

**DAY 4 P.M.**

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

1997 I No.139

Royal Courts of Justice  
Thursday, 2nd March 2000

Before:

MR. JUSTICE MORLAND

BETWEEN:

- (1) INDEPENDENT TELEVISION NEWS LTD.
- (2) PENNY MARSHALL
- (3) IAN WILLIAMS

Claimants

- and -

- (1) INFORMINC (LM) LTD.
- (2) MICHAEL HUME
- (3) HELENE GULDBERG

Defendants

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MR. T. SHIELDS Q.C. and MR. M. BARCA (instructed by Messrs. Biddle) appeared on behalf of the Claimants.

MR. G. MILLAR and MR. A. HUDSON (instructed by Messrs. Christian Fisher Solicitors) appeared on behalf of the Defendants.

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Re-examined by Mr. SHIELDS

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NICHOLAS, Mr. JAMES WILLIAM DAVID, Sworn

Examined by Mr. SHIELDS

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1 Q Mr. Braddel, it may help you if I put to you the point I was  
2 putting about the sequence of video tape and what we see on  
3 it. The section of poles with the barbed wire along that we  
4 see in the background of that shot is, on our case, where you  
5 say you went out to the west side when you finished filming at  
6 the fence? A. When we walked round, yes.  
7

8 Q As on your account you did it? A. Yes, that's right.  
9

10 Q Do you understand that? A. Yes, that's fine.  
11

12 Q Perhaps we could play it once more - the man walking. Where  
13 is it in that sequence of poles that you say you think we have  
14 gone out of this area? A. I couldn't tell you. As  
15 I said earlier on I can't recollect the manner in which we  
16 walked around or where we walked around.  
17

18 MR. JUSTICE MORLAND: You are competing with the video so you will  
19 have to speak up? A. As I said earlier I can't recollect  
20 the manner in which we walked around to the other side,  
21 towards the school building or how we got there. I do know  
22 for sure that we didn't have to double back the way we came,  
23 exit where we came in and walk all the way round. That's what  
24 I can be sure of.  
25

26 MR. MILLAR: How can you be sure of that? A. Because I would  
27 remember having walked all the way back. I know we didn't  
28 back-track.  
29

30 Q You would remember that? A. I would remember that, yes.  
31

32 Q But if you had to climb under the barbed wire you would not  
33 remember that? A. No, I don't think we had to - I don't  
34 recollect having to climb under barbed wire or through it. As  
35 we saw, the barbed wire was taller than my head so I wouldn't  
36 have to climb at all if something is taller than me.  
37 I wouldn't have to climb through something. I would just  
38 walk.  
39

40 Q I have to put this to you. It should be obvious from what we  
41 see but if you took close-up shots of the barbed wire both to  
42 the north side and the south side, and the lower part of the  
43 fencing is that chicken wire, is it not? A. Mmh.  
44

45 Q The north and the south side? A. Yes, the sides we have  
46 seen in the rushes, yes.  
47

48 Q So even if you can get under the barbed wire across the top by  
49 ducking down you still have to have a break if the fencing is  
50 the same in the chicken wire to get through, do you not?  
51 A. Yes, but I don't recollect seeing a chicken wire extending  
52 along that particular part in the rushes that we saw.  
53

54 MR. JUSTICE MORLAND: Shall we have one last look at this  
55 particular one?

1 MR. MILLAR: Yes.  
2  
3 MR. JUSTICE MORLAND: I am not saying necessarily it will be the  
4 last look but perhaps the last look for today.  
5  
6 MR. MILLAR: If you look at the white flowers or weeds growing up,  
7 just at the top of those as we go along, is where you get to  
8 the top of the chicken wire. Maybe that is why it is  
9 difficult to see it because they are white. Just wind back.  
10 (Pause)  
11  
12 MR. JUSTICE MORLAND: There appears to be or there may be chicken  
13 wire in that picture.  
14  
15 MR. MILLAR: Yes. It is the lower half of the shot where it is  
16 lighter. We sees it better a bit, I think, if you run on.  
17 There.  
18  
19 MR. JUSTICE MORLAND: There maybe something here. You suggest  
20 that level..  
21  
22 MR. MILLAR: Yes. It will be a matter for the jury.  
23  
24 MR. JUSTICE MORLAND: Yes.  
25  
26 MR. MILLAR: (To the witness) You say that when you depart the  
27 camp, notwithstanding that you have gone all the way round and  
28 you appreciate that there is barbed wire fencing: chicken wire  
29 to the north, barbed fencing to your right/south and to the  
30 east? A. Mmh.  
31  
32 Q And this derelict section of wire with the same set of poles  
33 to the west. You had no appreciation that that area with the  
34 light ground from which the film was taken of Alic was within  
35 an enclosure surrounded by barbed wire? A. No.  
36  
37 Q No understanding of that at all? A. None at all.  
38  
39 Q I just wanted to check. You told us you had got about 15  
40 minutes up at the barbed wire fence inside this area?  
41 A. Yes.  
42  
43 Q You and your cameraman? A. I think about that, 15 or 20,  
44 yes.  
45  
46 Q You are at the camp for a total of an hour and the balance of  
47 the hour you go around the other three sides of the camp, up  
48 the west across the north and down the east. Is your time  
49 roughly split - say about a quarter of an hour on the way, a  
50 quarter of an hour up in the school and a quarter of an hour  
51 coming down? A. Pretty much. I think we took a little  
52 bit longer in the school to set things up in order to go in  
53 and while Ian and the translator talked to people and  
54 explained who we were and then we could film, and then on the  
55 way back, as I said, we filmed people drawing water.

1 Q So maybe ten minutes on each side, east and west?  
2 A. Yes, pretty fairly split, yes.  
3  
4 Q You are looking at these men in a field who made an impression  
5 on you in the way that you described, on either side, east or  
6 west, and you can see the low mesh wire on the other side;  
7 you can see the community building off to the north. You are  
8 saying at no stage do you ask yourself: why does the southern  
9 side of this area where they are have this barbed wire fencing  
10 but it is not there on the east or the west side. You did not  
11 ask yourself that? A. No, I didn't at the time. I mean,  
12 it wasn't originally built as a camp, was it. If it was  
13 originally built as a camp then you would expect there to be  
14 uniformity surrounding the camp, but it wasn't built as a  
15 camp.  
16  
17 Q I do not know. You tell me. Was that your understanding when  
18 you were there? A. Yes. I would have thought if  
19 something is built specifically to be a prison or a prison  
20 camp there would be uniformity of everything around it, but  
21 this was not. This was transformed into a detention camp.  
22  
23 Q Do not tell me what you would have thought. I was asking about  
24 your understanding. When you were there at the time, was it  
25 your understanding that this was not built as a camp?  
26 A. Yes, it was. We knew it wasn't built as a camp. It had  
27 been transformed into a camp.  
28  
29 Q Right. From what? A. Sorry.  
30  
31 Q From what? A. Well, we knew there was a school there  
32 before so it wasn't a prison camp; it wasn't a prison.  
33  
34 Q Right. What about the community and medical centre?  
35 A. Well, is the question what did I understand it to be  
36 before?  
37  
38 Q No, at the time you were there? A. At the time I was  
39 there, I understood the community centre to hold the medical  
40 centre where sick people would be to be treated, and the  
41 school behind was holding refugees.  
42  
43 Q Right. How did you find out the school had been a school?  
44 A. Through our translation, I believe. From the fact that we  
45 saw school rooms and we saw a gymnasium downstairs.  
46  
47 Q And so did you ask through your translator at some stage,  
48 "What is the building in the middle? What was that before the  
49 war?"? A. I personally did not, now. I presume Ian  
50 probably did, but I personally didn't ask, no.  
51  
52 Q Did you ask yourself what the barn had been before the war or  
53 was that completely obvious? A. No. I don't even  
54 recollect looking at the barn as I passed through.  
55

