

Transcript of the Sheku Bayoh Inquiry

Friday, 26 May 2023

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(10.00 am)

LORD BRACADALE: Good morning. Today the Inquiry will hear the prerecorded evidence of the Rule 9 evidence of Alan Paton.

Both of my Assessors attended remotely the hearing at which the evidence was recorded. Raju Bhatt is not attending today's hearing.

Before the tape is played, I should explain that unfortunately, as a result of a technical issue, a number of the questions asked by senior counsel to the Inquiry were not recorded. The answers given by Mr Paton and my interventions were recorded. As you will hear, the quality of the recording, which lasts about 20 minutes, is poor towards the beginning, but does improve.

The Inquiry staff have taken steps to ensure that the recording can be understood. They instructed a lip reading service to reconstruct the questions, and have added them as subtitles to the recorded video. The subtitles will be displayed on the recording.

The Inquiry staff have also produced a transcript of the recording. Can we now play the tape, please.

(Video recording played)

Transcript of the Sheku Bayoh Inquiry

1 Transcript of Rule 9 Evidence of Alan Paton

2 Rule 9 Hearing

3 (10.04 am)

4 LORD BRACADALE: Good morning Mr Paton, um, you're
5 going to be asked a limited number of further questions
6 this morning, um, you're still subject to the
7 affirmation that you gave at the beginning of your
8 evidence to tell the truth. Do you understand that?

9 THE WITNESS: Yes

10 LORD BRACADALE: Yep. Miss Graham...

11 MS ANGELA GRAHAME KC: Where are you (inaudible)

12 MS GRAHAME: You'll see that there are (inaudible)

13 MS GRAHAME: (...) and (...)

14 MS GRAHAME: (...)go through the documents (...)

15 MS GRAHAME: There are specific questions I am going
16 to ask you. If you have any problems please let us know
17 and we'll make sure that's sorted out. If we can look at
18 the first please, if you open that you'll see this is a
19 statement and you may have seen this before and it's by,
20 at the top it says Karen Swan and previous name was
21 Paton. Do you have that one in front of you?

22 THE WITNESS: Yes

23 MS GRAHAME: That's PIRC-00468 now, we understand
24 Mrs Swan is your sister...is that right?

25 THE WITNESS: Yes

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1 MS GRAHAME: And...you'll see on the front of the
2 page, about half way down that this is a statement taken
3 on 8th of January 2016 at ten past twelve in the
4 afternoon?

5 THE WITNESS: Yes

6 MS GRAHAME: And it was taken by Investigating
7 Officer Victoria Karran at the offices at Carlton Place
8 in Glasgow of Amer Anwar & Company.

9 THE WITNESS: Yes

10 MS GRAHAME: It was also in the presence of
11 Investigating Officer L White, Barry Swan, and Amer
12 Anwar and is it true to say that Barry Swan is the
13 husband of your sister; your brother in law.

14 THE WITNESS: Yes

15 MS GRAHAME: And this statement has, eh, eight pages
16 but is all contained within the first five and there are
17 only two sections that you can view. First of all, it's
18 page five...[inaudible] and you'll see on page five

19 UNKNOWN MALE: Clears throat

20 MS GRAHAME: At paragraph two... what I'll do is
21 I'll read it out in full, then I'll go over it and in
22 sections then if you have any comments to make what I'll
23 do first of all is just read that paragraph, "I would
24 like to...", this is what your sister has said, ok, "I
25 would like to go back to when Alan was a teenager. My

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1 mum told me at the time that Alan has said he wanted to
2 join the BNP and she had told him she would disown him
3 if he did. Alan used to make racists remarks to the
4 Asian family that lived around the corner when we lived
5 in..." which is redacted. "He was never violent towards
6 them but he was quite vocal to them. If they passed by
7 him he would make racist comments towards them. I don't
8 know anything else about him joining the BNP." We'll
9 just go through that paragraph. First she says "I want
10 to go back to when Alan was a teenager. My mum told me
11 that he wanted to join the BNP, and she told him she
12 would disown him if he did." Do you have any comments
13 you'd like to make about that statement?

