**Press release**

**“Outrageous” and “utterly unacceptable”: High Court on conduct of Home Office contractor whose staff seriously assaulted torture survivor**

In a damning judgment published late on 22 June 2017 the High Court has found that staff employed by Tascor, a Capita subsidiary, seriously assaulted a mentally-ill torture survivor. The Judge also describes as “outrageous” and “utterly unacceptable” the regular use of painful, dangerous and unlawful restraint techniques.

The judgment describes a chain of events triggered by serious blunders by Theresa May’s Home Office in 2011 [98, 100][[1]](#footnote-1).

Subsequently, five officers from Reliance (since renamed Tascor) took 46 year old Felix Wamala into their custody unlawfully [503(1)] and attempted to unlawfully remove [504] him from the UK on a Qatar Airways flight to Doha on Christmas Eve 2011.

After threatening Mr Wamala in order to get him on the airplane, Mr Justice Walker has found that the officers severely assaulted Mr Wamala [430, 504, 508, 543, 546]. During this prolonged assault, an unauthorised “pain compliance” technique was used. Mr Wamala experienced “intense pain” [507]. He also experienced difficulties breathing [436, 508]. Mr Wamala had known Jimmy Mubenga, an Angolan national who had died during a similar restraint episode the year before. The High Court accepts that Mr Wamala believed he too was going to die as the five officers pinned him down on the floor of the aircraft aisle and assaulted him [46-48, 93, 430(8), 437].

Eventually, Mr Wamala was dragged off the airplane to a waiting escort van. This part of the assault was captured by the van’s CCTV camera in footage played in court and described by the Judge as “shocking” [444]. The footage shows Mr Wamala being dragged into the van by his cuffed arms, crying out in pain, and with the escorts stood over him shouting at him [439, 443, 444].

The High Court has found that Mr Wamala suffered serious physical injuries as a result of the assault, as well as severe psychiatric injuries the effects of which are on-going.

In further damning findings, the Judge found that:

1. Reliance’s staff made “highly improper” amendments to a critically important UK Border Agency document. Reliance/Tascor then repeatedly disputed that its staff had done so in documents submitted to the High Court [407, 496, 552].
2. One of the Tascor officers, Carol Govey, provided “manufactured testimony” to the High Court [205]. Ms Govey was also criticised for “antagonistic” and “unprofessional behaviour” towards Mr Wamala, which was recorded in the CCTV footage; this included referring repeatedly to Mr Wamala, who is black, as “Bruno” [213-214].
3. Another officer, Carol Lee, had in her evidence before the High Court “constructed an account thought to be helpful to [Tascor’s] case” [223].
4. Before he was placed on the airplane, Mr Wamala correctly informed the officers that they were acting unlawfully. However, their response was simply to laugh at him and to tell him they were “not bothered”. According to the Judge, they displayed a complete lack of understanding of when it is lawful to remove someone from the UK [114, 547].
5. After the incident, Tascor told the Home Office that Mr Wamala had been violent and aggressive. This false statement had “severe” consequences for Mr Wamala in terms of his subsequent treatment by the immigration authorities [548].

In a very unusual move, and one reflecting the seriousness of the High Court’s concerns about the conduct of Reliance/Tascor, the High Court has ordered Tascor to pay exemplary damages. These are punitive damages reserved for “outrageous exercises of unlawful executive power” [551]. In making the award, the Court concluded that Tascor’s staff had routinely used unapproved, intensely painful and dangerous restraint techniques [553]. The High Court has ruled that this was “utterly unacceptable and calls for condemnation” [553]. The Court said that the use of an unauthorised “pain control technique, which could and did easily go wrong, is a particularly disturbing feature” [427, 428, 518, 553]; so too the “flagrant disregard of the express prohibition [in the Home Office contract] of the use of any head restraint” [436, 553]. This prohibition reflects the well-known risks of restraint asphyxia.

Mr Wamala’s solicitor, Gareth Mitchell of leading civil rights firm Deighton Pierce Glynn (DPG), said:

The treatment of Mr Wamala is shocking and inexcusable, and so is the Home Office’s failure to take any action either against Tascor or the individual officers who were involved.

This is not just a few bad apples, instead the High Court has identified a disregard for the law at a corporate level. That is why the High Court has taken the very unusual step of ordering Tascor to pay punitive damages.