- 1 Q So that was completely out of the question. It was the other  
2 two buildings you were paying attention to? A. Mmh.  
3
- 4 Q You were there on ten or fifteen minutes on one side, ten or  
5 fifteen minutes on the other side. You never asked yourself  
6 why there is barbed wire on one side of this area?  
7 A. No.  
8
- 9 Q And you come back down the south alongside the barbed wire  
10 with the gate going into it? A. That's right, yes.  
11
- 12 Q The fact that there is a gate going into it, a driveway from  
13 the road, does not alert you to the fact that it is an  
14 enclosure? A. No.  
15
- 16 Q There you are. You leave the camps. All of you get into one  
17 minibus? A. Yes.  
18
- 19 Q And drive back to Belgrade? A. Yes.  
20
- 21 Q Roughly what time do you leave the camp? A. Late  
22 afternoon. I would say three, sometime after three thirty,  
23 four o'clock, something like that. The sun had already begun  
24 to lose the intensity of its heat.  
25
- 26 Q I think you got back to Belgrade around midnight, very late?  
27 A. Yes, because we had to ask the hotel kitchen to stay open  
28 to cook us a meal.  
29
- 30 Q Right. So you are all in a minibus for seven or eight hours,  
31 a group comprising two television news reporters who had gone  
32 round these two camps, a print journalist reporter from the  
33 Guardian, Mr. Vulliamy? A. That's right.  
34
- 35 Q And five others who are professionally skilled technicians,  
36 including yourself, the producer, TV news reporting?  
37 A. Yes.  
38
- 39 Q Presumably during that period of time, about nine hours, you  
40 discuss what you have seen during the day? A. Yes,  
41 that's right.  
42
- 43 Q You would have discussed how Omarska was an old mining  
44 complex, did you? A. I don't recollect discussing that  
45 it was an old mining complex. We just discussed the pictures  
46 we'd seen and what we'd seen.  
47
- 48 Q The pictures you had seen? A. The pictures we thought,  
49 I mean ... When I say "pictures we had seen" I say I'm looking  
50 at you now; the picture in front of me is the jury. We  
51 didn't check our camera tape, as Ian said, until we got back  
52 to Budapest because we were physically unable to do so.  
53  
54  
55

1 Q I see. That is because you did not have any equipment with  
2 you to play back? A. that's right. You can actually  
3 play back through the camera.  
4  
5 Q Can you? A. Yes, but it's considered to be highly risky.  
6 It can destroy the cassette. So you risk, while trying to  
7 look at your pictures, destroying the cassette which would  
8 render it unusable when you come to edit, so very few  
9 producers, correspondents actually use that method of looking  
10 at their tape.  
11  
12 Q So when you said "the pictures we had seen" it was not a slip  
13 of the tongue. You reefer to what we had seen as pictures?  
14 A. Yes, what we had seen and what I thought, what we thought  
15 the cameraman had taken pictures of since we were with them  
16 the whole time.  
17  
18 Q It is not possible for you to all pile into the van and in  
19 some way play back some of the tape? A. No, not at all.  
20  
21 Q Absolutely impossible? A. Absolutely impossible and we  
22 absolutely didn't.  
23  
24 Q Unless you want to risk ruining the video? A. Yes, which  
25 we didn't want to.  
26  
27 Q You are sure about that? A. I am absolutely positive  
28 that we did not look at the pictures until we got to Budapest,  
29 yes.  
30  
31 Q All right. So you discussed the pictures you had seen in the  
32 sense of what you had seen? A. Yes.  
33  
34 Q and you discussed presumably Omarska and the fact that you had  
35 only been allowed to stay there for about 20, 30 minutes?  
36 A. Yes, we discussed that we felt - that all of us felt  
37 uneasier about Omarska than we did about Trnopolje in a sense  
38 because of what we hadn't seen, what we hadn't been allowed to  
39 see. That gave us a feeling of unease.  
40  
41 Q Right. Apart from Mr. Vulliamy, seven of you are in the  
42 business of putting together visual news reports for  
43 television. Is that correct? A. Yes, that's right.  
44  
45 Q Let us just focus on the seven of you. You did not get a lot  
46 of footage in Omarska. You got about 20 minutes?  
47 A. Mmh.  
48  
49 Q What you have got is pretty well what we have seen, and it is  
50 cut into the report but there is not a lot of option to work  
51 with there, is there? There is the camp, the argument with  
52 the Commandant and the men in the canteen? A. Yes. You  
53 could have run a shorter report just based on Omarska.  
54  
55

1 Q But Trnopolje is a different proposition, is it not, because  
2 you have been there an hour; you have got more film there;  
3 you have had more time to film what you want there. You had  
4 been round the whole area and you had got the image of these  
5 men in a field that seems to have made such an impression on  
6 you all when you arrived? A. I think it made an  
7 impression on everybody, even the people watching it as we saw  
8 the rushes. I don't see how it couldn't have not made an  
9 impression on somebody.

10

11 Q You mean the jury, do you? A. Yes. I think everybody in  
12 this courtroom it should have made an impression upon them;  
13 emaciated men? It certainly made an impression upon us, yes.

14

15 Q Can we just concentrate for a moment on the facts of the case  
16 and what you saw when you arrived there. Was it discussed  
17 amongst you in the bus that it had uniformly made an  
18 impression on you when you arrived and saw the men in the  
19 field? A. Not just when we arrived but the whole period  
20 that we spent there and the people that we saw; that there  
21 were emaciated men and wasn't it appalling, the physical state  
22 that some of the men we had seen were in.

23

24 Q That was discussed? A. Yes, it was.

25

26 Q Was there any discussion about how Trnopolje, this place that  
27 had formerly been a school and had this other building in the  
28 middle and this area to the south, might be represented on the  
29 television reports you were going to file, given what you had  
30 seen? A. No, not at all because, as I say, we hadn't  
31 seen the pictures. Until we'd seen the pictures we couldn't  
32 say how we were going to edit the sequence of Trnopolje.

33

34 Q Because we know that when you saw the pictures and edited it  
35 the barbed wire fence did become very significant, did it not?  
36 A. It became a part of our report, yes.

37

38 Q What happened you see is that you took a shot from the other  
39 news team's rushes and put it in your broadcast, in your  
40 report? A. Yes. Standard practice.

41

42 Q As I understand it from Mr. Williams' evidence you did it at  
43 5.45, about 45 minutes before you were due to feed your report  
44 through? A. No. I think you might have misunderstood  
45 it. Ian said he saw some pictures which were being fed across  
46 to London for the 5.45 bulletin, so we would have seen them  
47 before that. In fact it was James Nicholas, the cameraman,  
48 who saw the image that we put in first because he was helping  
49 Channel Three put together the edit pack while they were  
50 spooling their rushes and it was actually he who saw that  
51 image that alerted us, or alerted me to it I seem to remember  
52 at the time. But it was put in way before. It wasn't put in  
53 45 minutes before we finished the edit. That would have been  
54 physically impossible.

55



1 Q I will come back to that in a moment. Since we are on this,  
2 just tells me what happens. James comes back from the ITN  
3 suite and says, what, they have got some good shots of  
4 prisoners including a very thin man behind barbed wire?  
5 A. No, I mean, James would have come back and said - and  
6 I can't recollect obviously seven and a half years later what  
7 his actual words were - but he came back and said something  
8 along the lines of "Jeremy's got some good pictures of the  
9 prisoners." So we would have then said okay, well then let's  
10 have a look at them.  
11  
12 Q Who is "we"? A. Ian and myself.  
13  
14 Q And did you? A. Yes, we did. As I explained earlier,  
15 after you finish editing on your cassette you often offer it  
16 to the other channel you are working with, so as soon as they  
17 had finished editing their pictures from Trnopolje their  
18 shooting cassette came over to us to have a look at the  
19 rushes.  
20  
21 Q Right. So what do you mean by editing and shooting cassette?  
22 That is not the short report they are putting out?  
23 A. No. You edit from the rushes that we have seen. We  
24 always edit from the rushes. We never take somebody else  
25 already produced report and take just a single image from that  
26 because you lose definition on the shot.  
27  
28 Q Right. So the shooting cassette is the jargon for the rushes?  
29 A. That's right, yes. So we took that cassette, spooled  
30 through it, fast-forward, not real-time, had a look at what  
31 they had and then decided what to take from the cassette.  
32  
33 Q Of Trnopolje? A. Of Trnopolje, yes. We also had a look  
34 at their other cassettes as far as I remember.  
35  
36 Q Did you, on that cassette of their shots of Trnopolje, see the  
37 image of Alic behind the fence which you selected to put in  
38 your report? A. Yes.  
39  
40 Q Therefore you saw the sequence on the ITN tape of them at the  
41 fence, filming through the fence after their arrival?  
42 A. That's right, yes.  
43  
44 Q Did you have any recollection of that sequence on their tape?  
45 A. At the time I remember spooling through the whole  
46 cassette, seeing what they had shot and listening to some of  
47 their interviews.  
48  
49 Q As I think you said earlier, they spent about 15 minutes at  
50 the fence as well? A. Mmh. It doesn't take very long to  
51 spool through a cassette.  
52  
53 Q You have seen the film shot by the Serbian camera crew which  
54 runs for four minutes and 15 seconds. Was it longer than  
55 that, the original sequence on their rushes? A. The

