

Neutral Citation No. [2007] NIQB 81

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*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Delivered: **03/07/2007**

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION**

POST TRAUMATIC STRESS DISORDER GROUP ACTION

BETWEEN:

CHARLES WAYNE McCLURG AND OTHERS

Plaintiffs;

-and-

CHIEF CONSTABLE OF THE ROYAL ULSTER CONSTABULARY

Defendant.

LEAD CASE OF DERRICK McCOURT

COGHLIN J

[1] This plaintiff is 63 years of age, having been born on 8 November 1943. He left school at the age of 15 and obtained initial employment as a wages clerk with William Ewart and Son in Belfast from approximately December 1958 to April 1960. On 3 May 1960, at the age of 16½, he joined the Junior Royal Marines and, when he turned 17, he signed up for a period of nine years service. His period of service, spent as a Royal Marine Commando, involved tours of duty in many overseas places including Brunei, Borneo, the Falklands Island and Aden. Apart from an attack on a police station near Brunei, about which he had only a vague recollection involving the firing of a few shots, he was involved in little, if any, active combat during this period of service and he was not subjected to any particularly distressing incident. He married a lady from Northern Ireland in 1964 and in November 1968 he became a Christian as a consequence of a visit from a missionary to his barracks in Portsmouth. During the course of his military service the plaintiff

proved himself to be an excellent sportsman and distinguished himself in particular by becoming the Royal Naval boxing champion and gaining the Royal Marines Sportsman of the Year Award in 1960. On 13 January 1969 he left the Royal Marines with a "very good" discharge being the highest character awarded. After a short period working as a bus driver he applied to join the RUC and quite clearly impressed the Recruitment Office. The plaintiff commenced employment as a police officer on 30 March 1970, a time at which the RUC was an unarmed force in accordance with the Hunt reforms.

[2] There is no doubt that the plaintiff thoroughly enjoyed his career as an RUC officer. To use his own words he "took to it like a duck to water." After completing basic training at the depot in Enniskillen he was placed third out of a squad of 47 recruits and on 1 July 1970 he was posted to Glengormley Station to take up operational duties. His progress reports were highly satisfactory and he was noted to be a popular and good comrade. He applied to join the CID and, on 30 January 1974, his application was supported by a glowing testimonial from his sub-divisional commander who referred to a detection that resulted from an "exemplary piece of police duty" upon his part. On 20 May 1974 he was appointed to the CID and posted to Newtownabbey Station. During his service in Newtownabbey the plaintiff continued to impress being highly commended and commended upon thirteen occasions for good police duty. On 19 May 1977 he received a serious gunshot wound to his right shoulder as a consequence of which he was rendered incapable of duty. On 8 November 1978 the Force Medical Officer advised the Chief Constable that, in his opinion, it was very doubtful if further recovery could be expected and that the plaintiff would not become fit for full CID duties in the future. On 1 December 1978 the plaintiff returned to duty and was posted to "G" Division where he performed administrative functions in the CID office at Bangor. After a period of approximately two years it was decided that the plaintiff was unable to carry out CID duties and on 2 March 1981 he was moved to the job of collator in Bangor which he described as "an office job with some occasional driving." Ultimately, after a further period of sick leave, the plaintiff was medically discharged from the RUC on 17 March 1984. On the occasion of his retirement the Chief Constable wrote to him acknowledging the valuable contribution that he had made to the policing of Northern Ireland and referring to his record in the following terms:

"The award of one Favourable Record, two High Commendations, and eleven Commendations for good police duty in such a short period, speaks volumes for the energy, determination and courage with which he performed even the most difficult and dangerous duties."