Tascor and the Capita group continue to earn tens of millions of pounds annually from the Home Office’s escorting contract and, as far as we are aware, the officers who assaulted Mr Wamala continue to have responsibility for escorting people from the UK on behalf of the Home Office.

**Documents**:

The judgment is posted at <http://www.dpglaw.co.uk/> at the end of news item on this case.

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**Notes**

1. Jimmy Mubenga died from restraint asphyxia on board a BA airplane on 12.10.10. His was not the first deportation-related restraint death[[2]](#footnote-2). An inquest found subsequently that Mr Mubenga had been unlawfully killed. The coroner in that inquest expressed serious concerns about the restraint techniques being used by G4S staff, but was assured that a review conducted immediately following Mr Mubenga’s death had eliminated any dangerous techniques[[3]](#footnote-3). The coroner also concluded that there was evidence of “*pervasive racism within G4S*” and recommended that the Home Office take action to address this[[4]](#footnote-4).
2. In May 2011 Reliance Secure Task Management Limited (Reliance) took over the Home Office’s immigration escorting contract in place of G4S[[5]](#footnote-5). Most of G4S’s staff were transferred across to Reliance, including at least 4 of the 5 escorts who assaulted Mr Wamala. On 13.4.12 *The Guardian* published a leaked internal Reliance memorandum accepting that its staff were “*loutish*” and “*aggressive*” and that the company was one in which “*ethnic minorities*” would feel uncomfortable[[6]](#footnote-6).
3. On 14.1.13 Reliance was renamed Tascor[[7]](#footnote-7). The company formerly known as Reliance and now known as Tascor is a wholly-owned subsidiary of Capita Plc. In financial year 2014/15 Capita earned over £40 million from the contract[[8]](#footnote-8).
4. In 2013, the Home Affairs Committee said: “*it is completely unacceptable that, even after the death of Jimmy Mubenga, the Home office continues to receive dozens of complaints each year about potential breathing difficulties caused by the use of physical force in immigration detention centres and on removal flights*” [[9]](#footnote-9).
5. In 2012 the Committee had complained that there “*appears to be a reluctance by* [Home Office] *officials to accept constructive criticism*” in relation to the treatment of migrants being removed from the UK[[10]](#footnote-10). The Committee also said that: “*It is a matter for serious concern that contractors should use racist language among themselves. That they were content to do so in front of not only UK Border Agency staff but also inspectors from HM Inspectorate of Prisons is shocking. It is possibly the result of a relationship between the Agency and its contractors which had become too cosy*”[[11]](#footnote-11).
6. HM Chief Inspector of Prisons (HMCIP), the independent inspectorate whose functions include the oversight of immigration escorting, has continued to raise concerns about what HMCIP staff have witnessed when they have observed Tascor’s escorts carrying out removals. This has included: “*making up some untested* [restraint] *techniques ad hoc*”[[12]](#footnote-12); the continued “*use of pain compliance through rigid bar handcuffs*”[[13]](#footnote-13); treating detainees as "*commodities to be delivered rather than as vulnerable individuals deserving of attention*" and “*swearing* [and] *making animal noises*”[[14]](#footnote-14); the inappropriate use of restraints[[15]](#footnote-15); the “*excessive use of handcuffs*”, “*unprofessional and even goading behaviour*” and that “*most staff had little knowledge of the findings and recommendations of the Prisons and Probation Ombudsman and the Coroner in relation to the death of Jimmy Mubenga*”[[16]](#footnote-16).
7. The steady stream of mistreatment complaints made by detainees in the care of Tascor’s staff has included Marius Betondi[[17]](#footnote-17) and Guy Ngassa[[18]](#footnote-18), for whom DPG solicitors have acted in separate claims against Tascor. It also includes the recent case of a “*disabled victim of trafficking …forced into a waist restraint belt and dragged along ‘like a goat’*”[[19]](#footnote-19). In 2011 Amnesty International UK called for a “*a complete overhaul of enforced removals by private contractors*” referring to evidence of a pattern of mistreatment since at least 2005. Amnesty’s concerns have largely been ignored.
