

# **INQUEST TOUCHING THE DEATH OF PATRICK MCELHONE**

## **OPENING STATEMENT BY CORONER'S COUNSEL**

This inquest is charged with investigating the death of Patrick Anthony McElhone who was 24 years old when he died as a result of injuries sustained when he was shot in the townland of Limehill near Pomeroy in Co Tyrone on 7 August 1974. Patrick McElhone was known as Paddy and his family has asked that he be referred to as Paddy during these proceedings.

There is no dispute that Paddy was shot by a soldier and that the soldier who shot him was Lance Corporal Roy Alun Jones, a member of 'A' Company, First Battalion the Royal Regiment of Wales. Lance Corporal Jones was charged with murder on 9 August 1974 and acquitted of that charge on 27 March 1975 by Mr Justice MacDermott, who sat without a jury.

An inquest was then held into Paddy McElhone's death on 29 April 1975.

This inquest, the second into Mr McElhone's death, was directed by the Attorney General for Northern Ireland on 20 December 2018 as a result of an application to him by Paddy's family.

According to law the inquest must determine insofar as is possible:

- (i) Who the deceased person was, along with some personal details about him;
- (ii) When;
- (iii) Where; and
- (iv) How he died.

Most of those issues will be straightforward enough, and the evidence about them will not be disputed. The matter that will take up most time is the evidence about how Paddy McElhone died. The answer to that question is not confined to the medical cause of death, which is unlikely to be controversial. What must also be considered are the circumstances in which Paddy died. That will include consideration of the actions of the soldiers involved in the incident prior to the shooting and the actions of Paddy McElhone himself.

Because Paddy was shot by a soldier who was in the employ of the state this inquest must comply with the requirements for investigation of a death laid down by Article 2 of the European Convention on Human Rights. In answering the statutory questions the inquest will therefore consider (i) the force used to kill Paddy McElhone and whether it was justified and (ii) whether the use of such force was regulated, planned and controlled in such a way as to minimise to the greatest extent possible any risk to life.

It must be remembered that the inquest's task is to decide **facts**. By law, the verdict or findings of an inquest in Northern Ireland cannot express any opinion on criminal or civil liability e.g. it cannot conclude that someone was murdered or, unlike in England and Wales, record a short form verdict of unlawful killing. The outcome will be in the form of a narrative, which is like a ruling or judgment setting out the Coroner's findings about the circumstances of Paddy's death.

The hearing is listed to run all of this week. The Court will hear evidence that Paddy McElhone lived with his parents and brother Michael on their farm on the Gortsraheen Road, Pomeroy and that he worked the farm. On the day in question he had been out cutting hay near the

family home when a patrol of soldiers arrived in the area to carry out searches. That patrol was a platoon from A Company of 1 Royal Regiment of Wales commanded by Sgt Harry. There were two sections, one commanded by Corporal M18 and the other by Corporal Wood.

The evidence suggests that Paddy was spoken to by members of the patrol earlier that afternoon, while he was working, but by around 6pm the soldiers were in and around the area of the McElhone house. They had earlier sought and received permission to search the McElhones' outbuildings, which they did, finding nothing of note. Paddy's parents (Peter and Margaret) were in the house when Paddy arrived back for his dinner. He walked past the soldiers and into the house. Two soldiers L/Cpls Jones and Bennett then called to the door of the house and asked him to come out with them. He did.

There are conflicting accounts of what happened next. Mrs McElhone says that when Paddy was taken out she went to the lower room in the house, the room closest to the road, to try to see what was happening. She says that she heard loud talk and someone saying "You're not trying to help the British Army very much". She also described seeing Paddy being shaken by the soldiers. She sent her husband out to see what was happening. Mr McElhone says he saw soldiers pushing and shoving Paddy up against a hedge at the gable. He was then pushed down the road and into a field known as "the meadow" where Mr McElhone heard a shot and Paddy fell. After he saw his son fall, Mr McElhone says he asked why his son had been shot and he was sworn at and abused. He went back up to the house, screaming and shouting, where his wife told him to come inside or he might be shot too.

Sgt Harry, the platoon commander, says that when Paddy came out of the house he spoke to him. A cement lorry approached from the direction of Pomeroy and he asked a member of his

platoon to stop the lorry. Sgt Harry says he approached the lorry to question the driver. Before he reached the lorry he says that L/Cpl Jones spoke to him and said he had spoken to Paddy earlier in the day and that he had given him the name Patrick McElhone. Sgt Harry says that was the first time he knew the man's name and he asked L/Cpl Jones to fetch him back. He then went to speak to the driver of the lorry and as he spoke to him he heard a shot. He ran up the hill past the McElhone's house and when he reached the top of the hill he could see a body in the field to his right. He saw L/Cpl Jones at a gate which was the entrance to the field. Jones said nothing to him and Sgt Harry ran back to a radio operator and had the operations room at Pomeroy RUC Station informed.