1 original sequence? Yes, because it includes several  
2 interviews, as far as I remember.  
3  
4 Q At the fence? A. At the fence, yes.  
5  
6 Q Several interviews? A. I think so, yes.  
7  
8 Q Was all their footage of Trnopolje on the one shooting  
9 cassette? A. I can't tell you. I think probably no  
10 because they also did the interviews inside the medical centre  
11 and there was also the interview with Egor, the guard who said  
12 he had friends behind the fence, and also with the little boy.  
13 So I think it was actually probably on two cassettes.  
14  
15 Q Anyway, you saw the beginning part of their footage of  
16 Trnopolje, where they walk up to the fence and do the  
17 interview? A. Yes. As I said, we would have spooled  
18 through the material.  
19  
20 Q Spooled through it. Who is "we"? Is it Mr. Williams as well?  
21 A. Ian may have been present. Certainly James and myself but  
22 Ian was called away at various points in the afternoon during  
23 the editing process to talk to London about satellites and  
24 about the story etc. So at some points James and I were by  
25 ourselves in the edit room without Ian.  
26  
27 Q Out of that sequence of footage with a number of interviews on  
28 it - you think possibly lasting for more than four minutes 15  
29 seconds that we have seen - how did you, or whoever it was  
30 (Mr. William you tell me) alight upon the shot of Mr. Alic)  
31 and say "That snippet there (the one we see on the final  
32 report) we should use that in our report." How did that  
33 happen? A. Through the process of spooling through the  
34 cassette we were looking for various images and we would have  
35 stopped when we had seen that because it is a very good image.  
36 It was a very nicely taken shot by the cameraman.  
37  
38 Q It is the quality of the shot, is it? A. It's both the  
39 quality of the shot and what is in the shot. It is well  
40 taken. He didn't have a tripod. It is a very steady picture,  
41 excellently taken, professionally taken.  
42  
43 Q We have seen your rushes. There you were; you spent 15  
44 minutes or so with your own very expert cameraman at the fence  
45 who you told us is experienced? A. He certainly is, yes.  
46  
47 Q You told us about your experience. You took plenty of shots -  
48 we have seen your rushes - through the fence and then on the  
49 other side of the fence. What was it about that shot that was  
50 so much better than the shots that you had got that you had to  
51 have it and not cut your report simply out of your own rushes?  
52 A. We were looking at the time for some nice close-ups. As  
53 I have said already, when you put together a report you don't  
54 just have close-ups or wide shots; you have to make it a bit  
55 more interesting for the viewer. So I think we had some nice

1 establishing shots. I mean nice professionally. We had some  
2 medium shots and we were looking for some good close-up shots  
3 to take and we looked through ours and we didn't feel that we  
4 had excellent close-up shots and so we thought we would have a  
5 look at ITN's and see what kind of shots they had. As it  
6 happened that shot is a close up and it's excellently taken,  
7 so we decided to use it as the end of that sequence.

8  
9 Q So it is just the fact that it is a close-up? A. It's a  
10 close-up. That's what we were looking for. We went through  
11 our rushes looking for close-ups of prisoners and felt, yeah,  
12 we have got some good ones; let's have a look at their  
13 cassette. We were in no hurry at that point, and they had an  
14 excellent close-up.

15  
16 Q We have seen the clip that you have used in your final report.  
17 I mean, let us not beat about the bush here. The clip is of  
18 the torso of a very, very thin man, is it not? A. Yes.  
19 It is of an emaciated man.

20  
21 Q And it is a close-up, as you put it? A. It is.

22  
23 Q So it was that that made you want it, was it not? A. As  
24 I have said already, we needed a close-up of a prisoner and  
25 that was a very good close-up, so that's why we took it.

26  
27 Q Yes, but he is not any old prisoner, is he? He is an  
28 emaciated body with no T-shirt on up against the fence that  
29 you can take as a close up. I mean he is shockingly thin is  
30 he not? A. He certainly is and that was the point that  
31 we were making in the report. It is a symbol of emaciation  
32 and a symbol of incarceration. That is what we found at  
33 Trnopolje.

34  
35 Q So you took that for your report and put it into your report  
36 because it was a symbol of emaciation (whatever that may be)  
37 and a symbol of incarceration. Did you discuss that amongst  
38 yourselves as part of the reasoning. "We will just this  
39 little clip out of ITN's report and put it in ours."?  
40 A. That that was the reasoning, no. We were looking for a  
41 close up of a prisoner in a bad physical state that fitted the  
42 bill. I mean there were many more to choose from. That  
43 happened to be a very nicely taken shot professionally.

44  
45 Q Mr. Braddel who was party to this decision to take that clip  
46 and use it in that way? A. Myself, Mr. Nicholas and  
47 Mr. Williams?

48  
49 Q The three of you? A. Mmh. I can't remember if Ian was  
50 there at the time physically. What you do, if the  
51 correspondent is not there, he lays his track, you lay some  
52 pictures; when he comes back he reviews what you have done.  
53 If he doesn't like it he tells you to change it. So even if  
54 Ian wasn't there at the time we laid that picture in, then Ian  
55

1 would certainly have reviewed it when he came back into the  
2 room.  
3  
4 Q What does that mean? He would have seen the fact that you  
5 were proposing to use it just as that quick simple clip in the  
6 middle of the other cuts? A. Yes, he would have come  
7 back and seen how we edited that particular sequence.  
8  
9 Q But you do not remember which it was? A. No. I can't  
10 tell you. As I say, he was in and out of the room during the  
11 afternoon talking to London.  
12  
13 Q But it was certainly you and Mr. Nicholas? A. Yes.  
14  
15 Q The thinking is it is a symbol of emaciation and it is a  
16 symbol of incarceration but that is never articulated. Have  
17 I got that right? You and he never say, "We had better have  
18 that clip and use it in this way because...."? A. No.  
19  
20 Q Nobody said anything like that? A. No.  
21  
22 Q Is it understood or is it telepathic? A. It is  
23 understood. We knew what the substance of the report we were  
24 editing was. That was the substance. That completed a  
25 sequence in which we had shown men, emaciated men in the  
26 prison camp.  
27  
28 Q Do you have the defendants' bundle there, the thick black one?  
29 A. Yes, I have.  
30  
31 Q Would you go past the first page that we have looked, past the  
32 second and third stage. You will get to the front of the Daily  
33 Mirror newspaper the day after the report was put out?  
34 A. Yes.  
35  
36 Q Have you seen this before? A. Yes, I have.  
37  
38 Q Did you see this at some stage after you returned to London?  
39 A. I saw it the next day at the airport when we arrived at  
40 Heathrow.  
41  
42 Q Would you turn to the second page, please? The editor or sub-  
43 editor of p.2 of the Mirror who put this page together  
44 juxtaposed a picture of some concentration camp victims behind  
45 strands of barbed wire fencing with the shot of Fikret Alic  
46 behind the fence. Do you see that? A. Yes, I do.  
47  
48 Q Was there any stage when you and Mr. Nicholas were thinking  
49 about picking this shot out and using it in your report did  
50 the thought ever occur to you, as it seems to have done to the  
51 Mirror, that it conjured up a reminiscence or a recollection  
52 of Belsen or Auschwitz? A. No.  
53  
54 Q No? A. No.  
55