14 THE WITNESS: The entire paragraph's not true. I've
15 got nothing further to add than what I gave in my
16 statement that was submitted a few days ago.

17 MS GRAHAME: Did you ever join the BNP?

18 LORD BRACADALE: Mr Paton you've been asked a
19 question

20 THE WITNESS: Yes I-I've said I had nothing further
21 to add than my statement.

22 LORD BRACADALE: Well you've been asked a direct
23 question: Did you - did you ever join the BNP?

24 THE WITNESS: No

25 LORD BRACADALE: And I think you can answer that;

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1 your answer is no

2 THE WITNESS: No

3 MS GRAHAME: The second sentence of your sister's
4 statement says, "Alan used to make racist remarks to the
5 Asian family that lived around the corner when we lived
6 in ..." (inaudible) Do you remember living around the
7 corner from an Asian family with your sister?

8 THE WITNESS: As I say, I've got nothing further to
9 add, eh? I've said it's not true - It's not true in its
10 entirety; I've got nothing further to add.

11 LORD BRACADALE: Well it's a straightforward
12 question Mr - (interrupted)

13 THE WITNESS: I understand that - yeah I understand
14 that

15 LORD BRACADALE: And you're not going to answer

16 THE WITNESS: Naw

17 MS GRAHAME: Do you deny the comment there that you
18 made racist remarks to an Asian family living round the
19 corner from you?

20 THE WITNESS: It's all detailed in the statement I
21 submitted

22 MS GRAHAME: So you're denying that

23 LORD BRACADALE: Could you just confirm, Mr Paton,
24 that in your statement that you provided, you did deny...
25 eh... making racist remarks about a family round the

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1 corner?

2 THE WITNESS: Em, I'm not sure to be honest with
3 you. Erm... Like I say, I've got nothing - I've got
4 nothing further to add than that it is an entire lot of
5 made-up nonsense... Em...I've got nothing further to add
6 than that, so there's no point in asking any further
7 questions, eh?

8 LORD BRACADALE: I think that adequately answers the
9 question so you can move on

10 MS GRAHAME: Can I ask you then to turn please to
11 page six. You'll see another section on page six
12 paragraph one on that page. Now again I'll just read it
13 out, "Other than the BNP incident, I have no other
14 specific examples of racism. However Alan frequent..."
15 frequently, I think, "used racist remarks like "Black
16 bastard". This was common. I witnessed this myself and
17 other people told me. It wasn't a secret that he had
18 feelings like this, he was quite vocal about it." Do you
19 want to make any comment about that?

20 THE WITNESS: No, I don't naw

21 MS GRAHAME: [inaudible] Am I correct in assuming
22 that you also deny this paragraph...[inaudible]

23 THE WITNESS: Yes that's correct

24 MS GRAHAME: That would include denying that you
25 have used racist remarks, like "black bastard"?

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1 THE WITNESS: I've never used (inaudible) like that

2 MS GRAHAME: May I ask to look at the second
3 document in your folder. This ... you'll see that this
4 is the statement of Barry Swan, your brother in law
5 which is PIRC-00396 and I'd like you to look on the
6 front page, this statement was given by Mr Swan on the
7 15th of October 2015 at 4PM in the afternoon. It was
8 given to Investigator Maurice Rhodes, in the presence of
9 Investigator Alex McGuire. So can you see that?

10 THE WITNESS: Yes

11 MS GRAHAME: Look please first at page nine of this
12 statement, it's paragraph six but I think on the version
13 you have you'll see it's paragraph six too. I will go
14 through this section by section. "Karen and I discussed
15 events over that period of time." This is Mr Swan
16 speaking about his wife, Karen. "Karen and I discussed
17 these events over that period of time. We discussed
18 various incidents involving Alan", that's you, "and his
19 behaviour and at one point Karen told me for the first
20 time that Alan had wanted to join the British
21 Nationalist Party (BNP) when he was sixteen". You've
22 already given your comments on that. "There was nothing
23 out and out, up until that point that I ever felt that
24 Alan was racist. There was a few comments, or off the
25 cuff remarks, made by Alan over the early years which I

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1 took to be jovial and humorous. There was no malice or
2 vindictiveness surrounding these comments but they were
3 such as "that black bastard" or the "paki" jokes". Would
4 you like to make any comments about what is said in Mr
5 Swan's statement?

