

# Omagh verdict leaves questions of state collusion unanswered

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Relatives of a number of the 29 people killed by the 1998 Real IRA (RIRA) bombing of the small Northern Irish town of Omagh have won a civil case against four men accused of being involved in the atrocity. Twelve relatives were awarded £1.6 million damages. Judge Declan Morgan, soon to be Northern Ireland's Lord Chief Justice, ruled that Michael McEvitt, Liam Campbell, Colm Murphy and Seamus Daly were liable for the deaths. Action against another man, Seamus McKenna, was dropped.

The verdict, however, provided no new insight into the decisive question regarding Omagh—what prior knowledge did the British and Irish governments and intelligence and police services have of the attack?

The defendants in the civil case were sued in a personal capacity, while two of them, McEvitt and Campbell, were also sued as representatives of the RIRA.

The bombing of Omagh on August 15, 1998, came at a pivotal point in attempts to formulate power-sharing structures in Northern Ireland through the Good Friday Agreement. RIRA and the Continuity IRA opposed the agreement. The impact of their terrorist activities, however, was to consolidate public backing behind the agreement.

McEvitt, formerly the quartermaster for the Provisional IRA (PIRA), split with PIRA to become RIRA leader at the time of Omagh. He is currently in Portlaoise jail in the Irish republic serving 20 years for “directing terrorism”. Campbell was jailed in 2004 for RIRA membership. Murphy was previously convicted of involvement in the bombing, but was acquitted on appeal. A retrial is pending. Daly was jailed in 2004 for membership in an “illegal organisation”.

Family members hailed the verdict, despite the fact that only a fraction of the £14 million damages requested was conceded, and that further legal action will be necessary to extract any cash from those found liable. The named individuals are all now said to be penniless. The families—ten of whom have pursued the case—announced that they intend to open further civil cases against a number of other alleged individual members of the RIRA Army Council.

The Omagh civil case was only launched due to frustrations with the protracted and apparently unsuccessful investigations

by the British and Irish governments. That so little official progress has been made into the worst terrorist atrocity in Northern Ireland reinforces questions as to the level of state collusion in the bombing.

In 2001 a devastating report appeared by the then Police Ombudsman of Northern Ireland, Nuala O'Loan, concerning allegations made by a former British agent in PIRA and RIRA.

O'Loan stated that a man known as Kevin Fulton had contacted Northern Ireland's Royal Ulster Constabulary (RUC)—now renamed as the Police Service of Northern Ireland (PSNI)—on five occasions between July and August 1998 regarding dissident republican activity.

O'Loan concluded that a man described as “A” should be considered a firm suspect for the Omagh bombing and that a further 10-minute long warning call had been made on August 4, 1998, giving notice of an armed attack on Omagh scheduled for August 15.

The man named as “A” in the O'Loan report has subsequently been identified as a Patrick Joseph Blair. Blair was named, using parliamentary privilege, in 2002 by Jeffrey Donaldson, MP for the Democratic Unionist Party. Donaldson said he had been told by security sources that Blair had been the source of the Semtex explosive used to trigger the massive Omagh blast. Fulton alleged that this man was a British agent.

In the February 26, 2006, edition of the *Sunday Times*, Northern Ireland correspondent Liam Clarke reported that Sam Kinkaid, then head of the PSNI's Crime Operations Department, successor to the RUC's Special Branch, confirmed to victims' relatives that MI5 and the Garda knew of a planned attack on either Omagh or Derry as much as five months in advance of the eventual explosion.

Kinkaid, in his last day in office, read a remarkable prepared statement alleging that information from an FBI agent in the RIRA, David Rupert, identified Omagh as a possible target as early as April 1998. Kinkaid was backed by his successor, Peter Sheridan, and the two leading officers in the PSNI's Omagh investigation. Kinkaid claimed that information on this was not passed on to Special Branch.