1 Q Not at all; never once? A. No, not at all. I mean,  
2 I understood, when I saw that headline, why they had written  
3 it but in the report we were at pains to point out that we had  
4 found no evidence of concentration camps. We had only found  
5 detention camps.  
6  
7 Q I am asking you about your decision, the two of you, to take a  
8 snippet of shot from somebody else as a symbol of emaciation  
9 and a symbol of incarceration and use it in your film report?  
10 A. I do understand what you are asking me, yes.  
11  
12 Q You are on a trip where there is worldwide interest in whether  
13 these camps you are going to are or may be concentration camps  
14 - whether that suggestion can be substantiated. That is the  
15 background to you being there - correct? A. It certainly  
16 is, yes.  
17  
18 Q Are you suggesting when the two of you, with all your  
19 experience, decide to take that clip and put it in your report  
20 that you did not think, did not discuss the parallel between  
21 that image and the image of prisoners behind barbed wire  
22 fences at a concentration camp? A. No. We didn't  
23 discuss it being perhaps a parallel. I don't know what  
24 Mr. Nicholas thought. I didn't ask him. If we had wanted to  
25 use it to suggest a parallel with Belsen, as I said earlier,  
26 it would have been the first shot in our report and Ian's  
27 lines would have been somewhat different.  
28  
29 Q It would have been the first shot? A. It would have been  
30 the first shot because you always start your report, as I have  
31 said, with your strongest image. This was not our strongest  
32 image.  
33  
34 Q Well, it would have been slightly misleading to do that,  
35 would it not, given that you were at pains to ensure that the  
36 viewer understood that this was not a concentration camp. You  
37 would not start with an image suggesting concentration camps  
38 if you were at pains to make that plain? A. Of course we  
39 wouldn't because we are responsible journalists.  
40  
41 Q But it is slightly different if you slip it into the middle of  
42 the report? A. As I said, we weren't suggesting an image  
43 of a concentration camp and we didn't discuss it.  
44  
45 Q Did you happen to notice when you saw the report played -  
46 presumably you did before you finally fed it to London?  
47 A. Yes, when we had edited it and I saw the finished product.  
48  
49 Q You did. You thought it was good? A. Yes. I thought it  
50 was a well-edited piece.  
51  
52 Q You were conscious, were you, of where this image that you had  
53 literally put into your report, appeared in the report?  
54 A. No. At that time I was not conscious of it being a  
55

1 separate image. It was one of many images that were in the  
2 report.  
3

4 Q Were you conscious of the fact that listening to the narrative  
5 the image was used precisely at the point at which the  
6 reporter made far and away the most serious allegation of  
7 atrocity or brutality in connection with the Trnopolje camp,  
8 namely of 150 prisoners being killed in the retaliation attack  
9 on a Moslem village? A. At the time I certainly would  
10 have been, yes. I can't say now, thinking back seven and a  
11 half years that yes I was, but I would have been because as  
12 I say Ian discusses his script and reads his script out to us  
13 before we put the pieces together.  
14

15 Q But there is no discussion, is there, about the fact that that  
16 image of emaciation and incarceration is being used alongside  
17 the most serious allegation? A. No. It was just, as  
18 I say, we needed a close-up to end that sequence.  
19

20 Q That was just coincidence? A. Yes.  
21

22 Q Anyway, back to the bus: we have got nine hours on the bus.  
23 I think you have something to eat at the hotel in Belgrade  
24 when you get back? A. Yes. I think it was the Channel  
25 Three translators birthday.  
26

27 Q Then you had got a trip early the next morning, having shed a  
28 couple of members of the group with yourself, Mr. Williams and  
29 Miss Marshall? A. Penny and James, yes.  
30

31 Q James Nicholas, to Budapest. How many hours is that?  
32 A. I would have said at least six. We left the hotel around  
33 six o'clock in the morning.  
34

35 Q So you had 13 or 14 hours in each other's company between  
36 leaving the camps and getting to Budapest. You then started  
37 the process of editing? A. Mmh.  
38

39 2.45 p.m.  
40

41 Q No talk at all about images of barbed wire during that time?  
42 A. No. We discussed the phrase "concentration camp", that we  
43 weren't going to use it and we couldn't use it, because what  
44 we'd seen, whilst appalling, was certainly not a concentration  
45 camp in the way that the phrase "concentration camp" has  
46 become known, i.e. it's linked with death camps in Nazi  
47 Germany and the Holocaust. So we discussed that we weren't  
48 going to use the phrase "concentration camp" during the  
49 reports. We didn't discuss images because, as I said, we  
50 hadn't seen the images by that point.  
51

52 Q It was never said that it not a concentration camp, was it?  
53 A. It was said that it was a detention camp I think from the  
54 reports. In his two-way, Ian said that we had seen no  
55 evidence of concentration camps.

1 Q In his what? A. In his two-way, which was his live  
2 interview after this report. I seem to remember he said we  
3 had seen no evidence during that trip of concentration camps.  
4  
5 Q Could you turn to tab.14, p.8, please? This is his -- what do  
6 you call it? A. It's a two-way, a live two-way. It goes  
7 two ways. Ian goes on way and the anchorman comes back the  
8 other way.  
9  
10 Q Let me just check that we are on the same terms. If you go  
11 back to 7, it says: "..... report." Then there is Studio-  
12 Williams, Studio-Williams. A. That's right, yes.  
13  
14 Q Is that it? A. Yes, that's it.  
15  
16 Q He was asked how many camps he had seen and he said:  
17  
18 "Well, we've seen over the course of the last week  
19 seven or less camps which were on the original Bosnian  
20 list of alleged concentration camps. Five of these  
21 were in Serbia itself. Now ....."  
22  
23 And this is what I want you to look at -  
24  
25 " .... we are convinced we are satisfied that these  
26 are not concentration camps."  
27  
28 Do you see that? A. Yes, I do.  
29  
30 Q  
31 "At most, they are refugee collection centres. The  
32 area that does give a matter of great concern is in  
33 northern Bosnia in the area of Danja Luka, where  
34 clearly there have been beatings. There have been  
35 cases of severe mistreatment in camps to which the UN  
36 and to which the Red Cross are still not being given  
37 access."  
38  
39 A. Yes.  
40  
41 Q So what he says are not concentration camps are the first  
42 category of camps, the five that you saw in Serbia. He did  
43 not say, did he, in that interview that they were not  
44 concentration camps that you had seen before? A. Well, he  
45 couldn't say that about Omarska, because we hadn't been given  
46 access to the whole of the Omarska camp. So Ian couldn't, as  
47 a responsible journalist, say one way or the other. He  
48 registered his unease at the fact that we hadn't been allowed  
49 to see everything we wanted to in that camp.  
50  
51 Q I will just put it to you. You suggested that he said in his  
52 interview article that they were not concentration camps. If  
53 you say you had seen seven camps, five are not concentration  
54 camps, and put two into another category, not the same  
55 category as the first five, you are leaving it open as to

1 whether they are or are not concentration camps, are you not?  
2 A. I think you're leaving it up to the judgment of the viewer  
3 as to what they've seen.  
4

5 Q Precisely. You are leaving it to the judgment of the viewer,  
6 having seen the report which you have put out, to form their  
7 own view. A. Because as a journalist, you're not supposed  
8 to tell people what to think about a report.  
9

10 Q No. The editor of the Mirror, the editor of the Mail and the  
11 editor of the Express all looked at it and said:  
12 "Concentration camp". That is what people will have seen when  
13 they viewed that, would they not? A. Well, they wanted to  
14 sell their newspapers and the way they sell their sold their  
15 newspapers is by printing sensational headlines.  
16

17 Q They do not sell newspapers to people who see something other  
18 than concentration camps, on the basis that they are seeing a  
19 concentration camp, do they? A. Well, they're in  
20 competition with each other as to how many newspapers they can  
21 sell. So it's their business to make as many headlines as  
22 they can and sensational ones.  
23

24 Q You were not in the business of putting out sensational  
25 reports. A. No, I wasn't.  
26

27 Q Purely factual. A. Purely factual.  
28

29 Q Purely facts. A. Purely facts.  
30

31 Re-examined by Mr. SHIELDS  
32

33 Q Mr. Braddel, it is alleged against Mr. Williams and Miss  
34 Marshall that these reports were written and compiled in such  
35 a way as to give a misleading impression that Ficret Alic was  
36 in prison and caged. Is it right that you played an active  
37 part in the creation of the broadcast which we have seen?  
38 A. Yes, it is.  
39

40 Q Were you party to any scheme to broadcast a misleading image  
41 of Ficret Alic? A. No, I wasn't.  
42

43 Q As far as you were concerned, was he in prison? A. Yes.  
44 All of the men behind that barbed wire fence were imprisoned.  
45

46 Q As far as you were concerned, was he caged? A. Yes, he  
47 was.  
48

49 Q Were you party, either with Mr. Williams or Penny Marshall, to  
50 compiling that report so as to give a misleading impression to  
51 the effect that he was in prison and caged? A. No, I was  
52 not.  
53

54 MR. SHIELDS: Thank you. I have no further questions.  
55



(The witness withdrew)

MR. SHIELDS: My Lord, I now call Mr. James Nicholas.

