

## Fragments of truth

Mark Hirst argues that Lockerbie lies are vital to maintain the integrity of Scottish legal system - and shows that lies are indeed being told

Earlier this year I met with the man convicted of the worst terrorist atrocity in British history. Now back in Libya to await a verdict from a 'higher court', terminally ill Abdelbaset al Megrahi steadfastly maintains his innocence in the murder of 270 people over Lockerbie in December 1988. Many professionals involved in the case including US intelligence officers, legal experts and police investigators also share his view, in spite of the concerted propaganda efforts by vested interests in the Crown Office, FBI and US Justice and State Departments. Yet for reasons still to be fully explained by Megrahi, his Defence or the Scottish Government, in August this year he dropped his second appeal and a week later Scottish Justice Secretary Kenny MacAskill released him on compassionate grounds. That decision resulted in a hysterical reaction from representatives of some of the US relatives and somewhat half-hearted condemnatory slogans from the Obama led US Government. Megrahi was not required to drop his appeal in order to qualify for compassionate release. He subsequently claimed in a newspaper interview after his return to Libya that no pressure was placed on him to do so. So why did he? When I, along with MSP Christine Grahame, met with him his focus had been very much on the detail of the case and the new evidence that would be led during his second appeal. But he made it clear that his priorities had changed since discovering he was terminally ill last year. His over-riding objective was to return to Libya and to see his family before he died. He understood fully why some, mostly UK victim's relatives, were keen to see the appeal continue, but told us it would not take them any closer to the truth and who was ultimately responsible for the deaths of their relatives. "At this stage, at any stage of the appeal they will not say 'you are not guilty', they will say this case is quashed and you are free to go" Megrahi told us during a visit to Greenock Prison in July, before adding, "So we will not reach the truth. This is an appeal, this is not a retrial." Megrahi literally was running out of time and was deeply concerned that he would, as he put it very directly, return to Libya in a wooden box in the hold of a cargo plane. I believe he was genuinely supportive of the need of relatives of victims to get to the 'truth', but those efforts were not going to bring him any closer to his family in Libya before he died. His faith in Scottish justice and the legal process he had been subjected to was understandably low. "If they have a brave judge who looks and says 'good or bad', 'yes or no', but I doubt that the chair of the judges, who chairs all the other judges in Scotland, will turn around and say that all the other judges [at the trial and the first appeal] before got it wrong." Megrahi said, before adding, "They will want to show, to keep the integrity of the system, that they don't care if they have to keep an innocent man in prison to do that." The integrity in the Scottish legal system, whether it deserves it or not, is right at the heart of this issue, because that is what is at stake if the complete truth behind this case emerges and that is why very prominent vested interests are even now working hard to close the case down. The latest spurious police investigation being just one example that will ensure no independent inquiry takes place any time soon. In a number of statements and official correspondence from the Scottish Government the Justice Secretary made it clear that he had considered both applications (The Prisoner Transfer Agreement, the PTA, and separately the Compassionate Release Application) "in parallel" and that no decision on the Prisoner Transfer Application could be made whilst Megrahi's second appeal was ongoing. That phrase "in parallel" is significant and was overlooked by the popular media, because if determination of the outcome of Megrahi's compassionate release application took into account his "parallel" Prisoner Transfer Application then it amounts to a serious error in law. Integrity could only be maintained by ensuring the conviction remained in place. The message to Megrahi, whether made explicitly or not, appears to have persuaded him to drop his 18-year fight to clear his name. That view was confirmed when his defence counsel Maggie Scott QC addressed the High Court in August to confirm Megrahi was indeed dropping his appeal. Scott stated that her client believed that this action would "assist in the early determination of those applications". Applications, plural. The link was made explicitly. Ultimately Megrahi was led to believe by vested interests in our own legal establishment that his only chance of returning home was by dropping his second appeal and to leave his family name forever associated with the bombing of Pan Am 103. That outcome is a scandal that will haunt the Scottish legal system in particular, for decades to come. So was there a conspiracy? Perhaps, but there certainly has been a cover-up which is very much ongoing. A cover-up of the weakness of the evidence, the weakness of the criminal investigation and a cover-up of the shameful conclusions reached by three Scottish judges at the trial. Lastly there has been a cover-up of the geopolitical strategic interests that the West, in particular the US, had in the Middle East at the time of the bombing, to ensure that the real perpetrators were not 'put in the frame'. It is clear from reading Richard Marquise's book on this case that investigators, including himself in his role as the senior FBI investigator, came under huge pressure from the Crown Office to secure an indictment within a very limited timescale. The evidence they had was very limited and almost entirely circumstantial in nature. It relied on statements from individuals who were actively seeking financial reward. It relied on scientific identifications by FBI officers who were not academically qualified and whose professional reputations were later tarnished by revelations they had tampered with forensic reports in other criminal cases. Investigators desperately needed to establish some kind of a narrative for this horrendous crime and link it to the suspects they had. Despite explicit instructions from the Lord Advocate not to rely on evidence from sources who were or had been offered financial inducements, intelligence obtained from a Libyan defector, Majid Giaka, by US intelligence flagged up the names of two Libyan suspects, Abdelbaset al-Megrahi and Lamin Khalifah Fhimah. At the subsequent trial it emerged Giaka had actively sought and secured significant US cash in return for his information and was later described by the judges as an utterly unreliable witness who lacked credibility. Recently it has also emerged that Tony Gauci, the Maltese shop keeper who it was claimed had identified Megrahi as the man who purchased the clothes which were packed with the bomb, received millions of dollars, again from the US Government, in return for his evidence. Earlier this year Dutch filmmaker Gideon Levy completed an award-winning documentary, still to be shown in the UK, that proves that the then-Lord Advocate, Lord Fraser of Carmyle was unaware that the crucial fragment used to link Libya to the attack went to the