[3] During the course of his police service the plaintiff was involved with a number of traumatic incidents including the following:

- (i) In 1972 during a drive-by terrorist attack upon Glengormley Police Station the plaintiff crawled under cover to a UDR landrover in the driveway outside the station and tried to drag a wounded UDR soldier back to safety. In doing so he became covered in the soldier's blood which he had to wash off.
- (ii) During the same year the plaintiff rescued a civilian from being injured by an explosion at the AA building at Fanum House and then assisted in seeking to apprehend the perpetrators, one of whom he had recognised. He was also present at an explosion at the Co-op building in York Street as a result of which he suffered shock.
- (iii) Towards the end of 1972 the plaintiff attended the scene of the shooting of a suspect terrorist at Longlands Road Bridge/Whitewell Road. The plaintiff comforted the injured man and accompanied him on the ambulance journey to the Royal Victoria Hospital. The suspect terrorist had suffered a very severe head injury, as a result of which he subsequently died, and the journey to the hospital, during which the suspect was shouting incoherently and gripping the plaintiff's arm, caused the plaintiff considerable distress.
- (iv) The plaintiff attended the shooting of Constable Harron and a colleague at Greencastle during the Loyalist strike and he accompanied both Constable Harron, who subsequently died of his injuries, and a wounded suspect terrorist to the Royal Victoria Hospital. The plaintiff was able to identify this terrorist as a person who was one of his close neighbours in Glengormley.
- (v) Shortly before his transfer to Newtownabbey the plaintiff and another officer had been on duty in a landrover in Glengormley village keeping apart opposing sectarian factions when he noticed two suspected members of the IRA leave a public house and enter an alley. As a landrover was departing to resume its normal patrol the plaintiff noticed Reserve Constable Rodgers and another constable proceeding on foot towards the centre of the village. As he drove away, the plaintiff suddenly apprehended the possibility of an ambush, braked the vehicle and returned to the village. As he did so, he received a radio transmission recording an attack on the officers on foot and he found Reserve Constable Rodgers who had been shot through his upper chest. The plaintiff cradled the dying officer until the ambulance arrived. Reserve Constable Rodgers was well known to the plaintiff and lived about 150 yards away from the plaintiff's house. The distress suffered by the plaintiff as a consequence of this incident was

heightened by the fact that he partially blamed himself for not anticipating the possibility of an ambush at an earlier stage. The plaintiff said in evidence that the most distressing and frightening part of the incident was that the man whom he believed to have pulled the trigger lived approximately 30 yards from his own house and the terrorist who had given the signal for the attack lived about 15 yards away. It would appear that descriptions and identifications made by the plaintiff resulted in arrests and statements of admission. It was for his role in this incident that the plaintiff received the "exemplary" commendation from his sub-divisional commander.

- (vi) In 1974 the plaintiff and his detective chief inspector were present in an unmarked police car when a terrorist threw a bomb into a chip shop. The plaintiff challenged the terrorists and, when they did not stop, opened fire. The terrorists then immediately surrendered and they were taken into custody. As they returned to the police station the plaintiff was trembling and felt the adrenalin kicking in. At the station he phoned his wife and was explaining that he would be late when he broke down and began to cry. At that time there were perhaps four or more CID officers in the room of varying ranks but he maintained that no one spoke to him about his reaction.
- (vii) In May 1975 the plaintiff attended the scene of the murder of Gerrard De'Ath at the Hightown Road. Mr De'Ath had been killed when handling an explosive device planted on a building site and suffered appalling injuries.
- (viii) A short time after the murder of Mr De'Ath the plaintiff was involved in the pursuit of armed robbers who had carried out a raid at the Ulster Bank, Glengormley. Shots were exchanged between the vehicles and the plaintiff tended to one of the suspects who suffered a serious head wound.
- (ix) On 23 May 1975 and 9 July 1976 the plaintiff attended at the scene of two particularly distressing murders. On the first occasion he was required to remove the bodies of John and Thomas McErlean, two Catholic brothers who had been shot dead whilst playing cards. On the second he went to a house on Longlands Road where automatic rounds had pierced the stud wall of a kitchen and killed a woman. The bodies had been moved but the house was extensively blood-stained and the plaintiff recalled his feet sticking in the blood. In his statement of evidence the plaintiff said that, following his attendance at these scenes, he began to have very bad dreams which caused him to wake up feeling anger, frustration and emptiness.

- (x) In 1976 the plaintiff attended the scene of a bombing at the Glen Inn, Glengormley and, after entering the wrecked premises, he encountered a local man who had lost both legs in the explosion. With the assistance of another officer the plaintiff was able to stem the bleeding and save the victim's life. In evidence the plaintiff stated that the stench of burning flesh and hair that he encountered within the pub had remained with him ever since.
- (xi) On 1 January 1977 the plaintiff was at home at about 6.30 pm when a neighbour called and, as he stepped out of the front door into the pathway a huge explosion took place as a result of a car bomb. This explosion caused the death of a 15 month old baby who had been sitting in her mother's arms in the family car.