Mr. JAMES WILLIAM DAVID NICHOLAS, Sworn  
Examined by Mr. SHIELDS

Q Your full name, please, Mr. Nicholas. A. My name is James William David Nicholas.

Q Your present address, Mr. Nicholas? A. I'm just moving to Washington. It will be 7717 Curtis Street, Chevy Chase, Maryland.

Q It is right that that you are a cameraman/video editor? A. That is correct, yes.

Q I would just like to ask you a few questions about yourself. You were born in August 1962. A. That's correct.

Q In Blackheath. A. Yes.

Q You went to school locally? A. I did, yes.

Q When you left school, did you become a stills photographer for UPP? A. I did, yes.

Q Is that a still agency which supplies pictures for television and the press? A. It is.

Q Then did you at the age of 20 join CNN as a video journalist? A. That's correct.

Q What does CNN stand for? A. Cable News Network, which is a new company then based in America.

Q Did you then work in the United States of America? A. I went there for three years.

Q Then did you move to London? A. I moved back, yes.

Q Did you work as a freelance cameraman in London? A. Yes. For three years.

Q Then did you in February 1998 become a member of the ITN staff? A. That's correct.

Q Since 1989 have you effectively worked for ITN? A. Since 1989, yes.

Q Other than working for CNN, did you work for any other television company? A. I have done in my time. At WTN, which is an agency. Briefly for Canadian television, Australian television and numerous others.

1 Q I have asked you a little bit about what you have done prior  
2 to 1992. I am not going to go into much detail before then,  
3 but did you do a lot of war coverage? A. I have done  
4 some. My first real war was in Lebanon, just at the end.  
5 I've been in the Rumanian revolution. I was at the TV station  
6 over Christmas. I've done riots in Ireland and a few  
7 disasters as well. I've covered the Zeebrugge disaster, the  
8 Challenger disaster, the Locherbie disaster, among others.  
9

10 Q I would just like to take you back, if I may, a little back in  
11 time to July 1992. Were you in London when you received a  
12 phone call? A. I was. I was at home.  
13

14 Q Do you remember where you had been prior to that? A. I'm  
15 pretty sure I had just come back from Bosnia three days before  
16 hand.  
17

18 Q You had been out there already? A. I had been out there a  
19 few times.  
20

21 Q For ITN? A. For ITN, yes. Channel 4 news.  
22

23 Q What was the import of that telephone conversation? A. It  
24 was a phone call in the evening from the Channel 4 foreign  
25 desk asking me if I was prepared to go back to Bosnia the  
26 following day, because it was explained to me that Radavan  
27 Karadzic had on the programme said that he invited ITN to go  
28 to Bosnia. They knew I'd just come back, but would I prepared  
29 to go back again, to which I said I would.  
30

31 Q Did you then fly out from Heathrow with Mr. Braddel and Chris  
32 Hease? A. We flew out the next morning.  
33

34 Q Had you been with Chris Hease to Bosnia before?  
35 A. I believe I had, yes.  
36

37 Q I think it is right that you went to Budapest, where you met  
38 Mr. Ian Williams. A. That's correct. We all met and  
39 joined up.  
40

41 Q Did you have equipment with you? A. Yes.  
42

43 Q What equipment was that? A. Well, obviously my equipment:  
44 camera, tripod, lights, battery charters. We had flak  
45 jackets, helmets, medical kit, obviously our own personal  
46 bags, boxes of cables and just general bits and pieces.  
47

48 Q Was that more than you would usually carry on such an  
49 assignment, or is that representative? A. It's  
50 representative. It obviously depends on the assignment.  
51 Obviously, flak jackets and helmets, it depends. But the rest  
52 of the kit is pretty much normal.  
53

54 Q Who issues you with the flak jacket and helmets? A. In  
55 those days, I had my own, I'd been issued with one. But there

1 is a centre in ITN, a room in ITN, in which they have a whole  
2 pack of them and you have to go in and sign them out.  
3  
4 Q Did you then travel with the others from Budapest to Belgrade?  
5 A. Yes. We all got the overnight train.  
6  
7 Q You took the equipment obviously on that train with you?  
8 A. We did.  
9  
10 Q When you were in Budapest, what did you do? A. We went to  
11 the hotel and obviously everything was packed up, so we  
12 prepared everything. We had to wait, because Mr. Williams and  
13 Mr. Braddel went around, sorting out.  
14  
15 Q Was your job to go and sort out things with them, or what was  
16 your role? A. I might have gone once or twice, just in  
17 case we were going to do an interview. But on the whole not.  
18  
19 Q Did you go with the crew anywhere to film? A. Yes. We  
20 went to a few camps, one a few hours drive out of town, just  
21 across the border from Bosnia itself. We went to another  
22 place ----  
23  
24 Q Let us talk about that one. Can you remember what that camp  
25 was like? A. It was a refugee camp. We could tell.  
26 There were kids playing and there were women around, walking  
27 around quite naturally. There didn't seem to be anything  
28 untoward. Considering what they were going through, there was  
29 no sign of anything outwardly unusual.  
30  
31 Q During the next three or four days in Belgrade, did you visit  
32 any other camps? A. Yes. I remember going to an army  
33 camp. I don't remember too much about it. I don't think we  
34 filmed anything there, because ----  
35  
36 Q That was 4th July. A. It might well be. I couldn't tell  
37 you myself.  
38  
39 Q But you do not recall doing any filming there? A. I think  
40 maybe a couple of shots, but nothing -- there was nothing  
41 really there to film.  
42  
43 Q When were you told that you were going to leave Belgrade and  
44 move on? A. I don't exactly remember the time itself, but  
45 I just remember being told that we were going to have to get  
46 up extremely early, because we were going to go somewhere.  
47  
48 Q Did you know where? A. I didn't.  
49  
50 Q Did you know where you wanted to go? A. I knew somewhere  
51 in Bosnia. Not exact places.  
52  
53 Q Do you remember being taken to an airfield on the outskirts  
54 of ---- A. I do remember being taken to an airfield.  
55

1 Q What did you see when you got there? A. A helicopter, a  
2 Russian helicopter, which had seen better days.  
3  
4 Q Do you remember the flight? A. I certainly do, yes. It's  
5 not something you forget. We flew incredibly low. We had to  
6 lift up to go over pylons, electricity pylons, and we were  
7 going fast and we had the windows open and occasionally you'd  
8 hear a "pop, pop, pop" as somebody tried to have a go at us  
9 with a gun of some sort.  
10  
11 Q How did you feel during that flight? A. Exhilarating is  
12 I think the word. Something you had to experience once, but  
13 that's enough.  
14  
15 Q Did you take any film from inside the helicopter?  
16 A. I believe we did, yes. Just a few shots. Obviously  
17 something was now happening, because of the fact that they'd  
18 arranged a helicopter for us, which implied that maybe things  
19 were picking up. So as is quite often and natural, you take a  
20 few shots just so could show, if we had gone down by  
21 helicopter, we had some pictures, although as far as I know,  
22 they were never used.  
23  
24 Q I think the journey lasted about an hour and you landed in a  
25 field outside Pale. Can you remember that field?  
26 A. I do. I think it was a football field, if I remember  
27 correctly.  
28  
29 Q What happened then? A. We unloaded all our equipment. We  
30 hadn't taken all our equipment down with us, we'd left quite a  
31 lot of it back in Belgrade. But the kit that we had taken  
32 with us, we unloaded and I think we had to wait a few minutes  
33 for some transport to take us to our next stop.  
34  
35 Q Did you know where you were going? A. I didn't know at  
36 that point, no.  
37  
38 Q Did you think the other two knew where they were going?  
39 A. Not really, not for sure. We were being taken somewhere  
40 and there was no guarantee that we were going to be taken  
41 anywhere of importance.  
42  
43 Q Do you remember meeting Dr. Karadzic? A. I do, yes.  
44  
45 Q Were you present during a conversation with him? A. I was  
46 present through some of it, not all of it. I think I filmed  
47 -- or I think Mr. Irving filmed the subsequent meeting.  
48  
49 Q I think after you had seen Dr. Karadzic, you got on a military  
50 bus, which then took you to -- I think you spent the night at  
51 Pale and the next day you went to Banja Luka. I think that is  
52 agreed. A. Yes.  
53  
54 Q At that stage, did you know exactly where you might be heading  
55 next? A. Again, not for sure. I think we were getting a

