

19/7/05

WS 80 - 81

CHARGE SHEET

FOR TRIAL BY GENERAL COURT-MARTIAL

THE QUEEN v DONALD PAYNE
WAYNE ASHLEY CROWCROFT
DARREN TREVOR FALLON
KELVIN LEE STACEY
MICHAEL EDWIN PEEBLES
MARK LESTER DAVIES
JORGE EMMANUEL MENDONCA

The accused 24841881 Corporal Donald Payne, Queen's Lancashire Regiment, attached to 1st Battalion The Kings Regiment, Infantry Training Centre Catterick, a non-commissioned officer of the regular forces, 25128164 Lance Corporal Wayne Ashley Crowcroft, 1st Battalion The Queen's Lancashire Regiment, a non-commissioned officer of the regular forces, 25153611 Private Darren Trevor Fallon, 1st Battalion The Queen's Lancashire Regiment, a soldier of the regular forces, 25031191 Sergeant Kelvin Lee Stacey, 1st Battalion the Queen's Lancashire Regiment, a non-commissioned officer of the regular forces, 544392 Major Michael Edwin Peebles, Intelligence Corps, Permanent Joint Headquarters, an officer subject to military law pursuant to s.205 (1)(a) of the Army Act 1955, 24678401 Warrant Officer Class Two Mark Lester Davies, 53 Military Intelligence Section, a Warrant Officer of the regular forces and, 513942 Colonel Jorge Emmanuel Mendonca, late of The Queen's Lancashire Regiment, Permanent Joint Headquarters, an officer subject to military law pursuant to s.205 (1)(a) of the Army Act 1955 are charged as follows:

**FIRST CHARGE
(CORPORAL PAYNE ONLY)**

STATEMENT OF OFFENCE

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 70
OF THE ARMY ACT 1955 THAT IS TO SAY MANSLAUGHTER

PARTICULARS OF OFFENCE

Donald Payne, at Basra, Iraq, on the 15th day of September 2003,
unlawfully killed Baha Da'oud Salim Musa.

**SECOND CHARGE
(CORPORAL PAYNE ONLY)
ALTERNATIVE TO THE FIRST CHARGE**

STATEMENT OF OFFENCE

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 70 OF THE ARMY ACT 1955 THAT IS TO SAY A WAR CRIME CONTRARY TO SECTION 51 (1) OF THE INTERNATIONAL CRIMINAL COURT ACT 2001 NAMELY INHUMAN TREATMENT OF A PERSON PROTECTED UNDER THE PROVISIONS OF THE FOURTH GENEVA CONVENTION 1949 AS DEFINED BY ARTICLE 8(2)(a)(ii) OF SCHEDULE 8 OF THE SAID INTERNATIONAL CRIMINAL COURT ACT 2001 AND THE INTERNATIONAL CRIMINAL COURT ACT 2001 (ELEMENTS OF CRIMES) REGULATIONS 2001

PARTICULARS OF OFFENCE

Donald Payne between the 13th day of September 2003 and the 16th day of September 2003 in Basra, Iraq, inhumanely treated Baha Da'oud Salim Musa.

**THIRD CHARGE
(CORPORAL PAYNE ONLY)**

STATEMENT OF OFFENCE

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 70 OF THE ARMY ACT 1955 THAT IS TO SAY A WAR CRIME CONTRARY TO SECTION 51 (1) OF THE INTERNATIONAL CRIMINAL COURT ACT 2001 NAMELY INHUMAN TREATMENT OF A PERSON PROTECTED UNDER THE PROVISIONS OF THE FOURTH GENEVA CONVENTION 1949 AS DEFINED BY ARTICLE 8(2)(a)(ii) OF SCHEDULE 8 OF THE SAID INTERNATIONAL CRIMINAL COURT ACT 2001 AND THE INTERNATIONAL CRIMINAL COURT ACT 2001 (ELEMENTS OF CRIMES) REGULATIONS 2001

PARTICULARS OF OFFENCE

Donald Payne between the 13th day of September 2003 and the 16th day of September 2003 in Basra, Iraq, inhumanely treated eight Iraqi civilians namely Baha Hsashim Mohammed Fathi Malki, Satar Shukri Abdelah, Muhammed Thaher Abdullah Al-Mansouri, Juwas Kaathem Kamile Fayeze, Ahmed Thaher Musa Al-Mataairi, Ahmed Maitham, Kifah Taha Musa Mutairi and Radif Taher Muslim.

