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Pacific nuclear test veterans: British Court of Appeal decision

23 November 2010

Below is the media release from the Combined Veterans' Forum International (CVFI) on the British Court of Appeal's ruling on the Ministry of Defence's appeal to overturn the earlier decision of Mr Justice Foskett, High Court.

Mr Justice Foskett's decision, issued on 5 June 2009, was that the ten test cases for the group action involving 1011 veterans who were subjected to British nuclear weapons tests in the Pacific could proceed. The group comprises veterans from Britain, Fiji and New Zealand. Justice Foskett's decision is available at <http://www.converge.org.nz/pma/nt-ukhc0609.pdf>

Unfortunately, the Court of Appeal has now upheld the British government's argument, and has ruled that only one of the ten test cases for the group action can go ahead.

Below the media release is a related Guardian story about this.

Related links:

- The Court of Appeal ruling is at <http://www.bailii.org/ew/cases/EWCA/Civ/2010/1317.html>
- The statement from Rosenblatt Solicitors, who are representing the veterans, is at <http://www.rosenblatt-law.co.uk/press-release.php?id=227> - they are now considering an application to the Supreme Court to overturn the Court of Appeal decision
- See also, by way of contrast, 'Widow of British nuclear test veteran awarded \$75,000 by US', 31 October 2010 at <http://www.guardian.co.uk/uk/2010/oct/31/widow-british-nuclear-veteran-compensation>

The Redfern Inquiry Report referred to in the CVFI media release below is at <http://www.cnnewmedia.co.uk/locker/ns/pdf/sellafeld6.doc.pdf> and a related news story 'AWE families given body parts apology', 19 November 2010 is at http://www.getreading.co.uk/news/s/2082588_awe_families_given_body_parts_apology

Atomic Veterans Group Litigation - Appeal Verdict

Media release: Combined Veterans' Forum International

22 November 2010

The verdict of the Appeal Judges in the High Court today is not what was hoped for however, it is a partial victory for nuclear veterans and widows. This verdict may not be an end yet to the MoD's denial of truth and justice but it signals the beginning of the end.

The recent publication (16th November) of the Redfern Report on the unlawful taking of body tissue, parts and organs without family consent from nuclear test veterans over a period spanning 40 years plus has revealed an experimental programme of shocking institutional collusion against the interests of those who took part in the British nuclear test programme

Nuclear test veterans are still 'flagged' for these experiments as part of the experimental element of the British nuclear bomb testing programme commenced in 1952 and still continued today by the UK Government .

The Redfern Report reveals that scientists and doctors from the National Health Service (NHS), the Medical Research Council (MRC), the National Radiological Protection Board (NRPB) and the Atomic Weapons Establishment (AWE) examined and then destroyed evidence of exposure to ionising radiation with the aid of coroners and pathologist to enable the Ministry of Defence to avoid accountability for future damage claims . These are facts veterans and widows are passing to the legal team of Rosenblatts.

In the light of the recent compensation awards paid to the Guantanamo Bay Detainees and the evident desire of the Government, in that case , to avoid future costs and embarrassment at the expense of tax payers' money our hope now is the Government and MoD will see similar sense and enter into a mediated settlement of claims for the nuclear veterans and widows .

We thank the legal firm, Rosenblatt Solicitors, for their tremendous hard work, dedication and the commitment they have put into the conduct of the case on behalf of all nuclear veterans and widows .

Rosenblatt Solicitors may take this Appeal Verdict to the Supreme Court

We will be able to comment further on the appeal verdict once the contents have been fully studied by the legal team.

Issued by the Action Executive of the CVFI on 22nd November 2010

British atom bomb test veterans lose damages case Appeals court rules it is too late to prove exposure to fallout caused ailments of elderly ex-service personnel

Richard Norton-Taylor

Monday, 22 November 2010



Servicemen look on from a distance as smoke rises after a British atomic test on the Monte Bello Islands on 16 May 1956. Photograph: Central Press/Getty Images

Atomic bomb test veterans who blame their ill health on exposure to radioactive fallout today lost their case for damages against the Ministry of Defence.

The court of appeal acknowledged the strength of feeling of more than 1,000 ex-services personnel, now mostly in their seventies, who believe they are still paying the price for radiation exposure during the tests, on the Monte Bello Islands, Christmas Island and the Australian mainland between 1952 and 1958.

The judges ruled that, with the exception of one case, their claims had been brought to court too late, and many of the veterans' arguments that the fallout had caused a wide range of medical conditions were "not strong".

Of 10 "lead" cases used to mount the expensive group action, only one that of Hertfordshire man Herbert Sinfield will now proceed to a full hearing on the merits.

Lady Justice Smith said: "We recognise that these decisions will come as a great disappointment to the claimants and their advisers. We readily acknowledge the strength of feeling and conviction held by many of the claimants that they have been damaged by the Ministry of Defence in defence of their country."

She continued: "We have no doubt that that it will appear that the law is hard on people, like these claimants, who have given service to their country and may have suffered harm as a result."

The judges said all the claimants' illnesses were conditions that were very common in the population as a whole and particularly among elderly people of their age group, and for which there were many other potential causes.

Douglas Hern, a nuclear test veteran who played a leading role in the case, said after the ruling: "I'm absolutely astounded. I don't understand it. Every other country has treated their veterans with respect and dignity, not contempt."

Hern, 72, from Moulton, near Spalding, Lincs, served with the Royal Navy on Christmas Island in from 1957 to 1958.

Meanwhile, staff at the Atomic Weapons Establishment sites in Aldermaston and Burghfield in Berkshire, where Trident nuclear warheads are maintained and stored, will protest tomorrow in a dispute over pay.

The union Prospect said its members would hold a mass meeting before taking action short of a strike. It said a pay offer of less than 2% for most of its 1,300 members failed to reflect the success of the organisation. - <http://www.guardian.co.uk/uk/2010/nov/22/british-atom-bomb-veterans-appeal>