United States FBI lab for examination. It now transpires it also went to West Germany, although despite recent Crown Office claims that movement was not explicitly made during the trial. Levy's film includes interviews with the chief prosecutor in the case, Lord Fraser, the FBI's Senior Investigating Officer Richard Marquise and Robert Baer who for 30 years worked in the Middle East Directorate of the CIA and was a senior US intelligence operative. What emerges during the course of Levy's film is the staggering revelation that this crucial evidence was not properly secured by Scottish police and should never have gone to the US. The importance of this piece of evidence cannot be understated. Marquise states that without the fragment, known as PT-35, there would have been no indictment, let alone conviction of Megrahi. Lord Fraser, who brought the original indictments against Megrahi is then asked if he was aware that PT-35 had ever been to the US. "Not to my knowledge... I would not have permitted this as it was important evidence that could have been lost in transit, or tampered with or lost," He is then shown the interview with Marquise, who confirms the fragment did go to the US before the trial. Fraser responds; "Well this is all news to me". Later in the film Levy challenges Marquise to clarify whether PT-35 was taken to the US without the knowledge of the Lord Advocate. Standing next to him is retired Detective Chief Superintendent Stuart Henderson, the senior Scottish investigating officer in the case. Marquise initially seems confused over whether PT-35 was taken to Washington, contradicting his earlier on-camera interview, before Henderson interrupts and states categorically that the fragment was never in the US. "It was too important to be waved around", Henderson states. "It was never in the US, it was never out of Scottish control. They [The FBI] came to the UK to see it, but it was never in the US." After filming Marquise emailed Levy to "clarify" and confirm that PT-35 was indeed in the US and apologised for the earlier confusion. It is clear that if Marquise did not understand the significance of PT-35's foreign movements then Stuart Henderson clearly did. What has not yet been made public, until now, is that Stuart Henderson states in his precognition statement that he gave to the Crown, ahead of Megrahi's second appeal, that the fragment, PT-35 definitely did go the US. Henderson states that on the 22nd of June 1990 he travelled to the US with the fragment accompanied by Chief Inspector McLean, DI Williamson and Alan Feraday of RARDE, the forensic explosives laboratory in Kent. According to Henderson's statement to the Crown they met with Metropolitan Field Officers of the FBI and Thomas Thurman, the FBI official who, it is claimed later 'identified' the origin of the fragment. Thurman has a degree in political science and has no relevant formal qualifications in electronics or any other scientific field. I have also seen one of the crucial productions that was to be led during Megrahi's second appeal which is the official log that accompanied PT-35 and is meant to record each movement of the evidence in order to protect the evidential chain. At each point it is signed for by the relevant police officer. This is an extremely important process and is meant to ensure the chain of evidence is not broken. There is no entry in this log recording that PT-35 ever went to the US, at any point. That has to cast serious doubts over its integrity in light of Henderson's precognition statement and the confirmation from the FBI's Dick Marquise that the fragment was in the US prior to the trial. Ian Ferguson, the award winning investigative journalist and author "Cover-up of convenience: The hidden scandal of Lockerbie", concludes: "This could bring the Scottish judicial system and the FBI into fucking complete disrepute, and frankly they would not want this linen to be washed in public." Few of us who have looked closely at this case could disagree with that. Mark Hirst is Parliamentary Adviser to Christine Grahame MSP