[4] In addition to the above-noted specific incidents the plaintiff, in the course of his duties, had to attend a number of post mortems for the purpose of identification by parents and other loved ones, experiences that he said that he found particularly distressing. These included the post mortem on Inspector Billy Elliott, who had been a personal friend of the plaintiff for several years. A few hours prior to attending the post mortem the plaintiff had spoken to Inspector Elliott as they discussed the occurrence book in Glengormley police station. The plaintiff also gave evidence about the general feeling of vulnerability and tension that he developed during the course of his duties and the need to remain constantly vigilant and alert to the possibility of terrorist attacks. He referred to the fact that, in the area in which he lived, there was always the possibility of coming face to face with known terrorists. In evidence he stated that as a result of these conditions and the terrorist attacks there was tension between members of the CID resulting, for various reasons, in a number of physical fights and he referred to an incident in which a CID officer whose car was stoned by youths responded by winding down the window and discharging his firearm. He claimed that at least 50% of the CID staff were heavy drinkers in Newtownabbey although he did not go so far as to say that this impaired their ability to carry out their duties. He referred to an incident in which a detective sergeant was stopped by uniformed branch when he was driving a vehicle under the influence of alcohol He did not mention the former incident in the course of his original witness statement.

[5] On 19 May 1977 the plaintiff was travelling in an unmarked CID vehicle with another officer on anti-robbery patrol in Glengormley when they encountered a van that had been used in an armed robbery at the Northern Bank. They went in pursuit of the suspect vehicle. In Whitewell Crescent the driver of the suspect vehicle lost control on a left hand bend causing the vehicle to crash into a garden. Four suspects ran from the van and as the plaintiff pursued three of them on foot he drew his pistol and ordered them to stop. At that point the plaintiff, who was in plain clothes, received a high

velocity gunshot wound to his right arm and shoulder. He had been shot by a soldier who had mistaken him for terrorist. There is no doubt that this resulted in an extremely severe wound which eventually led to the plaintiff becoming so disabled that he had to be medical discharged from the force. At the scene of the shooting he received the last rites from a priest. The plaintiff spent a considerable period of time in the Mater, Musgrave Park and Ulster Hospital.

The plaintiff's symptoms

[6] This plaintiff's case is that he suffered from a recognised psychiatric disorder from 1974/75 onwards and that the signs/symptoms thereof should have been detected by the defendant. In their joint advices compiled after their discussion on 20 March 2006 Dr Turner and Professor Fahy agreed that Mr McCourt reported a history of psychiatric symptoms before May 1977 which, in their view, would have amounted to a mild Adjustment Disorder and to some degree may have been an appropriate emotional reaction to events. Following the shooting incident in which he sustained the severe injury in May 1977 the experts agreed that he had "psychiatric caseness" amounting to at least an Adjustment Disorder of fluctuating severity.

[7] In my view it is important to assess the nature and extent of the plaintiff's reported symptoms against the objective evidence contained in contemporary records and reports. In his original statement of evidence the plaintiff dated the commencement of his nightmares to the murders that he attended in 1975 and he alleged that his problems had become much more acute after the shooting in May 1977 when he started to experience panic attacks, breathlessness, flash backs of being "suddenly in the air" and intrusive and frightening images of looking at a gun and seeing himself on the post mortem slab. He said that he has continued to suffer flashbacks, painful memories and nightmares. In the final paragraph of his witness statement he maintained that, subsequent to the incident in May 1977, it should have been evident to his employers that he was not mentally well.

[8] In giving evidence before me the plaintiff confirmed that his nightmares had started in 1975 and that he would wake up "crying and roaring" every single night. To use his own words he was "fighting the war during the night" as well as during the day. He said that he had not had an unbroken night's sleep for thirty years because of pain and because of continuing nightmares. He also described suffering from flashbacks three to four times a month. He said that he had done his best to file away and avoid memories of the past and that he was totally "shell shocked" when he opened a lot of the files in his head during the course of his first medical interview for the litigation. The plaintiff's wife thought that his difficulties with sleeping had started after the murder of Constable Rodgers in 1974 and she confirmed that he had continued to be troubled with nightmares since that incident.