1 better idea, but as far as I'm aware, I was not exactly sure,  
2 although I think the more we progressed into the trip, the  
3 more obvious it became.  
4  
5 Q The next day I think you went to Prijedor. A. That's  
6 correct.  
7  
8 Q Do you recall going to Prijedor? A. I do.  
9  
10 Q I think there was a meeting with those in command at Prijedor.  
11 A. That's correct.  
12  
13 Q Did you take any film of that, do you recall? A. I did.  
14  
15 Q Can you remember what happened at that meeting? Do you have  
16 any strong recollection about it? A. No particularly  
17 strong recollection, apart from that my lungs were filled with  
18 lots of smoke. There were -- I heard bits of translation  
19 about the history of the area. But most of it was in Serbian  
20 and therefore I had no translation by me. So therefore most  
21 of it was not understood by me.  
22  
23 Q After that, you then drove with the others to a destination at  
24 the time, were you aware of, or were you just waiting for your  
25 job? A. As far as I'm aware, I still didn't know the name  
26 of the place. It was getting nearer the time that the name  
27 began to get mentioned.  
28  
29 Q Do you remember that journey, what happened on the way?  
30 A. There was a brief incident near to -- although at that  
31 point we didn't know it was near to -- the camp. Just before  
32 we came across a bridge, there were two bursts of gunfire,  
33 machine gunfire, and obviously there was a bit of panic in the  
34 vehicles and I picked up a camera and turned it on, while  
35 I was wondering what was going on, and started filming,  
36 because we didn't know what was going on.  
37  
38 Q What were other people doing? A. I don't really know.  
39 I wasn't really looking. The Serbian soldiers in our vehicle,  
40 some of them jumped out, some of them stayed in the vehicle.  
41 I stayed in the vehicle for a time and then it looked like it  
42 was okay to get out and then I got out and looked around. But  
43 there was no more firing after that. After five or ten  
44 minutes, things began to calm down again.  
45  
46 Q Were you worried at that moment? A. I had a healthy  
47 concern. Gunfire, people with guns, it's ----  
48  
49 Q But you were filming. A. I was filming. So you have to  
50 concentrate as well, and that's why you have other people  
51 around you. Part of their job is to look after you in that  
52 kind of situation.  
53  
54 Q Can we just pause there? You have spoken about other people  
55 around you. What would be the role of Mr. Braddel in such

1 circumstances? A. Mr. Braddel. Basically, Mr. Braddel  
2 and also Mr. Hease, who's the sound person, had to look after  
3 my safety. That certainly was a large part of their job,  
4 because I had a camera on my shoulder, with a viewfinder here,  
5 so I'm very restricted in what I can see there and behind me.  
6 So I have a good view of my left-hand side. So basically  
7 they're there to keep an eye on my blind side. They can see  
8 things which obviously I can't see. Maybe there's a sniper or  
9 they can spot something, come up with anything. In something  
10 like that, for my safety.

11  
12 Q We will come to that later on. Shortly after you arrived in  
13 Omarska, you started filming when you got there? A. Yes.

14  
15 Q I am going to show the film which you shot there. As far as  
16 you were concerned, when you got to Omarska, what was your  
17 role? A. As a cameraman, it's to take pictures of an  
18 event which is unfolding in front of me, whether I know it's  
19 going to happen or not.

20  
21 Q You do not have a director, do you? A. No. No director.

22  
23 Q So do you choose the images yourself, or do you choose them in  
24 part or does someone else choose them? A. They're mostly  
25 chosen by me. Occasionally, somebody -- in this case,  
26 Mr. Braddel, Mr. Williams or Mr. Hease -- if they see  
27 something, they would whisper in my ear: "Have you seen  
28 something to your left or to your right?" or something. But  
29 they try and keep that down to a minimum, because I'm trying  
30 to work out a sequence in my own mind.

31  
32 Q Will you always be right behind Mr. Williams in such a  
33 circumstance, or will he be sometimes in a different place to  
34 you? A. It would not be uncommon to be in different  
35 places. I would wander around one part of the room, while  
36 Mr. Williams was talking to other people, finding out  
37 information. So it's not uncommon.

38  
39 Q Where is the sound man through all this? A. The sound man  
40 would be with me.

41  
42 Q He is always covering your back? A. Yes.

43  
44 Q And he has the boom, as we have heard? A. Yes. It's up  
45 to the individual sound recordist. Some people prefer to have  
46 booms, some people don't like it.

47  
48 Q Mr. Hease has a boom. A. Mr. Hease does have a boom.  
49 It's a strange set-up. The microphone is actually longer than  
50 the boom. It's far more of a directional microphone, because  
51 the boom itself is about that long, but it extends out.  
52 Obviously a long pole, it's very ungainly, so you have this  
53 pole which concertinas down or up.

1 Q So you can reduce it in size? A. Oh, yes. And you get  
2 different sizes of them anyway.  
3  
4 Q We are going to show the film you shot at Omarska. To save  
5 time, when you were there, were you being directed on this  
6 occasion as to what to shoot, or were you really forming your  
7 own judgment? A. I was not. I was forming my own  
8 judgment. I don't remember any time, certainly in Omarska,  
9 being told what to film. I made my own judgment.  
10  
11 Q This is the tail-end of the ambush, is it? A. This is the  
12 tail-end of the ambush, yes.  
13  
14 Q Pausing there, do you see that man there on the right?  
15 A. Yes.  
16  
17 Q Do you recognise who he is? A. I don't. I have to say,  
18 I hadn't seen him before until that point. I remember seeing  
19 him. Sorry. Perhaps he was there on the bus with us when we  
20 went there, but we had no communication.  
21  
22 Q So far, as I understand it, it is suggested there was one  
23 Bosnian camera crew there. A. Yes.  
24  
25 Q Is that how you recall it? A. I do believe he was from  
26 Bosnian TV.  
27  
28 Q Was there one or two cameramen there? Can you remember?  
29 A. I can only remember one myself, but I wasn't looking for  
30 other cameramen.  
31  
32 Q So let us continue with the film. Are you filming here inside  
33 or outside? A. I think at this point I'm filming inside.  
34 In fact, I'm definitely filming inside at this point.  
35  
36 Q In the first shots we see, were you filming inside or outside?  
37 A. The first shots were taken through the window. We saw it.  
38 You don't wait until asked, you start filming. Just in case  
39 they try and move you on, at least you've got a couple of  
40 shots and you can prove that there's something there. I think  
41 we did a few shots and then we tried to get in and at this  
42 point we're inside.  
43  
44 Q Just go back. That man there is not Mr. Irving, is it?  
45 A. That is not Mr. Irving, no.  
46  
47 3.15 p.m.  
48  
49 Q Stop there. Can you see a man there with a camera and a  
50 jacket on, military jacket, just turning away? A. I can  
51 now you have pointed it out, yes.  
52  
53 Q It is a different cameraman, is it not, to the one we have  
54 just seen? A. Yes, it is.  
55

1 Q Go on. That was the end of the film you took in the canteen?  
2 A. That's correct.

3  
4 MR. JUSTICE MORLAND: Would that be a convenient moment to have a  
5 break?

6  
7 MR. SHIELDS: Of course, very convenient. I am obliged.

8  
9 MR. JUSTICE MORLAND: We will have a quarter of an hour break.

10  
11 (Adjourned for a short time)

12  
13 MR. JUSTICE MORLAND: Really this is a matter that Mr. Millar will  
14 have to deal with. I will read it out.

15  
16 "Reference LM magazine p.28. Did the low fence on the  
17 east road continue up past the front of the community  
18 building? If so, where did it finish. And why is it  
19 not shown?"

20  
21 Well, I do not think you can answer that now, but bear in mind  
22 that that is a question the jury want to know the answer to,  
23 if it can be given. Yes?

