



STATEMENT OF WITNESS

STATEMENT OF GERALD SIMPSON QC

DATED THIS DAY OF 2009

I, GERALD SIMPSON QC, declare that this statement is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence at the Inquiry I will be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

1. The Inquiry has disclosed a number of documents to me. Where I make specific reference to a document in my statement I have given the number of the relevant page.
2. On 16 May 2002, I was instructed by Michael Matthews, Assistant Director of the Department for Public Prosecutions ("DPP") in the case of R v Atkinson and others. I was instructed to advise on the prospects of conviction and, if appropriate, to direct charges, necessary proofs and disclosure. I was asked specifically to advise on abuse of process, which had been raised by the solicitor acting for the Hanveys. If I advised that there were prospects of a conviction I was instructed to conduct the preliminary enquiry. In Northern Ireland, a preliminary enquiry is conducted as a mixed committal. That letter of instruction contains page number **20043**.
3. On 30 August 2002, I provided a written advice to Michael Matthews, a copy of which contains page numbers **20044 to 20051**. I advised on the charges to be put to Robert Atkinson, Eleanor Atkinson and Kenneth Hanvey. I advised that there was no reasonable prospect of a conviction of Elizabeth Hanvey, at that stage. I set out in some detail the evidence which was available to prove each element of the charges and I directed that statements be taken from those witnesses I considered necessary to the prosecution whose evidence had not already been secured in a

statement. I had not consulted with any witness or police officer prior to writing that advice.

4. I was not involved in the prosecution of Andrea and Michael McKee.
5. In preparation for trial I may consult with Prosecution witnesses to ascertain whether their evidence was credible and consistent. I would usually, however, not consult with witnesses until after the committal hearing and then only if there was an issue as to their credibility. It is a relatively common practice in Northern Ireland for prosecution counsel to consult with witnesses and it is quite proper for police officers to be present during consultation
6. On 8 September 2002, I provided a further short advice in response to a query raised by Michael Matthews. I advised that I was not satisfied that the evidence was such as to provide a reasonable prospect of a conviction in respect of the clothing worn by Allister Hanvey. I was of the view that the evidence was intrinsically weak and despite the efforts of the investigating officers to prove the existence, in Northern Ireland, of the type of coat referred to, I considered that a conviction was unlikely against Thomas Hanvey and Allister Hanvey. A copy of that advice contains page number **20042**.
7. My next involvement in the case was, I believe, a meeting on 26 February 2004. That meeting was arranged to discuss a request by the Director that I consult with Andrea McKee to assess her credibility. The meeting considered whether and how the proceedings against Atkinson, Atkinson and Hanvey could be progressed in light of difficulties which had arisen regarding Andrea McKee's credibility. Present at that meeting were the Director Sir Alasdair Fraser, the Senior Assistant Director Mr [REDACTED] and Ivor Morrison. There were a number of police officers present but I cannot remember whom. There is a note of that consultation containing page numbers **33979 to 33981** but it does not refer to the police officers. It was suggested that I consult with Andrea McKee and I agreed.

8. The consultation was arranged for 2 March 2004. I think the consultation was attended by Christine Smith my junior counsel, Ivor Morrison and a DC Murphy. It was necessary because Andrea McKee had failed to attend the committal hearing fixed for 22 December 2003 and her reason for non-attendance appeared to be false. For the consultation, I was given copies of the witness statements obtained from the Pendine Park doctors' surgery and copies of the statements of police officers which related to that discrete investigation. I also remember pressing her fairly hard on the point. I gave her the opportunity to simply admit that she had not visited the surgery. She was adamant, however, that she had. I was satisfied that the police officers had done all they could on that investigation so I advised on 15 March 2004, a copy of which contains page numbers **33915 to 33918**. I formed the clear impression that Andrea McKee was telling lies and could not be relied upon as a witness of fact. I believed that, together with the fact that she was an accomplice witness, was fatal to calling her as a prosecution witness. When using an accomplice it is even more important that they are not tainted by anything else. Without Andrea McKee's evidence then there was no reasonable prospect of conviction, in my opinion. I did not make a note of that consultation but Detective Constable Murphy and Detective Constable [REDACTED] did make notes, copies of which appear containing page numbers **33965 to 33967** and **33961 – 33964** respectively.

9. My advice of 15 March 2004 was my last involvement in the case.



SIGNED:

GERALD SIMPSON

DATED: ...21. 8. 04.....