The man driving the cement lorry, Mr McAleer, did not see the shooting but he says that when he was stopped the soldiers were abusive to him and one said he would have £200 for shooting the likes of him. Mr McAleer says he heard a loud bang but he wasn't sure what it was and one of the soldiers shouted, "the fucker is dead". He says he was subject to further verbal abuse as he passed the field where Paddy's body lay.

Cpl Wood says that Sgt Harry had sent L/Cpl Jones after Paddy when he walked away from the Sgt as he was questioning an old man. Cpl Wood also says that Sgt Harry realised that he wanted to question the "young man walking away" and told L/Cpl Jones to bring him back. When he heard the shot Cpl Wood ran towards it and on his way met L/Cpl Jones walking towards him. Cpl Wood asked him what had happened and he replied with words to the effect of "He was running away". Cpl Wood saw Paddy lying in the field and believed him to be dead as he could not see any sign of movement or breathing.

L/Cpl Jones declined to give an account of what had happened to police following the incident (as was his right). When he was charged with murder on 9 August 1974, two days after the shooting, his response was “Not guilty, it was an accident”.

Giving evidence at his trial it appears that L/Cpl Jones said that he had been asked by Sgt Harrhy to fetch Paddy back when Jones asked him if Paddy had been on the Sgt’s “list”. At trial, this was said to have been a list of people who were not only suspects but residents in the area and people who through living in the area might know of others who were wanted men. During his evidence L/Cpl Jones said he went after Paddy and did call on him, although he accepted Paddy may not have heard this. Jones then said Paddy opened the gate and walked into the meadow. Jones called on him to halt from around 8 yards away, Paddy glanced over his shoulder and started to run off at which point Jones cocked his rifle and fired a snap shot at Paddy. It was that shot that killed him.

However there is one soldier, Private Bedford, who says he was positioned to the north or behind the McElhones’ house. He says he saw a soldier he recognised as L/Cpl Jones accompanied by a civilian in dark clothing, implying that the two were together. He said they were walking downhill. Private Bedford says that he heard a shot and immediately after that shot he heard L/Cpl Jones shout “he made a break for it”.

When Private Bedford was seen by the Historic Inquiries Team in 2013 he said that after the shooting L/Cpl Jones said to him “Keep your mouth shut, I’ve heard what you’ve said in your statement and I’ll be in the shit” or something like that. Mr Bedford indicated that he replied “you’re already in the shit and I am telling the truth”. Mr Bedford also told the HET that he had been treated appallingly by L/Cpl Bennett who told him to keep his mouth shut and go

with the flow. L/Cpl Bennett also said that Mr Bedford was the only one saying anything against L/Cpl Jones.

Another soldier, L/Cpl Lis, who was positioned at the corner of a farm building beside “the meadow” told the HET that he heard a bang like a gunshot and when he looked he saw Paddy McElhone’s head and shoulders falling to the ground. L/Cpl Jones was by the gate. When L/Cpl Lis gave his account in 1974 he said he hadn’t seen anyone enter the field prior to hearing the gunshot and didn’t hear any shouting or warnings being given to anyone. He also said that when he looked to see what had happened Paddy had already fallen on to the ground.

Mr Justice McDermott recorded in his judgment at L/Cpl Jones’ trial that it was “accepted on all sides that the deceased was in fact an entirely innocent person in no way involved in terrorist activity”. He also recorded LCpl Jones’ admission at trial that he had not been justified in shooting Paddy but that he said he shot because there was nothing else he could do.

Paddy McElhone was pronounced dead at the scene. A post mortem examination was carried out by Professor Marshall on 8 August 1974, the day after the shooting. He found that a single bullet had struck the right side of Patrick’s back and exited his chest at the front over the middle of his breast bone. It was Professor Marshall’s opinion that Paddy’s injuries meant he would have died immediately.

This is just some of the evidence the inquest is likely to hear and it raises many of the issues the inquest will have to consider.

Sadly, some witnesses have passed away in the 46 years since Paddy McElhone's death. These include his parents, Peter and Margaret McElhone; the soldier who shot Paddy, L/Cpl Jones; and L/Cpl Bennett, the soldier who, along with L/Cpl Jones, asked Paddy to come out of the house. However, we do have some evidence of what those witnesses said to police, during the criminal proceedings and at the initial inquest and the Coroner will consider receiving that material in evidence along with all the other evidence heard or received.

In addition, the inquest will hear live evidence from Paddy McElhone's brother, Michael; from the civilian, Mr McAleer; from a number of the soldiers who were present that day, including the platoon commander Sgt Harry; and from police officers who investigated the shooting. Evidence will also be heard from a forensic engineer who has examined the scene, Mr Brian Murphy, and from a ballistics expert, Ms Ann Kiernan.

Finally, it must be acknowledged that the current public health emergency means that this inquest cannot proceed in the usual way. The number of people who can be present in court is limited by social distancing considerations. In addition, because of the health implications, most witnesses will not attend in person but rather their evidence will be given from remote locations over a live link. This approach is being taken with the agreement of Paddy McElhone's family and the Ministry of Defence.

**30 November 2020**

**Fiona Doherty QC**

**Denise Kiley BL**