**FOURTH CHARGE
(CORPORAL PAYNE ONLY)**

STATEMENT OF OFFENCE

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 70 OF THE ARMY ACT 1955 THAT IS TO SAY DOING ACTS TENDING AND INTENDED TO PERVERT THE COURSE OF PUBLIC JUSTICE CONTRARY TO COMMON LAW

PARTICULARS OF OFFENCE

Donald Payne on the 15th day of September 2003 with intent to pervert the course of public justice, did a series of acts which had a tendency to pervert the course of public justice namely told persons, to tell anyone in authority investigating the death of Baha Da'oud Salim Musa to say that the said Baha Da'oud Salim Musa had died because he banged his own head, thereby indicating that he died accidentally, being an account the said Donald Payne knew to be untrue.

**FIFTH CHARGE
(LANCE CORPORAL CROWCROFT AND PRIVATE FALLON JOINTLY)**

STATEMENT OF OFFENCE

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 70 OF THE ARMY ACT 1955 THAT IS TO SAY A WAR CRIME CONTRARY TO SECTION 51 (1) OF THE INTERNATIONAL CRIMINAL COURT ACT 2001 NAMELY INHUMAN TREATMENT OF A PERSON PROTECTED UNDER THE PROVISIONS OF THE FOURTH GENEVA CONVENTION 1949 AS DEFINED BY ARTICLE 8(2)(a)(ii) OF SCHEDULE 8 OF THE SAID INTERNATIONAL CRIMINAL COURT ACT 2001 AND THE INTERNATIONAL CRIMINAL COURT ACT 2001 (ELEMENTS OF CRIMES) REGULATIONS 2001

PARTICULARS OF OFFENCE

Wayne Ashley Crowcroft and Darren Trevor Fallon on the 13th day of September 2003, inhumanely treated Iraqi civilians arrested as a result of Operation Salerno.

**SIXTH CHARGE
(SERGEANT STACEY ONLY)**

STATEMENT OF OFFENCE

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 70 OF THE ARMY ACT 1955 THAT IS TO SAY ASSAULT OCCASIONING ACTUAL BODILY HARM CONTRARY TO SECTION 47 OF THE OFFENCES AGAINST THE PERSON ACT 1861

PARTICULARS OF OFFENCE

Kelvin Lee Stacey between the 13th day of September 2003 and the 16th day of September 2003, assaulted an Iraqi civilian, thereby occasioning him actual bodily harm.

**SEVENTH CHARGE
(SERGEANT STACEY ONLY)
ALTERNATIVE TO THE SIXTH CHARGE**

STATEMENT OF OFFENCE

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 70 OF THE ARMY ACT 1955 THAT IS TO SAY BATTERY CONTRARY TO SECTION 39 OF THE CRIMINAL JUSTICE ACT 1988

PARTICULARS OF OFFENCE

Kelvin Lee Stacey between the 13th day of September 2003 and the 16th day of September 2003, assaulted an Iraqi civilian by beating him.

**EIGHTH CHARGE
(MAJOR PEBBLES ONLY)**

STATEMENT OF OFFENCE

NEGLIGENTLY PERFORMING A DUTY CONTRARY TO SECTION 29A(b) OF THE ARMY ACT 1955.

PARTICULARS OF OFFENCE

Michael Edwin Peebles, at Basra, Iraq, between the 13th day of September 2003 and the 16th day of September 2003, negligently performed his duty by failing to take any or any reasonable steps to ensure that military personnel under his effective control did not ill-treat Iraqi civilians being detained for tactical questioning, as his duty as Battle Group Internment Review Officer required.

**NINTH CHARGE
(WARRANT OFFICER CLASS TWO DAVIES ONLY)**

STATEMENT OF OFFENCE

NEGLECTING TO PERFORM A DUTY CONTRARY TO SECTION 29A(b) OF THE ARMY ACT 1955

PARTICULARS OF OFFENCE

Mark Lester Davies, at Basra, Iraq, between the 13th day of September 2003 and the 16th day of September 2003, when conducting the tactical questioning process of Iraqi civilians neglected to take any or any reasonable steps to ensure that military personnel under his effective control did not ill-treat them, as his duty required.

**TENTH CHARGE
(COLONEL MENDONCA ONLY)**

STATEMENT OF OFFENCE

NEGLIGENTLY PERFORMING A DUTY CONTRARY TO SECTION 29A(b) OF THE ARMY ACT 1955.

PARTICULARS OF OFFENCE

Jorge Emmanuel Mendonca, at Basra, Iraq, between the 13th day of September 2003 and the 16th day of September 2003 when Commanding Officer 1 QLR, negligently performed his duty by failing to take any or any reasonable steps to ensure that Iraqi civilians being held at the temporary holding centre under his command were not ill-treated, as his duty required.

N J H JONES
Colonel
Prosecuting Officer

July 2005