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- [News](#)
- [Sport](#)
- [Arts](#)
- [Business](#)
- [Property](#)
- [Magazine](#)
- [Archive](#)

[Home News](#) | [International](#) | [Letters](#) | [Editorial & Opinion](#)

• [Comment](#)

[Print](#) [E-mail](#)

Murder probe hit by loss of witnesses

The McCartney murder investigation was seriously impeded by the loss of 'Witness A and Witness B', who both pulled out because they were frightened, writes Suzanne Breen

The Robert McCartney murder investigation suffered a serious setback when two key witnesses pulled out last year, the Sunday Tribune has learned.

Known to police as 'A' and 'B', the witnesses were expected to give evidence in the case but withdrew because they were both afraid. They could have remained anonymous and given evidence from behind a screen, but it is understood they were too frightened even for that.

Another witness also pulled out. A young man from the Market area of Belfast, who had run home for towels to help stop the blood pouring from the stab wounds of Robert McCartney and his friend Brendan Devine, initially made a statement to police but then withdrew.

However, it is understood his evidence was not considered as significant as that of witnesses 'A' and 'B'. There was also another potentially key witness in the inquiry who has never come forward.

A passing female motorist, later known as Witness C, saw an attack on Robert McCartney as she was stopped at traffic lights in East Bridge Street; she came forward to police immediately and gave evidence in court.



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She is believed to have told police about a blue car which was right beside her Skoda. The person or persons in the blue car never came forward and police were unable to identify the vehicle.

There was little forensic evidence in the case. When police arrived at the scene, a video tape of the initial fight in Magennis's bar had been removed. There was evidence of an intense clean-up in the pub. Although it was closing time, the bar was remarkably tidy. The area outside the door had been brushed and bleached. There was a mop and bucket in Magennis's on which traces of blood were found.

The law courts, opposite the bar, are protected by several cameras. It was hoped that footage from these cameras could provide vital evidence but the images were said to be completely unusable, showing only shadowy figures.

As police entered Magennis's that night, some of the 60 or 70 customers headed out a side door. Others gave false names and addresses to police, and many claimed to have been in the toilet when the fight occurred.

Later in the investigation, there were Walter Mitty-type characters who gave police wrong information. The knife which was used to kill Robert McCartney has never been found. It is understood to have been ground down.

Three key witnesses gave evidence for the prosecution: Witness C and Robert McCartney's two friends, Brendan Devine, who was himself stabbed, and Ed Gowdy. Witness C claimed to have seen a smartly dressed, grey-haired man pursue Robert McCartney and make swiping motions at him. The prosecution claimed this was the stabbing.

Witness C, who knew neither Robert McCartney nor the accused, later picked Terry Davison out of an identity parade. However, she described him as wearing "well-pressed slacks" on the night of the attack and of having longish hair with a side parting.

Terry Davison had accompanied his nephew Jock, who was injured in the fight in Magennis's, to the Royal Victoria Hospital. CCTV footage from the hospital, recorded about 25 minutes after the fatal attack on McCartney, showed Terry Davison with short hair, wearing jeans. The prosecution did not argue that he could have changed his clothes or cut his hair, and Judge Gillen said it seemed "implausible" that he could have done so in the time available.

Although Witness C described swinging motions, she never saw a knife or any other instrument in the grey-haired man's hand. She told the court that the swipes all "appeared to land" on Robert McCartney, with the first hitting the area of his breast pocket. But there was only one stab wound to his stomach and no tears in his clothing other than one in his stomach area.

Witness C described Terry Davison as lifting his foot, holding it in mid-air, then lashing out with as much power as he could to kick Robert McCartney. The victim suffered a broken nose but the Deputy State Pathologist, Dr Alastair Bentley, said he would have expected a full-force kick to have caused more broken facial bones.

Judge Gillen found the evidence of Robert McCartney's friend, Ed Gowdy, to have been "seared with inconsistency, contradiction and implausibility." Gowdy told the court he had initially lied in police interviews because he was frightened of the IRA and had only told the truth when given the go-ahead after meeting army council representatives.

The judge said the possibility existed that his evidence "may have been influenced or indeed even directed by the IRA." He also said that Gowdy had admitted to having drunk around 35 pints in the 36 hours preceding the murder.

Judge Gillen found Brendan Devine's evidence "deeply flawed," although he did not believe he had willfully attempted to mislead the court in the manner he feared Gowdy might have.

He said Devine's recollection of the attack on Robert McCartney occurred at a fundamentally different location to that described by Witness C. Dr Bentley had found no evidence to support Devine's claim that Robert McCartney's eyes had been gouged by his assailant.

Devine had his throat cut with a bottle in Magennis's bar and he was stabbed in the stomach in Market Street. Blood loss from these injuries "may have impaired his powers of perception and subsequent recollection," Judge Gillen said.

Robert McCartney and Brendan Devine were separated at various times during the attack and although Devine placed Terry Davison in the group of men involved in assaulting his friend, he never claimed to have seen him stab Robert.

The judge said the investigation into the killing would surely continue and that if new evidence emerged "no-one, including even the accused in this trial, will be beyond the reach of potential prosecution."

Given the length of time since the murder and the huge difficulty in securing witnesses, the prospect of future prosecutions seems highly unlikely. The

'Hallion Battalion', as the IRA men involved in the murder were known locally, appear to have got away with it.

June 29, 2008

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