

Judicial Communications Office

13 May 2022

CORONER FINDS SOLDIER WAS NOT JUSTIFIED IN SHOOTING THOMAS MILLS

Summary of Judgment

The Coroner, Mr Joseph McCrisken, today delivered his findings into the death of Thomas Mills who died after being shot while working as a night watchman in Finlay's factory on the Ballygomartin Road in West Belfast on 18 July 1972. He concluded that a soldier M4 was not justified in opening fire and the force used was disproportionate to the threat perceived and more than was absolutely necessary in the circumstances. The Coroner said he will send a copy of his findings to the Director of Public Prosecutions (DPP).

The scope of the inquest was set out in para [30] of the findings. At inquest, the Coroner heard oral evidence from some civilian and military witnesses and some statements were read under Rule 17 of the Coroners Practice and Procedure Rules (NI) 1963. The Coroner also heard from two pathologists and a ballistics expert. On the night Mr Mills was killed, a soldier serving with B Company 1 King's Regiment was killed by a sniper at Vere Foster School which was beside Finlay's factory.

The Coroner considered accounts provided by three civilians who were working in Finlay's factory on the night of 18 July 1972. He was satisfied that in the period immediately before his death, Mr Mills was performing his duties as a night watchman. At around 20:30 hours he let Mrs Rachel Simpson and her daughter, Esther, into the factory site so they could clean some offices. Sometime between 21:15 and 21:30, Mrs Rachel Simpson called out from one of the offices to Mr Mills to let him know they would be leaving soon. Mr Mills began walking over to the offices across a tarmac roadway when a shot was fired. The Coroner was satisfied that Mr Mills was not carrying a rifle or other weapon nor anything that could be mistaken for a weapon or rifle.

Another night watchman, Mr Norman Agnew, described hearing a shot just as Mr Mills was walking over to the offices. Mr Mills was still walking at this time. Mr Agnew then heard another shot and saw it bounce off the ground in front of Mr Mills. At this, Mr Mills stopped and looked at his right hand. This was also the evidence of Mrs Simpson and her daughter but they only heard one shot. The Coroner was satisfied, on the balance of probabilities, that there was one initial shot which struck the road surface causing the bullet to fragment and injure Mr Mills' right hand causing it to bleed. The Coroner was also satisfied that this shot was fired by a soldier in the 1st Battalion King's Regiment, referred to in court as M4, who was positioned in a sangar on the roof of Vere Foster School. M4 had claimed he saw a gunman in and around the area of Finlay's factory but the Coroner did not accept this:

"I am satisfied that there was no gunman in and around the area of Finlay's Factory - only Mr Mills who was unarmed and posed no threat".

After the initial shot was fired, Mr Mills was seen to drop down onto his knees and elbows and then lay down on the ground. At inquest, it was discussed whether Mr Mills had been struck by a bullet while he was upright, kneeling or lying on the ground. The Coroner was satisfied, on balance, that Mr Mills was lying on the ground with his left side toward Vere Foster School when the fatal shot

Judicial Communications Office

struck him. He said that six shots were fired at Mr Mills, one of which struck him in the left arm as he was lying on the ground on his front causing fatal injuries.

Soldiers M4, M1 and M58 all claimed to have seen a gunman at the corner of Finlay's factory. The Coroner was satisfied that the accounts they gave were not plausible when examined alongside the civilian evidence, evidence of other soldiers in the Duke of Wellington's Regiment (who attended Mr Mills' body and said there was no evidence of a weapon or anything resembling a weapon), the pathology evidence, the ballistics evidence, the forensic engineer evidence, the Royal Military Police documentation, the evidence from the military logs and the personnel files of M4 and M1 (which indicated they had poor military records and were discharged in 1974 and 1973 respectively). The Coroner commented:

"Since I am satisfied that there was no gunman in the area I conclude that the accounts provided by M4 and M1 which describe a gunman are inaccurate at best and falsified at worst ... I am satisfied that M4 opened fire in breach of the Yellow Card Rules in force at the time. The actions of M4 were completely unjustified as Mr Mills, at the time he was shot, plainly posed no threat to M4 or anyone. Any allegation that Mr Mills was carrying a weapon and that he was pointing it in the direction of soldiers is wrong. Mr Mills was not acting in a manner that could reasonably or honestly have been perceived as posing a threat of death or serious injury to M4 or to any other person, nor was he carrying anything that could have been construed as a weapon. He was going about his normal lawful duties as a factory watchman. For that reason M4 was not justified in opening fire."

Section 35(3) of the Justice (Northern Ireland) Act 2002 provides that where the circumstances of any death "appear to the coroner to disclose that an offence may have been committed ... the coroner must as soon as practicable send the Director [of Public Prosecutions] a written report of the circumstances". The Coroner considered that the circumstances of Mr Mills' death disclose that an offence may have been committed by M4, and perhaps others, and said he will send the DPP a copy of his findings.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Judiciary NI website (<https://judiciaryni.uk>).

ENDS

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