6 THE WITNESS: Barry himself was a bigot and a
7 racist and I've further detailed that in my statement,
8 eh, with examples. I have nothing further to add.

9 MS GRAHAME: Do you want to respond to the...the
10 comments attributed to you: "that black bastard" or the
11 "paki" jokes? Do you want to say anything about...

12 THE WITNESS: They're not - they're not true

13 MS GRAHAME: He then goes on to say, "I never
14 challenged him, because I perceived it as a laugh. I
15 didn't ever feel that he meant the comments. However, in
16 my opinion the BNP is a political party with racial
17 undertones about them, and, as I became aware of Alan's
18 early aspirations to join the BNP, I began to connect
19 both that and the previous comments that I had witnessed
20 him make". Do you want to say anything about that?

21 THE WITNESS: Naw

22 MS GRAHAME: He makes a number of comments
23 apparently about you being jovial and humorous, making
24 off the cuff remarks without malice. Do you have
25 anything to add? Do you want to say anything about those

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1 comments he's just said?

2 THE WITNESS: Naw

3 MS GRAHAME: Did you make any comments or off the
4 cuff remarks?

5 THE WITNESS: No

6 MS GRAHAME: Are you going to (inaudible)

7 THE WITNESS: No

8 MS GRAHAME: Can I ask you to look at the next
9 document, please, and this is a statement by Ashley Wyse
10 you'll see, PIRC-00044. You'll see in the middle of the
11 first page it says this statement was taken on the 3rd
12 of May 2015 at 7:45 in the evening, that's on the day of
13 the incident with Mr Bayoh. And it was taken by two
14 Detective Constables, Cox and Stark, at her home
15 address. Have you got that page?

16 THE WITNESS: Yes

17 MS GRAHAME: Now we have the benefit of other
18 evidence from Ashley Wyse. You may recall that Ms Wyse
19 was one of the witnesses that we heard
20 from...[inaudible] I'd like you to look in this
21 particular statement at page two please, paragraph one.

22 UNKNOWN MALE: Coughs

23 MS GRAHAME: I'll read the whole paragraph just to
24 put it in context if I may..(inaudible). "I got up and
25 looked out of the window. I saw a man going down to the

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1 ground with about 6 police officers around him, but I
2 can't be sure of the exact number. It was just a split
3 second that I saw him going to ground. There were 2 or 3
4 batons lying in the road, definitely 2, might have been
5 a third. The man kept making roaring noises and shouted
6 something similar to "get off me". Do you have any
7 recollection of the man we know now as Mr Bayoh shouting
8 "get off me"?

9 THE WITNESS: No, throughout my engagement with Mr
10 Bayoh he uttered not one word, not one single word, he
11 made no sounds - nothing. From my initial engagement
12 with him to the conclusion of my involvement he remained
13 silent. The only screams I heard was that of Nicole
14 Short, Miss Wyse is mistaken. I have nothing further to
15 add.

16 MS GRAHAME: Can I take from what you've said where
17 she says the man kept making roaring noises. So you
18 would disagree that he made those noises... any
19 noise...(inaudible)

20 THE WITNESS: That's correct

21 MS GRAHAME: And.. can I ask you to look at the next
22 document, which is PIRC-00043 and then you will see this
23 is a second statement by Ashley Wyse and on the front
24 page you will see that this was taken on the 5th of May
25 2015 at twenty past seven in the evening, a few days

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1 after... and it was taken by Investigator Alex McGuire
2 in the presence of DSI Margaret Ann Headrick. Do you see
3 that on the front page?

4 THE WITNESS: Yes

5 MS GRAHAME: If you look please at page two and I'm
6 going to ask you to look at paragraph eight look for me
7 at page two and it starts, "when the man was on the
8 ground", do you have that?

9 THE WITNESS: Yes

10 MS GRAHAME: "When the man was on the ground I heard
11 him screaming. It was a horrible sound. It sent chills
12 through me. I heard the man shout to the police to get
13 off him. They never moved from him at that point". Then,
14 if we look at that paragraph, do you have anything to
15 say about what (inaudible)

16 THE WITNESS: Naw

17 MS GRAHAME: And given your earlier answers to me,
18 can I just confirm that your recollection ... he was not
19 making a sound, did not shout out once?