24  
25 MR. SHIELDS: (To the witness): Mr. Nicholas, we have just seen  
26 the film you shot in the canteen and I know this is now the  
27 year 2000, and we are asking you to go back to August 1992.  
28 What was your reaction or impression of what you saw at  
29 Omarska? A. Well, there was obviously something unusual.  
30 I mean, the immediate reaction was you were seeing people who  
31 were obviously not healthy, obviously malnourished, some  
32 people looked very pale and obviously unshaven and unkempt in  
33 their own right. Obviously incredibly nervous because there  
34 was no conversation between anybody, which obviously in a  
35 canteen is extremely unusual. So therefore it was very quiet.  
36 So, you know, the banging of spoons and plates was that much  
37 more obvious. There was obviously something. It was  
38 immediately obvious that there was something that was not  
39 ordinary.

40  
41 Q After the canteen we know you went upstairs to the  
42 administration room where you talked with the camp commander?  
43 A. That's correct.

44  
45 Q We will not need to look at that again. Then you left and  
46 went downstairs and were you filming then the whole time?  
47 A. As we left that meeting, we went back towards the stairs  
48 and it was at that point we saw out of the window the  
49 prisoners running across to the other building, which for me  
50 was the first time that this other building came into  
51 question. At no time before had there been any reason for  
52 that other building to be considered. So then we went down  
53 the stairs and I made to walk across to that building and at  
54 that point I was stopped.  
55



1 Q Who stopped you? A. Some camp guards.  
2  
3 Q Were they armed? A. Yes, they were.  
4  
5 Q What happened then? A. I tried to continue and tried to  
6 be a bit forceful back, but they became more forceful so at  
7 that point a heated exchange occurred between Mr. Williams,  
8 Penny Marshall and the camp guards, which I continued to film.  
9  
10 Q Then what happened? A. They still wouldn't allow us to go  
11 in and I think everybody gave it their best shot, so therefore  
12 we decided that the best thing to do was to continue out.  
13 Because at that point there was quite a bit of friction now  
14 between us and the camp guards and they were quite upset about  
15 it, and I think we had pushed our point to the maximum that we  
16 could.  
17  
18 Q What was your overall feeling on leaving that camp?  
19 A. Well, I think the main thing at that point, if they were  
20 allowed -- if they were happy and had allowed to show us the  
21 canteen and adamantly were not going to show us that other  
22 building, it implied that there was something far more  
23 sinister happening in the other building, which obviously  
24 didn't bode well for those people. I mean, it backed up the  
25 theory that there was something going on.  
26  
27 Q You then went off with the others on the bus again. Did you  
28 know where you were going, you personally? A. I had no  
29 idea where we were going next.  
30  
31 Q You did not ask? A. There was no point, I don't think.  
32 Nobody in our team really knew where we were going. So we  
33 were just going along for the ride really.  
34  
35 Q When you got back in the car you were then driven off to what  
36 we know of course now is Trnopolje? A. That's correct.  
37  
38 Q Now, tell us what your first image was of Trnopolje from when  
39 you started filming. A. Well, obviously we don't know we  
40 were just about to arrive because we didn't know where we were  
41 going. But you could see in the distance this large gathering  
42 of people and it looked like we were stopping. So at that  
43 point again I turned the camera on, put it on my shoulder and  
44 at that point, having come from where we had just come from  
45 and the friction, I mean, again I immediately started -- you  
46 start to feel just in case you have got those pictures again,  
47 even if it is a few seconds, you have got something.  
48  
49 Q Were you on your own or -- I think it is right -- who went on  
50 first? Can you remember? A. Channel 3 were in front of  
51 us and so they pulled up first and they jumped out the car.  
52 I didn't see it myself but they obviously went ahead because  
53 by the time we were out of the car they had gone. So I then  
54 decided that there was no point in going immediately after  
55 them, because there is no point in two cameras being in the

1 same place from the same team or the same company at least,  
2 because we obviously had access to each other's pictures. So  
3 then I decided, not knowing exactly what was going on from a  
4 distance, I would, kind of, do a slower route ----  
5  
6 Q Can you speak up a bit, please? A. Sorry. I then decided  
7 to go through a slower route and maybe kind of see if there  
8 was anything else around that I might pick up and film.  
9  
10 Q Now, you have your camera where? Is it on your shoulder?  
11 A. It is my shoulder. Normally it is on the shoulder.  
12  
13 Q How heavy is it? A. It is about 15 kilos.  
14  
15 Q And Mr. Hease would be just behind you? A. Well, he would  
16 certainly be around me, yes. Nearby.  
17  
18 Q Once you got out of the minibus, where did you go next? Can  
19 you remember? Not the minibus, the van. A. Out of the  
20 van. As far as I can remember ----  
21  
22 Q Have you been in court all morning? A. Yes. So there was  
23 that gap and I just filmed around there briefly.  
24  
25 Q The gap there? A. There was a building, it was a concrete  
26 building and there was a gap in between and then I just  
27 started to film around that point.  
28  
29 Q You went in through the gap? A. Went in through the gap,  
30 yes.  
31  
32 Q And then where did you go after that? A. Well, at that  
33 point it looked like it was -- where I was, it was wasting our  
34 time. So then we also went up to where this large gathering  
35 of people were.  
36  
37 Q Did you walk? A. We walked at a brisk pace.  
38  
39 Q What did you see ahead of you? A. Well, you could see a  
40 large gathering of people and the nearer we got we could see  
41 that they were obviously enclosed in something and there were  
42 armed guards around, or armed people around.  
43  
44 Q And did you photograph them? A. I had obviously been  
45 filming a bit before and then when we get to the gate -- I am  
46 sorry, excuse me, when we got to the fence, I started filming  
47 again, yes.  
48  
49 Q What was Ian Williams doing then? A. He was around.  
50 I wasn't keeping a close eye on him because there was no need.  
51 I was looking for pictures and looking around me to see what  
52 was -- what I could film. I wasn't looking at what my own  
53 team were doing.  
54  
55

1 Q In the film we can all recall we see Ian Williams interviewing  
2 a man at one stage? A. Yes.  
3  
4 Q Would you have come down and joined him to interview that  
5 person? A. I would have done, yes.  
6  
7 Q Would someone have signalled to you, or how does it work? How  
8 did it work, not how does it work? A. I cannot remember  
9 exactly how that particular occasion worked but obviously we  
10 were not that far from each other so either he would be  
11 standing near me and would start interviewing or if he was  
12 further down -- further away and he had some somebody he  
13 wanted to talk to, then he would either call out or get Andy  
14 to pull me over.  
15  
16 Q Now, do you recall seeing and interviewing people?  
17 A. Channel 3?  
18  
19 Q No, Channel 4, your own men. Did you see them talking to  
20 people over the ---- A. I did, yes.  
21  
22 Q And do you recall moving down that fence? A. I recall  
23 going further round to the right and then we then went round  
24 and we went round to the side.  
25  
26 Q When you went round to the side how did you get round to the  
27 side? A. We just walked right round.  
28  
29 Q You were here this morning? A. Yes.  
30  
31 Q And you saw the cross-examination of Mr. Braddel? A. Yes.  
32  
33 Q You saw in effect it was put that in effect he could not have  
34 got round that side because there was barbed wire there?  
35 A. Well, I would say that that's wrong. I think we walked  
36 immediately round because there was nothing that I remember  
37 that was blocking our way to stop us or hinder us from getting  
38 round to that side.  
39  
40 Q Now, we saw some shots this morning - we will see them again  
41 if we have to - of the fence beside the barbed wire, the fence  
42 which runs up the west side. A. Yes.  
43  
44 Q Do you remember shooting that film? A. I do, yes.  
45  
46 Q At any stage while you were doing that filming did you  
47 understand that you were enclosed? A. I had no  
48 understanding at all that I was enclosed. It was clear to me  
49 that they were enclosed and we had the freedom to walk around  
50 as we wanted.  
51  
52 Q Did you film all the way round that camp? A. We carried  
53 on round. We filmed on the western side and then we carried  
54 on round and then we went into the further building. I am  
55 pretty sure that we went into the further building and then we

