

Malcolm Kennedy (1946-2013)

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A victim of a grotesque miscarriage of justice has died aged 67. Malcolm Kennedy will go to his grave having been unable to overturn his conviction for the manslaughter of Patrick Quinn in Hammersmith Police Station on Christmas Eve 1990.

Quinn certainly was slaughtered. All but one of his ribs were broken, his heart and spleen were crushed and his face pulped in a vicious, brutal attack that left him dead in a police cell where both men had been placed after being separately arrested for being drunk.

Middle-aged and unfit, Kennedy had no previous history of violence but according to the police he had woken from his drunken stupor to kill a man he had never met. Kennedy claimed he had been woken up by a struggle in the cell between three officers and the dead man and had been punched unconscious.

The murder of Quinn was considered so serious by the police that officers on duty cleaned the uniforms they were supposed to hand over for forensic tests, the log book showing who visited the cell was 'lost' (just one of several vital documents which disappeared) and procedures for calling in the Police Complaints Authority and pathologist were not followed. None of which mattered when a protesting Kennedy was convicted the following year for murder and sent down for life.¹

Kennedy was having none of that. He had no record of political activity but he was determined not to go to his grave with a murder conviction. His solicitors located new witnesses who were present in the police station on the night of Quinn's death and a major World in Action programme was made on the case.

The case was referred back to the Court of Appeal and a retrial was ordered at which the sudden appearance of

¹ A detailed account of this case is at <<http://www.red-star-research.org.uk/malcolm1.html>>.

previously lost police 'evidence' halted a trial that was going badly for the prosecution. When the case returned to court Kennedy's case was dealt a major blow when the key police witness was declared mentally unfit to give evidence and the judge in the case dismissed Kennedy's argument that this prevented him having a fair trial.

At the end of the second re-trial the judge put to the jury that Kennedy may not have intended to kill Quinn and was so drunk that he could not remember what he had done. The jury acquitted Kennedy of murder and convicted him of the lesser charge of manslaughter, a perverse verdict as Quinn's injuries clearly indicated he'd been brutally murdered.

Kennedy was sentenced to 9 years imprisonment. Thankfully for him there were now plenty of people convinced of his innocence. Hackney Community Defence Association [HCDA] together with members of the Irish community based at the Irish Centre in Hammersmith, formed the Justice for Patrick Quinn, Free Malcolm Kennedy campaign and were to regularly picket Hammersmith Police Station over many years.

In 1996 in the lead up to Kennedy's appeal against his conviction an early day House of Commons motion attracted 65 signatures. This was made on the grounds that the trial judge wrongly exercised his discretion by deciding that the police officer was medically unfit to give evidence and then in his absence allowing transcripts of his evidence in previous hearings to be read out in open court. Further, that it was an abuse of process for the second re-trial to continue without the police officer giving evidence. The appeal however was lost.

Later, when he had been released from prison, Kennedy's attempts to take his case to the European Court of Human Rights were also unsuccessful.²

No sane person wants to go to their grave having been wrongly convicted of another man's death, even if it is of the lesser charge of manslaughter rather than murder. Kennedy was determined to legally prove he did not kill Patrick Quinn.

² Jane Affleck wrote about Kennedy's case and his pursuit of it up to the European Court of Human Rights in *Lobsters* 39, 41, 43 45, 49 and 59.

During the protracted court cases officers from Hammersmith Police station had disputed ever previously knowing who Patrick Quinn was prior to his arrest. This meant there was no motive for police officers to attack Quinn.

Yet, thirteen years after Quinn's death someone who knew him well came forward after he saw a campaign appeal for new witnesses in the Irish press. Joseph Fallon had also died in Hammersmith Police Station in contested circumstances, on 17 September 1987, and the new witness had subsequently helped organise Fallon's funeral.

Interesting, but what had that to do with Quinn? 'They were best friends.' So much so that the new witness alleged that at 7.00am on 24 December 24 1990 he was rung by the police to be told that Patrick Quinn, whom he had known since 1967, had died in Hammersmith Police Station.

According to the man Quinn, like Fallon, was a passionate Republican who often had arguments with the local police. Asked why he thought the police had contacted him less than 6 hours after Quinn had been confirmed as being dead the Tyrone man felt 'it could have been because they had my name in there because of Joe Fallon. My opinion would be that they [the police] knew Patrick Quinn knew Joe Fallon' and as such the man was contacted because of his concern three years earlier when Fallon died.

Despite the new evidence the Criminal Cases Review Commission refused to examine it.

Meantime, Kennedy, who prior to being incarcerated had owned a restaurant, had emerged from prison to start rebuilding his life by setting up a small removals business. This became increasingly difficult due to what he alleged was 'highly intrusive and unlawful surveillance' including interference with his phones, mail and emails. This had the effect of blocking him from going about his everyday affairs whilst preventing potential customers making contact with his removals firm and thus losing him a lot of business.

However, Kennedy's strenuous attempts to pursue a legal case here in Britain and in the European Court of Human Rights were to prove unsuccessful

Three years ago, Kennedy admitted he was not hopeful of 'having his manslaughter conviction overturned in his lifetime.

'I feel the statement obtained in October 2003, disproving the police claims about not previously knowing Patrick Quinn, was new evidence. Yet the CCRC wouldn't commit any resources into taking their own statement and re-opening the case. Consequently I am blocked from appealing against my conviction.

It may be twenty years on but I am still haunted by what happened in 1990. Especially as I am still being harassed due to an ongoing police interest in me. I hoped this would stop when I formally stopped campaigning a few years ago in order to enjoy some relative peace. Sadly that hasn't proven to be the case, and I still find my phones, emails and letters being interfered with and I suspect that will continue until my death. [It did.]

But, I repeat, and always will – I was not responsible for the death of Patrick Quinn in Hammersmith Police Station in December 1990.'

Graham Smith, a close friend of Malcolm Kennedy, said:

'The juries in the three murder trials Malcolm faced were not simply deciding whether he had killed Patrick Quinn. If Malcolm didn't murder Quinn a police officer must have done it. In 1990, despite the numerous campaigns against miscarriages of justice up and down the country, there was not the widespread disbelief in the police that followed the overturning of the murder convictions of the Birmingham Six in 1991.

More recently, there have been the revelations that a Metropolitan police officer most probably killed Blair Peach at Southall in 1979, and South Yorkshire Police conspired to blame Liverpool fans for their deaths at Hillsborough in 1989 in order to deflect attention from their own failings.

After his release from prison, Malcolm helped

others who had been wrongly convicted. He developed an interest in filmmaking and would often be seen at meetings with cameras and recording equipment. A fighter to the end, he unsuccessfully challenged the lawfulness of UK law governing surveillance in the European Court of Human Rights in 2010 and at his death was attempting to discover what undercover cop, Mark Jenner, who had infiltrated the Colin Roach Centre where the Free Malcolm Kennedy Campaign Justice for Patrick Quinn, was based, had told his Met handlers about Malcolm's case.'