Last year, the BBC's *Panorama* programme “Omagh—What the Police Were Never Told”, alleged that the British intelligence monitoring station in Cheltenham GCHQ carried

out real time monitoring of the geographical progress of a mobile phone identified as one involved in previous bomb attacks by the RIRA in the months prior to Omagh. On the day of the Omagh bombing, not only geographical tracking logs but actually taped transcripts were alleged to exist, giving code phrases indicating that a car bomb was parked and primed. According to BBC journalist John Ware, none of this material was passed to police investigating the attack, for unexplained reasons.

Allegations surrounding the role of Irish agents are also long standing. They centre on the role of a Detective John White, who has alleged that a Dublin car thief, who stole cars to order for the RIRA, was also a police agent.

Only two criminal cases against people accused of direct involvement have been mounted and both have collapsed. In the case of Colm Murphy, a retrial under Irish jurisdiction is pending, while in early 2008, the case in Belfast against Sean Hoey, accused of peripheral involvement in the attack, was thrown out. The judge accused police of “deliberate and calculated deception in which others concerned in the investigation and preparation of this case...may also have played a part”. The judge also attacked criminally shoddy forensic practices.

The significance of the civil case rests on its lower standard of proof—a verdict can be reached “on the balance of probabilities” rather than the “beyond reasonable doubt” required for a criminal conviction. Hearsay evidence, excluded in a criminal case, is admissible.

This is why the British government, while doing everything in its power to block a public inquiry and refusing to account for the activities of its own agencies and monitoring services, contributed £800,000 to the civil case campaign’s legal costs. The civil case raised the possibility of bringing a verdict against the RIRA, while avoiding a criminal trial or public inquiry that would inevitably threaten to bring the intelligence services’ own role into court.

Legislation was required and duly passed to authorise the civil case. The campaign was even supported by private donations from two former Northern Ireland secretaries, Peter Mandelson and Patrick Mayhew.

The case became a *cause célèbre* amongst sections of the British media, with the *Sunday Times* and the BBC working with the families. The right wing *Daily Mail* ran a fundraising campaign, while support was also given from individuals such as former US President Bill Clinton and pop star turned media mogul, Bob Geldof.

Proceedings finally opened last year in Belfast. A number of unprecedented agreements were established between the British and Irish governments and the Northern Ireland Court Service to allow the case to proceed. It was agreed that evidence held by the Irish Garda—including from previous cases and statements taken from all the defendants—could be presented.

To this end, after hearing details of the attack, several

proceedings were held in Dublin under an Irish judge. Some 2,300 emails between the FBI’s David Rupert and the RIRA were released, as were statements from some Garda officers, who were protected under public interest immunity legislation from prosecution.

The court heard from Garda statements concerning the circumstances, for example, of Campbell’s arrest in 2000, when disposable facemasks, body suits and “communication devices”, along with an empty concealed chamber, were found in his house. Campbell sacked his legal team and withdrew from the case in the course of the proceedings.

The central moment of the case, however, was a barely reported exchange. On February 27, 2009, Judge Morgan ruled on an attempt by the families to force the release of transcripts mentioned in the *Panorama* programme of the bombing run phone calls held by British intelligence, the PSNI and the Police Ombudsman of Northern Ireland.

The families presented an additional affidavit which, according to Morgan’s ruling, “contended that the Security Service and/or PSNI Special Branch have in their possession a recording or recordings made of transmissions from a covert listening device placed in the maroon Vauxhall Cavalier car used to house the bomb transported to Omagh on 15 August 1998 together with transcripts and notes relating to that recording”.

This was based on a conversation with BBC journalist John Ware, “who indicated that his inquiries revealed that some individuals in the relevant authorities had read transcripts that appeared to include telephone conversations of the bombers in the car that were one-sided. It was further alleged that those conversations stopped at the time the bomb was detonated”.

(The full ruling can be seen here, see item 4.)

Morgan dismissed the summons—a decision that was passed over by subsequent reports on the case. However, the possibility has now been raised that the intelligence services had a working bug in the car that bombed Omagh.

A fully independent public inquiry into all aspects of the Omagh bombing is essential to reveal the truth.



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