1 came back on to the road and then we filmed around there and  
2 then made our way down south again.  
3  
4 Q How long do you recall being at the camp for? A. I would  
5 have said 45 minutes to an hour. Somewhere in that region.  
6  
7 Q And you were filming a large part of the time?  
8 A. I filmed most of the time. Again, that is what we are  
9 there for. That is the moment, you have to make the most of  
10 it. You have to get as much as you can in the can, as we call  
11 it.  
12  
13 Q Now looking back to that day and trying to remember what you  
14 felt that day when you were filming, what was your impression  
15 of Trnopolje? A. It was, again, obviously people who had  
16 certainly been malnourished in some way and there were enough  
17 people there in the same kind of condition to make you realise  
18 that there was something deeply wrong.  
19  
20 Q You travelled back in the minibus with the others. Is that  
21 right? A. That's correct.  
22  
23 Q Do you remember why you decided to leave the camp?  
24 A. I think we had been there for a time, we had something --  
25 you can overstay and you can risk they can confiscate your  
26 tapes and then you have got nothing. You know, it gets to a  
27 point where you do not want to push it. You have got  
28 something, you have got enough for a story, do not push it,  
29 leave, and I think at that point we changed tapes just in case  
30 they did want to take our tapes, which had happened before on  
31 other trips. So the idea is not to push your luck and not to  
32 get too cocky about it.  
33  
34 Q On the way back together in that long journey, did you discuss  
35 what had you seen? A. Yes, we did.  
36  
37 Q Did you take part in that discussion? A. Minorly.  
38 I didn't take a major part in it, no.  
39  
40 Q What were your feelings about what you had seen that day?  
41 A. Well, we had obviously seen something which was of  
42 concern. It was obvious that morning we had seen lots of  
43 people in some kind of distress. They were obviously being  
44 mistreated in some form and so we had obviously seen something  
45 unusual which was of concern.  
46  
47 Q Now, we know that that night you get back to the hotel in  
48 Belgrade and go out for dinner. The next morning did you  
49 drive with Mr. Williams, Mr. Braddel and Miss Marshall to  
50 Budapest? A. I did, yes.  
51  
52 Q During that drive did you have any discussions? A. Yes,  
53 we did have further discussions.  
54  
55 Q Did you take part in them? A. Again minorly.

1 Q When you got to Budapest, what was your role to be?  
2 A. I was going to be tape editor who was going to cut the  
3 story with Ian and Andy.  
4

5 Q And how did you see that role? Did you have any particular  
6 message you wished to send? A. Nothing in particular,  
7 apart from, you know, it is another story that we covered and  
8 that it should be covered in a proper way and fairly.  
9

10 Q So how did the process of deciding how the report would run  
11 begin? A. As far as I remember, in the car there were  
12 discussions about, you know, maybe how we should start whether  
13 it should be taken and done in time, or whatever, just a  
14 chronological orders of events. You know, just ideas were  
15 passed around.  
16

17 Q Who would be responsible for choosing the pictures to use in  
18 the report? A. Again, it is a mixture of myself, Andy  
19 Braddel and Ian Williams.  
20

21 Q Who on this occasion was responsible for selecting the images?  
22 A. I would say primarily myself.  
23

24 Q Was it an easy report to put together in technical terms?  
25 A. From our point of view it wasn't too bad, although I was  
26 editing on equipment which was hired and unfamiliar to me. So  
27 I had minor problems in that respect. Channel 3 had much  
28 larger problems. Their equipment had come in and was not  
29 working so I assisted them as best I could.  
30

31 Q Now, as we know, you used a number of Channel 3 pictures in  
32 your video editing. A. That's correct.  
33

34 Q Can you tell us how that occurred? A. Well, it is nothing  
35 unusual in that I would go and check out other people's  
36 pictures, in this case Channel 3, to make sure that they  
37 didn't have anything that we didn't have and make sure we  
38 weren't missing out on something. So it would be a standard  
39 form that you would quickly go through their pictures.  
40 I wasn't expecting to see too much having known that we were  
41 in the same place, but I would still go through and make sure  
42 and see if there was anything of particular interest.  
43

44 Q Now if I can ask you about three different things in that\*pl16X44  
45 regard. We have the picture of the doctor in his surgery. Do  
46 you remember that one? A. I do, yes.  
47

48 Q What prompted you it take that? A. Well, I think I didn't  
49 know too much about it at first, but then when the still  
50 pictures from the film were developed and came out, as far as  
51 I can recall, that kind of made the doctor incident far more  
52 important because obviously the pictures showed something.  
53 There was some definite proof of events. So therefore it made  
54 the whole section of the doctor and the pictures more  
55 important.

- 1 Q Was it you who chose which of the doctor's pictures to use?  
2 A. To the best of my knowledge, yes, it was.  
3
- 4 Q I think you will just find them -- if you just look through to  
5 remind yourself, if you have not seen that tab. Those are the  
6 ones which are in tab 3. Do you have tab 3? A. Yes.  
7
- 8 Q I think you recall the ones you used are the ones -- you  
9 certainly used the ones at the very end, did you not?  
10 A. Yes, we definitely used the one at the end.  
11
- 12 Q Then if we drop back in, you used picture of the man with the  
13 white bandage on his face? A. Yes. We also used that  
14 one. I think that was it, wasn't it?  
15
- 16 Q Yes. It was you who chose those, as far as you recall?  
17 A. I can't recall exactly. I think certainly I might have  
18 been involved in it, yes.  
19
- 20 Q Now what about the image of Fikret Alic? You have been in  
21 court of course and you have heard the cross-examination  
22 directed towards that. Can you remember how that image came  
23 to be chosen? A. From what I remember, I was in the  
24 Channel 3 edit suite and we were going through the pictures  
25 and I remember seeing that shot and a few other shots on the  
26 screen which I thought were good shots in the terms of editing  
27 the piece. So I asked the editor, the Channel 3 editor, if  
28 I could have them, to which he said yes. I can't remember  
29 exact events. Either I went back to our own edit suite and  
30 said: "I have just seen a couple of pictures which I think we  
31 can use", or we dubbed off those pictures and then I brought  
32 them in. I cannot remember exactly.  
33
- 34 Q Were you happy to take that picture and include it in the  
35 broadcast? A. As soon as I saw it, I thought that was a  
36 picture which had to be in the piece.  
37
- 38 Q It represents a man who is emaciated. Were you happy about  
39 showing a photograph of a man who is emaciated at Trnopolje?  
40 A. I think that is why we wanted to use that particular shot,  
41 because that is what we had seen the day before and that just  
42 -- this was just a great picture and summed up everything.  
43
- 44 Q It shows a man who is caged in. Were you happy with that?  
45 A. I was, yes.  
46
- 47 Q During the course of your stay in Belgrade and when you went  
48 to those camps and when you came back from those camps and  
49 when you travelled back to Budapest, at any stage during that  
50 few days did anyone suggest to you that you had to come back  
51 with pictures of concentration camps? A. Not once.  
52
- 53 Q Did anyone put any pressure on you as to what pictures you had  
54 to come back with? A. Not on me, certainly not.  
55

1 Q Did Ian Williams or Penny Marshall make any such suggestions  
2 to you? A. Not once, no.

3  
4 MR. JUSTICE MORLAND: Yes, Mr. Millar?

5  
6 MR. MILLAR: My Lord, I am going to be more than 10 minutes with  
7 this witness. I do not know what your Lordship's feeling is,  
8 with three days in between, about starting cross-examination.

9  
10 MR. JUSTICE MORLAND: Members of the jury, tomorrow I have got a  
11 lot of work in a number of other cases to deal with and I do  
12 not think it would be a very good idea if Mr. Millar started  
13 his cross-examination today and continued on Monday. So, so  
14 far as this case is concerned, we will not sit tomorrow. That  
15 means you have tomorrow off. I will make a direction that you  
16 will get all your jury allowances as if you had sat tomorrow.  
17 So you can indent for your claim in due course but could you  
18 be back here at quarter past ten on Monday and then you will  
19 hear Mr. Millar's cross-examination of this witness. I am  
20 sorry for the break but I think it is better that it comes now  
21 than in the middle of this witness' evidence. Is there  
22 anything else that can be dealt with?

23  
24 MR. SHIELDS: No, my Lord.

25  
26 MR. JUSTICE MORLAND: No. I will rise then.

27  
28 (Adjourned until 10.15 on Monday, 6th March 2000)