[9] The plaintiff's GP records confirm no relevant entry prior to the shooting incident in April 1977. The first medical report on the plaintiff's condition for the purposes of this litigation was obtained by his solicitors from Dr Ranald MacKinnon on 22 November 2001. Dr MacKinnon, a consultant psychiatrist, had a long experience of dealing with military personnel in Northern Ireland where he was the first resident psychiatrist from 1990 to 1994. He acquired considerable medico-legal experience in the field of PTSD and stress related disorders, particularly involving members of the Police Federation of England and Wales. During the course of his interview with Dr MacKinnon the plaintiff gave a history of frequent flashbacks to the shooting incident and explosion in 1977, intrusive and distressing recollections of both events as well as of other incidents, exaggerated startle response and hyper-vigilance and continuing nightly distressing dreams relating to the shooting and other terrorist incidents. Dr MacKinnon recorded the plaintiff as having been a basically "stable and well-adjusted" individual prior to his shooting in 1977 against a background of many at least potentially traumatic experiences before that date. Dr MacKinnon noted that there was nothing in the plaintiff's background to suggest any pre-disposition to any kind of psychiatric and or psychological disorder nor was there any evidence of alcohol or drug-related problems and he went on to say that:

"Given all of that, and the fact that none of his symptoms were ever present prior to the traumas of 1977 it has to be stated that his disorder is a result of at least the two index events of 1977. It is certainly these two events that featured principally in his current presentation at interview."

When he was referred to this passage the plaintiff firmly maintained that, contrary to Dr MacKinnon's observations, his symptoms were very much present prior to the two traumatic incidents in 1977 and he was unable to explain how Dr MacKinnon's report came to contain a contrary history.

[10] On 2 January 2002 the plaintiff saw Dr Fussey, consultant psychologist, on behalf of his solicitors and Dr Fussey provided a report of his examination on 28 January 2002. Under the heading "History of Presenting Complaints" Dr Fussey recorded that the plaintiff's problems had all been apparent since the index event, that is, the shooting in May 1977. He had earlier recorded that the plaintiff felt that he had coped reasonably well with incidents in which colleagues had been injured and killed and had not required any form of treatment. The Plaintiff told Dr Fussey that, prior to the shooting incident in which his arm was damaged, he had never personally felt close to death in his police career. When he saw Dr Peter Higson, chartered clinical psychologist, on 2 May 2005, again on behalf of his own solicitors, the

plaintiff reported that he had first experienced psychological problems a few weeks following the shooting in May 1977 including intrusive memories and flashbacks together with symptoms of panic and also significant sleep disturbance. It was only when he saw Dr Turner for the first time, some nine days later, on 11 May 2005 that the plaintiff gave a history of symptoms prior to 1977. He told Dr Turner that he had started to get intrusive experiences related to trauma both by day and by night in around 1971. He also stated that his sleep was probably affected from 1971 onwards.

[11] In their closing submissions on behalf of the plaintiff his representatives sought to deal with this history by relying upon the plaintiff's limited insight into his problems over the years. They submitted that the evidence indicated that the omission was not as a result of a desire to mislead or give false information but was a consequence of a lack of understanding or insight into his condition and the significance of his symptoms and/or a reluctance to admit to any symptoms of a "psychiatric" nature.

[12] I do not think that such a submission can explain the history given by the plaintiff to Dr MacKinnon, Dr Fussey and Dr Higson. Each of these experts was examining the plaintiff in a psychiatric/psychological context with appropriate knowledge of trauma induced psychiatric disorders. It is quite clear that these examinations included careful and detailed questioning of the plaintiff about his symptoms. Indeed, the plaintiff himself found them fairly distressing. It appears to be accepted by both sides that the plaintiff, if anything, does tend to understate his symptoms and put on a "brave face" in the course of contact with the outside world. However, I do not think that the suggestion that the plaintiff did have symptoms such as nightmares, flash backs and/or intrusions prior to 1977 but either did not appreciate the significance of such symptoms or was not willing to declare them can be reconciled with the firm history that he did not have any such symptoms given by him to these experts. In my opinion it is unlikely that the plaintiff had any relevant symptoms of significance prior to 1997 and that his belief that he did so is likely to be a product of the litigation process. I think that it is likely that the repeated medical examinations have served to convince him either that, as a result of his exposure to multiple traumatic events, he should have developed symptoms and, consequently, is likely to have done so or they have converted naturally occurring feelings of grief, horror, shock, revulsion etc. into symptoms of much greater significance.

