

My lady, my Lords,

(please treat my written submissions as if spoken aloud and likewise the 9 new character statements) I will address you orally in addition now for perhaps 20 minutes or so.

I ask you to reflect, why is it that an incident in a godforsaken field in Helmand in 2011 has fixed the eyes of the British people on this case, such that thousands of retired service folk and their wives have attended public rallies where the national anthem was sung and the behaviour was impeccable, Mrs Blackman is greeted with hundreds of shouts of “Good luck Claire!” whenever she enters this court building, hundreds of thousands of ordinary people signed the petition which brought about the debate in Parliament in September 2015 about her husband, where dozens of members spoke passionately, many of them former soldiers themselves, with similar speeches being made at different times in the House of Lords, that there is behind me a whole row in your public gallery which has been informally allocated to retired officers from the 3 armed services of Colonel rank and above, and which in fact includes several Generals some of whom are household names from the Falklands war, that there are several limbless former comrades of the Sgt who have come here today in wheelchairs, that the case has obtained acres of press coverage, and that although happily the sound does not penetrate to this famous court four, the taxi drivers honk their horns as they pass the phalanx of placards demanding justice for Marine A outside this building.

We are confident that Mrs Blackman’s campaign for justice will end with justice in this courtroom today, and at the forefront of our submission is the plea that he should be released **today**, and that the incarceration of almost 3 ½ years which he has already served is already too much for his crime. And we plead as you know that he should not as part of his punishment be ordered to be dismissed let alone dismissed with disgrace, for that single word **disgrace** has been for him a more bitter pill to swallow than anything else.

The years he has already served in prison equate to a determinate sentence of almost 7 full years. For what was a single blot on an otherwise exemplary career covering 15 years of splendid service, 6 tours of duty lasting 6 months each in Iraq and Afghanistan, several medals, and violent enemy attacks too numerous to mention upon him. For what was a single aberration brought about as this court has now found, by a mental breakdown. And a mental breakdown that was itself

caused as you have equally found, and as you pronounced in your judgement last week, by unimaginable stresses and privations on the battlefield.

You have heard from the three eminent psychiatrists who gave unanimous evidence in this court about the sergeants mental breakdown, that up to one in 4 of frontline troops develop combat stress related mental illnesses, and that there are normally well tried procedures in place to support and buttress the mental health of our troops. You have also heard uncontradicted evidence of how those procedures failed dismally in this instance, because he was serving in such a remote and dangerous place that the colonel commanding him visited only once in 6 months, the Padre could not visit at all, there was no TrIM trained practitioner at this outpost, and the Sgt was isolated with 15 young men under him in the “most dangerous Square mile on earth” as it was at the time, and nobody but himself with whom to share the burden of command.

I venture to submit that there is an unbroken line between the answer to that question with which I began, and yesterday’s rally in Trafalgar Square in respectful memory of those who fell on Wednesday in the murderous attack outside Parliament.

It is that the vast majority of right-thinking ordinary men and women in this country recognise that our way of life and our values and even perhaps our civilization, is today under threat as rarely before by dark forces, and that it is the courage and sacrifice of men like Marine A and his former comrades not just in the Royal Marines but in all the armed forces, and indeed not just in the armed forces, but also in the police and intelligence services, without whom we would all be at the mercy of the new barbarians.

British Armed Forces today as is well known are fewer in number than ever before, and therefore what they lack in quantity they must make up for in quality.

If it were not for this one single blot, I would be able to say of my client that he is a hero amongst men and a fine example for the youth of this country to emulate. You have read the scores of pages of reports written regularly about him by his officer commanders over the years which have been uniformly magnificent. You have read the extraordinary new bundle of character statements about him from 9 comrades including one Padre who served alongside and under him on battlefields in Iraq and Afghanistan. And indeed these 9 were selected from many others.

You will agree with me that many a great man would be hard pressed to find so many fine people to say such wonderful things about them. You have noted how his career has always been spent in the very front line of battle. He has risked being killed on literally hundreds of occasions when he has come under enemy fire. He has never known life behind a military desk as some, including some critics, he has only known military life at the sharpest of sharp ends. He estimates having himself personally and lawfully had to kill the Queen's enemies over 30 times on the battlefield.

