that there are parents who mistreat their children and this eventuality could not be properly discarded.

GP – Do you know about the note sent to the media by the PGR (*Procuradoria da Republica*)?

MF says the PJ cannot do diligences without authorisation from the Public Ministry. He insists very much on this.

GP – What about the Scotland Yard rogatory letter?

MF says that what SY requested was in the criminal process, such as the checking of cell-phone communications. Recreate everything? Yes, I suppose everything can be done again only to reach the same conclusion. The witness remarks that SY only contemplated the abduction hypothesis. What if for example the little girl went out, fell and wasn't found? He qualifies the restricted vision (of abduction) as "prophetic and dogmatic" and observes that the police knew that what was crucial was finding evidence.

GP – Are there some books published on this?

MF says in Portugal and in the UK many books are published on relevant cases.

GP – Cases with media coverage are a subject matter for books?

MF says that the majority of the authors are journalists. He adds that he himself writes about crime and refers to the many books in which he contributes his opinion on cases.

## **2) Lawyer for the Plaintiffs in substitution of Dra Isabel Duarte, Dr Ricardo Afonso.**

RA – When you said that the police had committed an error in investigating only the abduction hypothesis, what do you base that assumption on?

MF answers that it is based on his own experience. Experience says that the main suspects are closest to the victim and that the solution is often the simpler one. He adds that an abduction assumption cannot be discarded, but should not be the first or only one to be examined.

RA – Gonçalo Amaral says that on the 4 May 2007, all the hypotheses were taken in consideration.

MF Yes, at that time.

RA – Whom would you point to?

MF Nobody in particular.

RA – Why were you perplexed when the process was shelved?

MF I found that the contradictions by the people who had access to the McCann apartment were not explored sufficiently. It was a fundamental error not to isolate them, check who had access to the apartment and collect the data relating to their phone calls in order to clarify the discrepancies in their statements. If it had been done, we wouldn't be here, involved in a trial on freedom of opinion.

**Evidence ends.**

### Note

Witness for the Defence, Hernâni Carvalho, was scheduled to give evidence on the 10<sup>th</sup> October. . The Judge asked Defence lawyer Dr Santos de Oliveira, if he wished to give up this witness to which he replied that he doesn't. The Judge then dictated to the clerk a note of the fine this witness will have to pay for not having presented himself before the Court (if a valid justification is provided, the fine will be set aside).