

Families of New Zealand mine disaster victims seek justice

Tom Peters
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The Court of Appeal in Wellington heard a case last Tuesday brought by two women who lost family members in the November 2010 Pike River mine disaster. Sonya Rockhouse, whose 21-year-old son Ben died, and Anna Osborne, who lost her husband Milton, sought a judicial review of the Ministry of Business, Innovation and Employment's (MBIE) decision in December 2013 to drop charges against Pike River Coal chief executive Peter Whittall.

The three judges have not yet said when they will hand down their ruling.

Milton and Ben were among 29 men killed by an underground explosion in the remote coal mine on the west coast of New Zealand's South Island. In 2012, a royal commission found that the tragedy was preventable and numerous warnings about dangerous conditions had been ignored by the company and government regulators. The mine did not have a satisfactory second exit, as required by law, and its ventilation and monitoring of methane gas was inadequate.

In July 2013, Pike River Coal was found guilty of health and safety violations and ordered to pay \$3.41 million in reparations, but its directors refused to do so on the grounds that the company was bankrupt. Whittall was the only individual charged over the disaster, accused of 12 health and safety violations. The charges were dropped, however, after a back-room deal between his lawyers and the MBIE. To avoid prosecution, Whittall and the former Pike River directors agreed to pay \$3.41 million to the families without admitting any responsibility for the catastrophe.

Nigel Hampton QC, the lawyer representing Rockhouse and Osborne, told Radio NZ the MBIE's decision to drop charges in exchange for the payment

was "unprincipled and unprecedented." The MBIE had not consulted the families about the decision and "failed to take into account [its] responsibilities to administer and enforce the Health and Safety legislation." He told the court "the overwhelming purpose of that payment ... was, we say on the evidence, to buy-off this prosecution."

Sonya Rockhouse told the *World Socialist Web Site* that she and Osborne wanted "to reinstate the charges against Peter Whittall," but if they won the judicial review "nobody is quite sure what will happen because bringing him back to New Zealand to answer those charges is unlikely." Whittall has moved to Australia, along with some Pike River Coal directors.

"We have to stand up for what we believe to be right," she said. "There's been injustices done here. Where else in the world could this happen and nobody be held to account? A drink driver is held to account if he kills somebody."

Rockhouse opposed the decision to drop charges in exchange for the \$3.41 million payment. "In court the other day they tried to intimate that we accepted the money. But if they had discussed it with the families, I would say that more than three quarters of the families, if not all, would have rather had the charges against Mr. Whittall. We were never asked by the ministry."

Asked why she thought the Ministry dropped the prosecution, Rockhouse said: "I'm not really sure what their reasoning was. Maybe they were trying to hide something, maybe they were worried about what might come out ... I think they just wanted the whole sorry mess over and done with as quickly as possible."

Whittall refused to answer questions at the royal commission about his role leading up to the mine explosion, arguing that he expected to face charges. With the charges now dropped, Whittall has never had

to give a full account of what happened at the mine.

Speaking about conditions in the mine, Rockhouse explained that Ben's brother Daniel, a mine worker who survived the disaster, "told us afterwards that his gas sensor would go off frequently [indicating a potentially dangerous build-up of methane] and he would tell his boss. He was told: 'Just shut the hell up and get on with your job.' It was production over safety in Pike." Pike River Coal was heavily in debt to its investors and making safety repairs would have been costly and interrupted production.

Ben was studying geology in Christchurch before moving to work at Pike River three months before it exploded. He was one of three workers killed who were employed by the contractor VLI Drilling. The company, a subsidiary of Valley Longwall International, pleaded guilty in 2012 to three health and safety violation charges for failing to maintain reliable safety gear. It was fined just \$46,800.

Ben's mother described the fine as "quite minimal considering they're a huge company in Australia. It wouldn't even have been an annoyance to them, it was so small, it was pathetic really."

Rockhouse also denounced the National Party government and state-owned company Solid Energy, which purchased Pike River after the explosion, for refusing to allow the mine to be re-entered so evidence could be collected. Photographs taken by a camera lowered into the mine after the explosions, published in the media, appeared to show a body. "At the very least they could have tried to get into the 2.2-kilometre drift, which is the first part of the mine. We had several experts who said it was completely doable."

Rockhouse was highly critical of the Engineering, Printing and Manufacturing Union (EPMU, later renamed E Tu), which had 65 members at the mine, over half the 120 Pike River Coal employees. "I feel very let down by the union and I know Daniel does too. After the explosion he barely heard from them and nor did we. I think that they could have played a bigger role before the explosion as well. They should have been making sure that safety was being followed. I just think they let [the miners] down."

In the days after the explosion, then-EPMU leader Andrew Little told Radio NZ and the *New Zealand Herald* there had been no warnings of unsafe conditions in the mine and he praised its safety standards. He

made no mention of a spontaneous walkout by workers to protest against the lack of emergency equipment, of which the EPMU had been made aware. The union did not organise any industrial action and worked with the company to prevent any interruption to mining operations or costly improvements in safety. In November 2014, Little became leader of the opposition Labour Party, touting his record of collaboration with big business.

"It doesn't matter who's in power, National or Labour, they're all the same," Rockhouse told the WSWS. "I honestly believe that it wouldn't matter which government gets in, we'd still be fighting them."



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