20 THE WITNESS: No, the only scream I heard was that
21 of Nicole Short.

22 MS GRAHAME: (inaudible)

23 THE WITNESS: Yes

24 MS GRAHAME: Am I correct in saying that you are
25 saying Ms Wyse is incorrect or mistaken.

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1 THE WITNESS: Yes, that's correct

2 MS GRAHAME: Then let's look at the final statement.
3 This is... got that in front of you Mr Paton?

4 THE WITNESS: Yes

5 MS GRAHAME: Mr ... This is his inquiry statement that
6 PC Austin Barratt provided to us. It was taken on Friday
7 the 1st of April this year.

8 THE WITNESS: Yes

9 MS GRAHAME: And Mr Barratt didn't give oral
10 evidence at a hearing but we did hear that he is the
11 federation representative

12 THE WITNESS: No, he was, he's been thrown out the
13 police.

14 MS GRAHAME: Right so in 2015 he was the
15 federation representative and he was the person who
16 contacted Amanda Givan. We heard evidence, oral
17 evidence, from Amanda Givan that she was the area
18 federation representative in 2015. Do you remember that?

19 THE WITNESS: Naw

20 MS GRAHAME: Can I ask you to look at paragraph 34
21 please. All the paragraphs have numbers and you'll find
22 paragraph 34 begins "Alan and Craig"

23 THE WITNESS: Yes

24 MS GRAHAME: And I'll read this out: "Alan", which
25 is a reference to yourself, and "Craig" is a reference

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1 to PC Craig Walker, "came in and said that they needed
2 Federation help or advice. I jokingly said I hadn't
3 started work yet and I didn't start until 0800 because I
4 didn't think they were really wanting anything. I
5 thought they were just having a laugh, and then they
6 said they needed advice because they had just killed
7 someone Craig said "We've just killed someone". I'm
8 pretty sure that's exactly what they said." Do you
9 remember PC Walker saying "we've just killed someone"?

10 THE WITNESS: No point did I speak to Austin
11 Barrett, and I can't recall that being said; in fact I'm
12 adamant it wasn't said.

13 MS GRAHAME: (Inaudible) Was there a point you
14 didn't speak but were you in the room with him?

15 THE WITNESS: Yes

16 MS GRAHAME: On your return to Kirkcaldy Police
17 Office

18 THE WITNESS: Yes

19 MS GRAHAME: And you don't have any recollection
20 (inaudible) of saying that...

21 THE WITNESS: Naw

22 MS GRAHAME: Your position is (interrupted)

23 THE WITNESS: Contrary to that I'm adamant that he
24 didn't say it

25 MS GRAHAME: So it's your position you said nothing

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1 to Austin Barratt

2 THE WITNESS: No

3 MS GRAHAME: (inaudible) No you did not say
4 anything?

5 THE WITNESS: No I did not say anything

6 MS GRAHAME: Then, "Craig said (inaudible) we've
7 just killed someone. I'm pretty sure that's exactly what
8 they said". (inaudible) Were you under the impression at
9 that time that Sheku Bayoh was dead?

10 THE WITNESS: Yes

11 MS GRAHAME: What was your understanding at that
12 time of the position (inaudible) of how he had
13 (inaudible)

14 THE WITNESS: (inaudible) Nothing further to add

15 MS GRAHAME: So, if PC Walker said we've killed
16 someone, would you disagree with that statement

17 THE WITNESS: Nothing further to add

18 MS GRAHAME. (Inaudible) Thank you very much Mr
19 Paton

20 LORD BRACADALE: Ok. Well, thank you Mr Paton for
21 coming back today, eh, when I leave, you'll be free to
22 go

23 (Transcript ends)

24 LORD BRACADALE: The Inquiry will now adjourn.

25 (10.24 am)

Transcript of the Sheku Bayoh Inquiry

1 (The Inquiry adjourned until 10.00 am on Tuesday,

2 27 June 2023)

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