You have read how several military armoured vehicles in which he was travelling have been blown up under him. He has dodged bullets on countless occasions that were meant for him, grenades have been thrown at him, notably indeed just a few weeks before this one moment of revenge, he has had narrow escapes with death too numerous to count.

And from a mass of information you have about my client and his qualities of character and leadership outside the instant offence I ask you to focus hard on this one single fragment.

Because they were so undermanned at CP Omar where there should have been a full troop of upwards of 30 men there were only 16, and at one low point just 10. They were forced to patrol twice each day for up to 10 hours in all along IED infested paths. And they were doing it in heat of 50°C carrying 100 lbs in weight of equipment. They knew each step could be their last, they knew the signature injuries from IED's, which are a terror weapon, were loss of lower limbs and genitalia, and they knew that the only thing that could be worse would be if a straggler were to be captured by the Taliban, who would torture him to death. Not much has changed in Afghanistan since Rudyard Kipling wrote:

“When you're wounded and left on Afghanistan's plains,
And the women come out to cut up what remains,
Jest roll to your rifle and blow out your brains
An' go to your Gawd like a soldier.”

And they were under enemy fire almost every single day. And yet Sgt Blackman who has no children would insist on going out on more patrols than were his fair share, in order to spare so far as possible the men under him who did have children. Such quiet heroism is simply incredible.

Of the mass of commendation, I want to read out now publicly just one, the witness statement of a young Marine called **Thomas Joseph Quinn** at page 14 of the bundle. He is still serving today in 4-5 commando but he previously served under Sgt Blackman at CP Omar in 4-2 commando at the time of the incident....

Today's case is on unique facts. The sentencing exercise today although difficult, sets no precedent for the future. The real problem here is knowing how to tailor the right sentence for unprecedented circumstances.

All I say here about the facts is this. This offence could not have happened except for the horrors of war on a battlefield which caused a psychiatric illness, which went untreated and undetected because the system went wrong at CP Omar for reasons that were not his fault. They were if anything the fault of his higher command, and whilst of course it is an important principle that the court must uphold the sanctity of human life when sentencing for manslaughter, let alone the normally Olympian standards of HM Armed Forces, the grim fact is that this insurgent who had been lawfully engaged by the Apache helicopter some 22 minutes before the Sgt and his patrol arrived to find him where he lay, was at best just minutes from death anyway.

We have today but the court below did not have the evidence of one of the country's top pathologists Dr Ashley Fegan-Earl. Extraordinarily no such evidence was before the trial court on this issue. He has watched the video numerous times. He concludes that it was inevitable the insurgent would have died within minutes anyway. He had a sucking chest wound and a lung hanging out, and he was in agony. He was miles away and hours away from skilled medical treatment.

Accepting fully that my client shot to kill, he must be taken to have known the following. The icom chatter coming over his earphones was telling him that a further imminent attack was expected by other Taliban, including possibly the one who was still at large, at CP Talaander which had been fired on earlier in a sustained attack. This was under half a mile away, and at any moment the Sgt's patrol was likely to be ordered there in support.

To bring in a medical evacuation helicopter when there were armed insurgents known to be in the vicinity could have risked not only the machine itself but the crew in it, because the Taliban were known to possess and use rocket propelled grenades. Anyone in the Sgt's position, even if they had been in full possession of self-control and rational judgment which he then was **not** due to his adjustment disorder, would have faced a cruel moral dilemma. To stay and treat the dying man

could prevent the patrol redeploying speedily to assist their comrades at Talaander. To bring in a medical evacuation helicopter could risk the safety of it and its crew.

And all this for a dying terrorist who had just been found in possession of an AK-47, ammunition and a grenade. I say no more about the facts other than to remind the court that by statute it must pass today only the shortest sentence which is commensurate with the seriousness of the offence and the harm caused. And when judging what the harm caused was, it was surely in this extraordinary context a few minutes of life only of the terrorist, at best.