

Press Release

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Carter-Ruck

Boris Berezovsky

Court of Appeal upholds £150,000 libel award.

The Court of Appeal has upheld Boris Berezovsky's win in his 2010 libel action against the Russian State Television channel RTR and Vladimir Terluk.

In March 2010 Mr Berezovsky was awarded £150,000 in libel damages over allegations broadcast on the RTR satellite channel on its news programme, Vesti Nedeli on 1 April 2007, two days after Mr Berezovsky had voluntarily attended an interview in London with representatives of the Russian Prosecutor's Office, in the presence of British police officers investigating the November 2006 murder of Alexander Litvinenko.

The Judge had found that the RTR programme accused Mr Berezovsky of the murder. His motive was alleged to be that Mr Litvinenko was a witness to a criminal conspiracy in 2003 to avoid Mr Berezovsky's extradition and to obtain asylum by procuring false evidence from Mr Terluk. The programme featured an interview with a man named "Pyotr" whose identity was concealed, but who was found at trial to be Vladimir Terluk. In today's Judgment Lord Justice Laws observed that Mr Terluk was not assisted by his *"perjured evidence at trial that he was not Pyotr"*.

The Court of Appeal has rejected all seven grounds of appeal advanced by Mr Terluk including his attempt to introduce what he claimed to be fresh evidence from Andrei Lugovoy, the man wanted by the British authorities for the murder of Alexander Litvinenko.

Mr Terluk claimed to have new evidence from Andrei Lugovoy to support the claims in the broadcast. Mr Lugovoy claimed to be innocent of Mr Litvinenko's murder and, in his witness statement, sought to implicate Mr Berezovsky. In its unanimous ruling, the Court found Mr Lugovoy's account was *"not sensibly capable of belief"*.

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Given the “*welter of activity*” undertaken by the Russian Prosecutor’s Office in the Terluk proceedings to date and degree of contact between Mr Lugovoy and the Russian Prosecutors in the very context of Mr Litvinenko’s killing, the Court found “*if Mr Lugovoy’s present account were genuine, the Russian Prosecutors would have been armed with it before trial and so would [Mr Terluk].*” The Court had no doubt that the Judge was “*wholly entitled*” in the light of the evidence at trial to reject the justification defence.

The remaining grounds of appeal were also dismissed and the Court found that there was “*no sufficient basis*” made out to “*justify this court’s interference with the judge’s award*” of damages.

Mr Berezovsky said today:

“Again, I appreciate the quality of justice from the English courts. I am delighted the Court of Appeal has seen through the lies. At the heart of this case is the involvement of the Russian Prosecutors and, as I said at the time of the trial, I have no doubt that the motive of the Russian authorities was to undermine my asylum status and to put the investigation of the murder of Alexander Litvinenko on the wrong track. It is my wish to see his killers exposed, and justice seen to be done, not least for his widow Marina and son Anatoly.”

DEFENDANT’S GROUNDS OF APPEAL:

- A The Judge was wrong to refuse a late request for the adjournment of the trial date to allow Mr Terluk more time to try to find legal representation, and wrong to hear the case without a jury;
- B The Judge was wrong to find that the words spoken by “Pyotr” were defamatory of Mr Berezovsky;
- C The Judge failed properly to deal with the issue of justification (the “truth” defence);
- D The interview with “Pyotr” was part of a criminal investigation by the Russian Prosecutors office and so was protected by a defence of absolute or qualified privilege;
- E Mr Terluk was not responsible for the broadcast of the programme within the UK;
- F The damages award was too high;
- G Fresh evidence, including evidence of Andrei Lugovoy would have had an influence on the outcome of the trial and should be admitted in a re-trial.

NOTES

- Mr Berezovsky was granted refugee status and indefinite leave to remain in the UK on 10 September 2003 on the grounds that he had a well-founded fear of political persecution in Russia.
- Despite a formal request for his extradition to face charges in this country, Russia has refused to extradite Andrei Lugovoy to stand trial for the murder of Alexander Litvinenko on grounds that the Russian Constitution prohibits his extradition.
- RTR did not appear at the trial and did not take part in the appeal.
- Mr Terluk appeared in person at trial. With the assistance of funding from a Russian organisation called the Moscow Bureau for Human Rights [MBHR], Mr Terluk obtained legal representation for the appeal.

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