8. As far as Mr Wamala is aware, all five of the Tascor officers involved in the assault on him – Ian Charles, Carol Govey, Carol Lee, Simon Duke and Robert Simmons – continue to be employed by Tascor as immigration escorts and no disciplinary action has been taken against them, either by Tascor itself, or by the Home Secretary whose responsibilities include ensuring that only those who are a “fit and proper person” are certified to work as immigration escorts[[20]](#footnote-20).
9. Tascor’s current, 7-year contract expires in May 2018. There is an on-going re-tendering process valued at £47 million per year[[21]](#footnote-21). It is not known whether the Home Office are considering awarding the new contract to Tascor/Capita.
10. Tascor is understood to have spent well in excess of £300,000 trying to defeat Mr Wamala’s claim which took two and half years to get to an 8 day trial in July 2015. At a procedural hearing on 2.12.14 (transcript available), Tascor’s QC, Lord Marks, explained that: “*If the claimant’s account were found to be accurate, then there would be an award of damages based upon a finding that he was severely assault by Reliance’s officers in an unprovoked attack that caused him serious physical and psychological injury. It would follow from such a finding that he would be entitled to substantial damages against Reliance. His claim for aggravated and exemplary damages would have a good prospect of success. There might be a very substantial awards of damages in his favour. The reputational outcome for Reliance and its officers would be very serious*.”
11. The CCTV footage described by Mr Justice Walker as “*shocking*” was played in open court. However, Reliance is not permitting Mr Wamala to release his copy of the footage to the media. Consequently, any media organisation seeking access to the footage will need to apply to Mr Justice Walker.
1. The relevant paragraph numbers of the judgment are given in square brackets. [↑](#footnote-ref-1)
2. <http://www.independent.co.uk/voices/when-deportation-means-death-joy-gardner-died-after-police-raided-her-home-john-torode-sifts-fact-1458919.html> [↑](#footnote-ref-2)
3. <http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2013/12/Rule-43-Report-Jimmy-Mubenga.pdf> para 62 [↑](#footnote-ref-3)
4. para 43 & 51 [↑](#footnote-ref-4)
5. <https://www.gov.uk/government/news/new-contract-for-escorting-detainees> [↑](#footnote-ref-5)
6. <https://www.theguardian.com/uk/2012/apr/13/staff-deporting-foreigners-loutish> [↑](#footnote-ref-6)
7. <https://beta.companieshouse.gov.uk/company/02057887> [↑](#footnote-ref-7)
8. <http://icinspector.independent.gov.uk/wp-content/uploads/2016/03/ICIBI-report-on-Outsourced-Contracts-and-Cedars-Final.pdf> para 4.3 [↑](#footnote-ref-8)
9. <https://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/616/616.pdf> para 67 [↑](#footnote-ref-9)
10. <https://www.publications.parliament.uk/pa/cm201012/cmselect/cmhaff/563/563.pdf> para 11 [↑](#footnote-ref-10)
11. Para 32 [↑](#footnote-ref-11)
12. <http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/03/afghanistan-escort-2012.pdf> introduction [↑](#footnote-ref-12)
13. <http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2016/12/Albania-escort-report-Web-2016.pdf> para 1.5. [↑](#footnote-ref-13)
14. <http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/05/2013-Pakistan-escort-web.pdf> introduction and para 4.12 [↑](#footnote-ref-14)
15. <http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/11/Nigeria-Ghana-final-web-2015.pdf> para 3.25 [↑](#footnote-ref-15)
16. <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/05/2013-Pakistan-escort-web.pdf> para 3.27 [↑](#footnote-ref-16)
17. <http://www.bbc.co.uk/news/uk-21384435>; <https://www.theguardian.com/uk/2013/feb/08/deported-man-badly-beaten-claims> [↑](#footnote-ref-17)
18. <https://www.theguardian.com/uk/2012/jul/22/reliance-scrutiny-injuries> [↑](#footnote-ref-18)
19. <https://www.theguardian.com/law/2017/mar/28/home-office-contractor-restrains-disabled-yarls-wood-woman-by-chain> [↑](#footnote-ref-19)
20. <https://goo.gl/8i8QcK> [↑](#footnote-ref-20)
21. <http://ted.europa.eu/udl?uri=TED:NOTICE:340796-2016:TEXT:EN:HTML> [↑](#footnote-ref-21)