[13] Subsequent to the shooting incident in May of 1977 Dr Turner and Professor Fahy agreed that the plaintiff has suffered psychiatric caseness amounting to an Adjustment Disorder of fluctuating severity. Both experts agreed that his symptoms were worse during the first eighteen months or so after the shooting and, in Professor Fahy's view, at some stage may have been significant enough to warrant a diagnosis of PTSD. On the other hand, Dr Turner did not find sufficient symptoms during this period to justify such a

diagnosis. Both experts agreed that the plaintiff has shown a high degree of resilience and that any residual symptoms are generally mild although they may have been exacerbated temporarily by the litigation.

[14] In attempting to assess the severity and longevity of any post shooting psychiatric symptoms it is interesting to note that the plaintiff did not rely upon any psychiatric evidence for the purposes of his civil action for damages against the Ministry of Defence which was heard in Belfast on 20 March 1979, almost two years after the original incident. Such an omission has to be considered in the context of the plaintiff's good relationship with the consultant surgeon who treated him and gave evidence on his behalf, Mr McAfee, of whom the plaintiff said he was "sure" he was aware of the problems that he was having with nightmares and flash backs. After the shooting incident in 1997 there is no reference to nightmares every night and flash backs 3 or 4 times a month in the plaintiff's GP records or the welfare records or the records relating to the attendances of the FMO. Some parts of these records do refer to the plaintiff being depressed but, almost without exception, such references appear to have been to a perfectly understandable depressive reaction to the extent of his injury and the significance of his permanent disability together with the devastating effect upon his chosen career and the level of physical fitness that he had enjoyed for most of his life. When asked in cross-examination why he had not discussed these problems with the visiting welfare officers the plaintiff volunteered a number of somewhat differing explanations including belief that he did not have any psychological problems, an appreciation that he was continuing to suffer from flash backs and nightmares but that he had filed anything away in an attempt to wipe out the past and a perception that the Welfare Department did not have any medical remit. He said that he did not know who to talk to about flash backs or dreams about fighting terrorists every night and that it never struck him that he could talk about psychological matters to his GP. While the records also contain references to difficulties in sleeping and the prescription of Mogadon such difficulties appear to have been linked to physical pain of the plaintiff's injury. The GP records do include a reference to panic attacks in December 1980 and to anxiety symptoms in October 1983.

The Welfare Department records

[15] The welfare notes compiled subsequent to the shooting of the plaintiff in April 1977 were discussed in detail in the course of both examination and cross-examination. In my view these notes reveal concerned and caring officers who visited the plaintiff during and subsequent to his hospitalisation and did their best to ensure that both he and his family were provided with up-to-date advice, information and support. Drawing upon his own experience, Professor Fahy described these notes as "very impressive". In terms of practical support the welfare officers contacted the Police Federation on behalf of the plaintiff and his family, liaised with the relevant FMOs,

discussed the benefits of the Rehabilitation Unit at Harrogate, discussed appropriate firms of solicitors to deal with the plaintiff's compensation claim, reminded him of the existence of the Police Benevolent Fund Committee, attended to support him during the hearing of his compensation claim in the High Court and arranged for him to receive expert advice in relation to his general financial circumstances and resources. The Welfare Department also provided detailed advice with regard to the circumstances of the plaintiff's medical discharge. A note also recorded that, subsequent to that discharge, the plaintiff kept in touch with and received visits from force welfare officers with regard to different stressful situations faced by the family.

