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Alice Wheeldon miscarriage of justice: Decision by Criminal Cases Review Commission

Efforts to quash the unjust 1917 convictions of Derby woman Alice Wheeldon and her family through the UK legal system have concluded with the Criminal Cases Review Commission (CCRC) deciding not to refer the case to the Court of Appeal.

Chloë Mason, Alice's great granddaughter, had applied to the CCRC in November 2019 as part of a campaign to clear her family's name. Although disappointed by the CCRC's decision, Chloë believes that the momentum of the campaign and the wealth of new documents unearthed in the process of putting together the application are such that a more accurate history can be told: "Alice is now being recognised as a principled woman who endured an infamous trial and imprisonment for voicing opposition to the war, rejecting conscription, and standing up for women's rights."

Alice Wheeldon, her daughter Winnie Mason, and son-in-law Alf Mason, were convicted in March 1917 of conspiring to murder the Prime Minister David Lloyd George and Labour leader Arthur Henderson. In the febrile atmosphere of the closing years of the First World War, the trial was sensational and politically charged, involving undercover agents, accusations of bad character and alleged poison plots. As the story continued to re-surface over the decades, it became increasingly clear that a serious miscarriage of justice had occurred.

More recently, particularly in the lead-up to the centenary of the war, creative campaigning to 'clear their names' by the Derby People's History Group inspired many local people, historians, and supporters far and wide.

The idea to apply to the CCRC was conceived in 2012, and many years of research and investigation followed. Chloë Mason worked on the case jointly with her sister, Deirdre Mason, until Deirdre's untimely death in 2017. Legal advice was provided *pro bono* by Ben Williams, David Crigman QC and Andrew Smith QC of St Philips Chambers, Birmingham.

The core premise of the application was that the case was an abuse of process driven through by unfair means, and that the defendants' right to a fair trial was sacrificed in the name of political interests. Three grounds for appeal were submitted, supported by extensive documentation including newly discovered archival records that had been suppressed for a very long time. The grounds were:

- 1. The role of the key undercover agent known to the Defendants as 'Alex Gordon', specifically the failure to call him as a witness and the failure to disclose his background.**

The agent, 'Gordon', was deliberately kept out of the trial. He did not appear as a witness and the defence were not told of his true identity. Research has shown that 'Gordon' was William Rickard, a mentally unstable convicted criminal.

2. The discharge of Jury 1 and empanelling of Jury 2.

The first trial was aborted after the close of the prosecution case due to the illness of a juror. The trial was restarted with the original 11 jurors plus 1 new juror and all the evidence that had been heard to that point was heard again.

3. Admission of and judicial reference to evidence of the defendants' 'bad character'.

Inadmissible bad character evidence was adduced against Mrs Wheeldon. This was evidence, disputed at trial, of Mrs Wheeldon's involvement in the 'suffragette outrages', including the Breadsall Church arson, sending a skull to the Home Secretary McKenna, and the failed 'poisoned nail in the boot' plot against Lloyd George.

Although its decision was not to refer the case for appeal, the CCRC considered that "the submissions identified in [Chloë Mason's] application may raise a real possibility that these convictions would be overturned".¹ The Commission further stated that "if the defendants were alive today and the convictions were more recent, and the allegations being made by the applicant could be substantiated to the satisfaction of the Court of Appeal, then there is *prima facie* a real possibility that the Court of Appeal would consider these convictions to be unsafe".²

Regarding the three grounds of appeal, the CCRC commented:³

"It is accepted that Gordon was deliberately kept out of the trial and should have been called as a witness, where his evidence could have been properly tested."

"The CCRC accepts that the replacement of the juror was wrong, and the trial should have continued with the 11 jurors."

"The CCRC would agree that the admission of the 'bad character' evidence should have been considered separately and submissions to challenge this should have been allowed by the defence."

The CCRC's reasons for its decision *not* to refer the case focused primarily on the cost to the public purse. In their view, a costly appeal was not sufficiently in the public interest, given that the case is more than 100 years old, the defendants are deceased,

¹ CCRC Statement of Reasons for a Decision not to make a reference to the Court of Appeal; CCRC Reference 01230/2019; 2 February 2022, CW-F-55 v0.1; para 75 page 19.

² *ibid*, para 33 page 10.

³ *ibid*, para 32 page 10.

and “any lessons from this case, such as use of undercover officers, the possibility of the state acting as an ‘agent provocateur’, jury irregularities and bad character, have been and are being remedied and would have no practical relevance today”.

Chloë Mason accepts the reasoning behind the CCRC’s decision. “I acknowledge the severe austerity currently imposed on the criminal justice system in the UK, and it is appropriate in this context that priority be given to people who are alive – some of them actually serving prison sentences,” she said.

“However, I am very glad and grateful for the Commission’s positive view: that there could have been a real possibility that the Court of Appeal would hold the convictions unsafe. For me, this vindicates the denials by the defendants, of what was, in Alice’s words, ‘this preposterous conspiracy for murder’. It also vindicates the efforts by many people, since the trial, to discover evidence and raise their voices about this apparent miscarriage of justice.”

Chloë acknowledged the extensive support she had received in compiling the application. “Essential references and copies of documents were generously supplied by historians, particularly Dr Nick Hiley and Sheila Rowbotham. Friends and newfound relatives helped by tracking down records held in libraries and archives across England and ploughing through the British Newspaper Archive.”

This material is now much more accessible and is already being taken advantage of by historians, academics, social justice activists and artists in the UK and beyond, as well as in the local Derby community.

Women and War, published in 2021 as part of the AHRC-funded project ‘Beyond Commemoration: Community, Collaboration and Legacies of the First World War’, included a profile of Alice Wheeldon as a ‘key life’:

“Alice Wheeldon’s is the history of a woman, of a family, of a neighbourhood, and of a wider network of people who sought to make the world a better place through women’s rights, pacifism and then opposition to conscription. All these strands intersect in the events that led to her conviction and imprisonment in 1917, and in the consequences of the trial, which scattered the Wheeldon family across the globe.”⁴

Chloë Mason’s submission to the CCRC, and the CCRC’s Statement of Reasons for its decision, are accessible at alicewheeldon.org/criminal-cases-review-commission

⁴ <https://www.voicesofwarandpeace.org/2021/12/13/resource-beyond-commemoration-community-collaboration-and-legacies-of-the-first-world-war/>