

Britain: High Court rejects Jean Charles de Menezes family appeal

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On December 14, three High Court Judges unanimously rejected demands for a full investigation into the decision of the Crown Prosecution Service (CPS) to rule out criminal prosecutions of the police officers who shot dead Jean Charles de Menezes at a London Underground station on July 22, 2005.

The action had been brought by Jean Charles's family.

After a two-day hearing, the judges unanimously upheld the CPS decision that there was insufficient evidence to press charges and dismissed the case "on all grounds."

Only days before, the press reported that Metropolitan Police chief Sir Ian Blair had been officially cleared of misconduct charges over the murder of Jean Charles.

The Independent Police Complaints Commission (IPCC) was tasked to investigate complaints made by the family about false statements Blair made in the immediate aftermath of the shooting, in which he claimed Jean Charles had been killed after disobeying orders to stop. But according to press reports, the IPCC has written privately to Ian Blair advising him that there is no evidence that he deceived the public.

Jean Charles was the victim of a "shoot to kill" policy, Operation Kratos, secretly adopted by police in 2003. Following the July 7, 2005, terror bombings in London, police seized the opportunity to put this policy into deadly effect.

On the morning of July 22, Jean Charles was covertly trailed by plainclothes officers after the block of flats in which he lived had been placed under surveillance. Despite subsequent police claims that Jean Charles had been positively identified as a terrorist suspect, no attempt was made to detain him en route to the underground station. Indeed, Jean Charles had no

warning of the imminent danger to his life until several plainclothes armed officers grabbed him as he entered the train, pinned him to his chair and fired seven bullets at point-blank range into his head.

For hours after this brutal shooting, senior police officers described Jean Charles as a suicide bomber who had resisted arrest, even though police quickly established that the young Brazilian was innocent of any crime. Media reports regurgitated police claims that Jean Charles had been wearing a heavy coat—supposedly to hide a suicide belt—and had leapt over a ticket barrier as he sought to evade capture.

As all these claims were revealed to be lies, a cover-up went into operation. On July 17 of this year, the CPS ruled out any prosecution of the officers involved in Jean Charles's shooting, claiming there was "insufficient evidence to provide a realistic prospect of conviction."

The CPS announced that it would instead bring charges against the Metropolitan Police under Section Three of the Health and Safety at Work Act 1974 for failing to provide for "the health, safety and welfare" of Jean Charles de Menezes. The decision is profoundly insulting to the family of Jean Charles. The worst punishment is a financial fine on the Metropolitan Police that would be borne by the taxpayer. On September 19, the police appealed against this paltry decision.

Prior to the two-day judicial review, a spokesperson for the de Menezes family set out the principled basis for their legal action. "The Met's organisational failure and flawed tactics led to Jean's death.... But within the Met, individuals devised the shoot-to-kill policy, individuals ordered Jean's killing and individuals shot the seven bullets in his head. We are bringing this challenge because we believe that individuals should

bear responsibility for this crime. Otherwise a message is sent out that police officers can kill with impunity.”

In the High Court, Michael Mansfield QC, for Jean Charles’s family, accused the CPS of “usurping the role of a jury.” The CPS decision not to prosecute was a violation of Article Two of the European Convention on Human Rights, he argued, which protected the right to life and also required an adequate trial or inquiry to “deter life-endangering conduct in future.”

Lawyers argued that there was enough evidence to bring charges of homicide against the officers involved and those who made the decision to shoot. In a written argument to the High Court, they insisted there was “prime facie evidence that the officers were lying” about what happened before the fatal shooting.

The court dismissed the family’s lawyer’s accusations of a cover-up organised by the CPS, stating, “There has been no suggestion and we have seen nothing to support a suggestion that the exercise was approached with any predisposition as to the outcome or that there was anything other than a fair and even-handed review of the case.”

In a written judgment, the court also declared that there had been no violation of human rights. Lord Justice Richards ruled it was a “reasonable” decision for the Director of Public Prosecutions and the CPS not to order prosecutions because they were “likely” to fail.

The CPS expressed its satisfaction with the ruling. Jonathan Crow QC, for the CPS, had argued, “The fact that something went terribly wrong does not mean there is necessarily any individual criminal culpability.” He added that the family’s insistence that its human rights had been denied was “unsustainable.”

With few exceptions, the High Court ruling went unreported in the British press.

Outside the court, Jean Charles’s cousin, Patricia Armani da Silva, said the family’s battle “will never stop.” She continued, “Today is a sad day for my family. I am heartbroken. We believe the judges came to the wrong decision,” she added. “We were shocked to hear all the new evidence that was revealed in court over the two-day hearing. We heard how the police made mistake after mistake on the day they killed my cousin.” She added: “We will continue fighting for justice until someone is held responsible for my cousin’s murder.”

The High Court’s ruling not only elevates the police

above the rule of law. It provides the legal framework to justify future state sanctioned murders.



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