[16] Not surprisingly, the welfare notes record that the plaintiff and his family responded positively to the attention of the welfare officers and, during the course of his evidence, the plaintiff confirmed his appreciation of their activities upon his behalf. The plaintiff's complaint about the Welfare Department seems to be that, while they were effective in providing practical support, the officers did not provide him with emotional support or ask sufficiently probing questions about any psychological symptoms from which he may have been suffering. In their closing submissions his advisers submitted that the negative comments contained in the notes should have been sufficient to suggest to the welfare officers that all was not well mentally with Mr McCourt. The notes do contain references to the plaintiff suffering from depression but the context indicates that such a condition would have been quite an understandable reaction to the extent of the physical injury that he had sustained together with the severe pain with which it was associated and the long term consequences for his career and general quality of life. The plaintiff himself did not discuss any other cause of depression or anxiety with the welfare officers and, in particular, did not mention nightmares and flashbacks from which he claimed he was then suffering. He said that the reason for this omission was that he did not consider that these amounted to psychological problems and that, in any event, he did not consider that the Welfare Department had any medical role. Overall, the plaintiff was very reluctant to accept that the welfare officers had provided him and his family with any degree of emotional support and, in their closing submissions, his representatives specifically criticised the defence for suggesting that emotional support was one of the reasons for the visits subsequent to the plaintiff developing a serious disease in 1987. However, at paragraph 77 of his written statement of evidence the plaintiff specifically recorded that at this time:

"A representative attended on numerous occasions and provided emotional support and financial advice"

Support from fellow officers

[17] The welfare notes record the plaintiff being “well visited” by his colleagues and senior officers to some of whom the plaintiff was personally known. Senior officers helped to initiate the plaintiff’s move to a private room in the Musgrave Park Hospital and one of them recommended the services of a personal friend as a solicitor. They also appear to have been instrumental in arranging for the plaintiff to be transferred to the Ulster Hospital. They assisted in liaising between the plaintiff’s family and the Welfare Department. He was visited by his station sergeant, Sergeant Linton, who was also a neighbour. Arrangements were made for the plaintiff to be transferred to lighter duties at Bangor and, when these proved to be too demanding, further arrangements were made for him to be employed as a collator. The plaintiff agreed that his colleagues in Bangor were sympathetic to his situation to the extent that, upon appropriate occasions, they organised his participation in CID activities. After interview on 12 January 1981 the plaintiff’s Divisional Commander wrote:

“We must now see what is best suited for this officer and if it is agreed that his days as an operational detective are over we should consider alternatives. This is a fine officer who is in need of help and consideration and I would be only too willing to find a suitable post for him in this Division if it is decided to remove him from CID.”

Force medical officer

[18] The records confirm that the plaintiff was seen by the Force Medical Officer upon at least seven occasions subsequent to the shooting and he appears to have assisted in advising the transfer to the Ulster Hospital. My impression from reading the records of the various examinations carried out by the FMOs during this period is that, essentially, they were performed for the purpose of monitoring the plaintiff’s physical fitness to return to some form of active duty.

Treatment

[19] The plaintiff does not appear to have received any medical treatment for his mental symptoms subsequent to the last relevant attendance on his GP in October 1983 when he reported “a few anxiety symptoms”. Both Dr Turner and Professor Fahy agreed that the plaintiff remains ambivalent about entering treatment and that this would have affected the likelihood of him participating in treatment at any time since May 1977. Dr Turner felt that appropriate psychiatric treatment would have been helpful in reducing his symptoms but he was unable to express an opinion as to the extent of any relief that might have been gained. Professor Fahy expressed the view that any benefit from any psychiatric treatment would have been “marginal” and

that in view of his reluctance to seek treatment and the predominance of his physical health problems it was unlikely that psychiatric treatment would have greatly altered the outcome of his case. The plaintiff agreed that he had not sought any appropriate treatment for his psychiatric symptoms since his examination by Dr MacKinnon in November 2001 and when asked to explain that omission he said:

“I haven’t sought psychiatric treatment, my Lord. To be quite honest, my Lord, I just didn’t know what to do. I still don’t know what to do. I thought to myself if this basic interview had caused me this much problems goodness knows what treatment might cause. I just wasn’t sure, my Lord, what to do. I am still not sure what to do.”

