

Success for Harry Steinberg QC and Nina Ross in Iraqi civilian litigation before Leggatt J

(1) Alseran (2) Al-Waheed (3) MRE (4) KSU v Ministry of Defence [2017] EWHC 3289 (QB)

Harry Steinberg QC and Nina Ross acted for two Iraqi civilians (MRE and KSU) who were captured on a merchant ship by Coalition forces during the invasion of Iraq in 2003.

The Claimants alleged that they were captured by British military personnel; abused sexually and physically on a series of vessels; delivered to a port where they were assaulted and hooded; and then detained unlawfully in the desert in inhumane conditions.

The claims, which were brought under Iraqi law and pursuant to the Human Rights Act 1998, were heard before Leggatt J earlier this year.

Leggatt J has now handed down Judgment in favour of the Claimants on the following grounds:

1. Although the claims brought under Iraqi law were time-barred, it was equitable to allow the claims brought under the HRA 1998 to proceed notwithstanding the substantial periods which elapsed from when the acts complained of occurred before the claims were issued.
2. The Claimants were mistreated as they alleged.
3. The Claimants were unable to show on a balance of probabilities that the mistreatment they suffered on the series of vessels was at the hands of British as opposed to other Coalition forces. However, the Claimants had proved that the mistreatment they suffered thereafter was meted out by British forces.
4. The assaults and hooding to which the Claimants were subjected at the port constituted inhuman and degrading treatment contrary to article 3 of the European Convention.
5. For six of the days that the Claimants were detained in the desert, their detention was unlawful and amounted to a violation of article 5 of the European Convention, namely the right to liberty and security.
6. It was appropriate to award damages for just satisfaction pursuant to s.8(1) of the HRA 1998 in the sum of £28,040 for MRE (who suffered more serious physical assaults and subsequent injuries than did KSU) and £10,600 for KSU.

A more detailed analysis of the case will appear on our International blog in due course.

[Click here to read the Judgment in full.](#)

For press coverage of the case see, for example:

The Telegraph

The Guardian

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King's Bench Walk

The Independent