He agreed that the specialists by whom he had been examined by one side or the other had suggested that there was relevant treatment. He stated that they had indicated that it was not possible to advise firmly whether treatment would help or not. He also carried out some of his own research via the internet. He cannot be compelled to undergo treatment and it remains a personal decision He accepted that, subject to his physical disability, he enjoyed a good quality of life and he was concerned whether treatment for his psychiatric symptoms would, to use his own words, “turn the card over”. I have no doubt about the plaintiff’s courage and resilience and I accept Professor Fahy’s assessment of the plaintiff as a “well-adjusted impressive man” who is tough and who has found an effective coping mechanism. The medical experts consider that any residual symptoms suffered by the plaintiff will stabilise upon the conclusion of the litigation. The plaintiff has been advised by experts that appropriate treatment may reduce his level of symptoms although it is not possible to say by how much and he is aware himself of the degree of upset and distress that such treatment is likely to involve. He has not sought any appropriate treatment for some five years and, on balance, I think that it is unlikely that he will do so in future.

Conclusions.

(i) As I have recorded in my judgment on the generic issues I am not persuaded that the defendant should reasonably have foreseen that exposure to a traumatic incident or incidents could cause a recognisable psychiatric condition to develop in officers without any predisposition prior to 1986.

(ii) I am not persuaded that this plaintiff suffered from a recognised mental disorder prior to April 1977. He may well have suffered a significant reaction to some of the traumatic incidents to which he was exposed but I do not believe that the symptoms from which he may have suffered were of such significance or persistence as to constitute a mental disorder. That is not to

say that any such symptoms were of little or no significance. They are likely to have included shock, horror, distress, revulsion, unpleasant memories, nightmares and, upon at least one occasion, breaking down in tears before his fellow employees. However, I am satisfied that he is a courageous, dedicated and resilient man who was able to develop and maintain an effective coping system and that it is largely as a result of the pressures of the litigation and the demands made upon him of repeated psychiatric examinations that he has come to believe that his symptoms during this period were much more pronounced and persistent.

(iii) Dr Turner and Professor Fahy agreed that subsequent to the shooting in May 1977 the plaintiff suffered from at least an Adjustment Disorder of fluctuating severity the symptoms of which were most pronounced during the initial eighteen months. During this period the general thrust of the plaintiff's evidence is that he did not complain to anyone about psychiatric symptoms because he did not know he had any such symptoms. As I understand the plaintiff's evidence by this he meant that while he was aware he was suffering from nightmares, flash backs etc. he did not appreciate that these might constitute the symptoms of a mental disorder and simply hoped that they would go away as a consequence of relying upon his usual coping mechanisms. Prima facie, his statement that he was sure Mr McAfee was aware of his nightmares and flash backs is difficult to reconcile with this view insofar as Mr McAfee could only have acquired such knowledge from the plaintiff. Mr McAfee enjoyed a well deserved reputation for being one of the most sensitive and humane orthopaedic surgeons practising in Northern Ireland and I have little doubt that if he had suspected that the plaintiff was suffering from significant psychiatric symptoms he would have advised that a report should be obtained from an appropriate expert. In the circumstances, on reflection, I do not propose to place any significant weight upon this particular piece of evidence. On the basis that the plaintiff did not draw his psychiatric symptoms to the attention of anyone, including the solicitors and medical advisors assisting him in his criminal injury compensation claim, I do not consider that the evidence established anything that ought reasonably to have stimulated the defendant into enquiring as to whether he was suffering from any such symptoms and referring him for an appropriate medical examination given the time at which these events occurred. In my view the references to panic attacks, depression, anxiety and difficulty in sleeping contained in the various notes and records were naturally and reasonably attributable to the severe physical injury sustained by the plaintiff and the devastating consequences for the career of which he was so proud and his domestic self-esteem.

(iv) For approximately five years the plaintiff has been aware of the availability of appropriate treatment which he has been advised by experts may reduce his symptoms to some degree. He is aware from experience of the various medical examinations that such treatment may well be personally

harrowing to some degree. Notwithstanding such knowledge, the only step taken by the plaintiff has been to research the nature of his condition on the internet. In the circumstances, I draw the inference that while I am satisfied that he has continued to suffer the symptoms of which he complains to at least some degree since 1997, the plaintiff himself does not consider that they are sufficiently significant to warrant undergoing any further treatment given his present circumstances.

(iv) Accordingly, not without regret, I am compelled to dismiss this claim and there will be judgement for the defendant.