

N. 2831/2015 R.G. DIB

N. 395/2016

N. 2972/2013 R.GN.R.

Of 14-Jan-2015

Date deposited

04-Feb-2016

TRIBUNAL OF FLORENCE

SECOND PENAL SECTION

WITH SINGLE JUDGE

The Italian Republic

In the name of the Italian People

The Florence Tribunal with a single judge, in the name of Dr. GIAMPAOLO BONINSEGNA, in the hearing of 14-Jan-2015, pronounced the following:

Verdict

Against

Knox Amanda Marie, of Seattle, USA, born 09-Jul-1987, address for service through defense counsel Luciano Ghirga of the Perugia Bar;

Trusted Counsel L. Ghirga of the Perugia bar and Counsel Carlo Dalla Vedova, of the Rome bar;

DEFENDANT

As per the attached

Conclusions

PROSECUTOR: Two years and eight months of incarceration

CIVIL PARTY: Criminal conviction and compensation for damages

DEFENSE: Acquittal

N. 2972 / 2013 R.G.N.R.x

N. 1199 / 2015 R.G.GIP

TRIBUNAL OF FLORENCE

Office of the Preliminary Investigation Judge

DECREE THAT DETERMINES THE JUDGMENT

- Article 429 of the Italian Code of Criminal Procedure –

The Judge Anna D. Liquori,

At the end of the preliminary hearing against:

KNOX AMANDA MARIE born in Seattle (Washington) on 09-Jul-1987

Absent and represented by lawyers Luciano Ghirga of the Perugia bar and Carlo dalla Vedova of the Rome bar

DEFENDANT

a) of the crime pursuant to article 81 first paragraph, 368 and 61 nn. 2) and 10) penal code because, with the statements made on 13-Mar-2009 before the Assizes Court of Perugia, presided over by Dr. Giancarlo Massei and the Prosecutors Giuliano Mignini and Dr. Manuela Comodi, in the trial n. 08/08 for the murder of the citizen of the United Kingdom of Great Britain and Northern Ireland Meredith Kercher, in which Knox was accused together with Raffaele Sollecito, knowing her to be innocent, accused the English interpreter of the Perugia Police Station **Anna Donnino** (who had carried out her duties in the acquisition of testimony of the same Knox on 06-Nov-2007 at 01:45 and 05:45 and who had given testimony in the same hearing), of the crimes pursuant to article 372, 115 and 368 of the Italian Criminal Code of Procedure at the expense of Diya Lumumba known as "Patrick" (originally a co-accused in the same proceedings for the murder of Kercher n. 9066/07/21), falsely accusing her of remaining silent, during her testimony, the fact that the same Knox had confirmed the version of facts provided previously and to have suggested to her to remember being with the aforementioned "Patrick" in the house on via della Pergola and to have witnessed a sexual encounter of the same Diya with Meredith Kercher and the murder of the latter by the former.

Still on the same occasion, she also accused, knowing them to be innocent, Chief Inspector **Rita Ficarra** and the assistants **Lorena Zugarini** and **Ivano Raffo**, the first and second in service at the Flying Squad of Perugia and the third at the SCO (Central Operational Service) of Rome and the same **Anna Donnino**, of the

crime pursuant to articles 110, 479 and 61 n. 9 of the Italian Criminal Code of Procedure, regarding the same transcript of questioning of 06-Nov-2007 at 01:45, for not having honestly recounted her statements, as well as all three of the crime pursuant to articles 110, 611 – 368 and 61 n. 9 of the Italian Criminal Code of Procedure, having falsely accused her of hitting her on the head to cause her to commit the crime of calumny against the same Diya Lumumba known as “Patrick”, and in addition of Dr. Giuliano Mignini of the same crimes, as the one who prompted their behaviour;

b) of the crime pursuant to articles 81 first para, 368 and 61 nos 2) and 10) of the Italian Code of Criminal Procedure because with her statements on 12 and 13-Jun-2009, before the Assizes Court of Perugia, during the questioning by civil party counsel Carlo Pacchi and the cross examination by Prosecutor Mignini and Comodi during the hearing of the same proceedings n. 08/08 and 9066/07/21 of the Perugia’s Attorney Office, for the murder of the citizen of United Kingdom of Great Britain and Northern Ireland Meredith Kercher, in which Knox was accused together with Raffaele Sollecito, knowing them to be innocent, accused:

- Chief Inspectors **Luca Scatigno** and **Rita Ficarra** and assistant **Fabio D’Astolto**, all of the Perugia Flying Squad, with D’Astolto having the duties of interpreter, for the questioning of 02-Nov-2007 at 15:30;
- Inspectors **Antonio Facchini** and **Rita Ficarra**, as well as the interpreter **Marco Bellanca**, for the questioning of 03-Nov-2007 at 14:45;
- Chief of Police Dr. **Edgardo Giobbi** (SCO Central Operational Service of the State Police – Rome), Chief of Police Dr. **Marco Chiacchiera**, of the Perugia Flying Squad and the interpreter Dr. **Aida Colantone**, on duty at the Perugia Police Station, for the questioning on 04-Nov-2007 at 14:45;
- Chief Inspector Rita Ficarra, assistant Lorena Zugarini, of the Perugia Flying Squad and Ivano Raffo, on duty at the Rome SCO (Central Operational Service) and the interpreter Anna Donnino, on duty at the Perugia Police Station, for the questioning of 06-Nov-2007 at 01:45, and Chief Inspector Rita Ficarra and Anna Donnino for the spontaneous statements of 06-Nov-2007 at 05:45;

c) Of the crime pursuant to articles 110, 81 second paragraph, 611, 61 no. 9) penal code, 378 and 368 penal code, because those same, according to Knox’s statements, had forced her through violence to state that Meredith had been raped in the statement of 06-Nov-2007 01:45 and had forced her to accuse Patrick Diya Lumumba of that sexual violence and the murder (see page 45 of the transcript of the hearing of 12-Jun-2009 and page 30 of the hearing of 13-Jun2009), as well as Dr. Giuliano Mignini, as the one who prompted their conduct, who was present at the write-up of the Knox’s spontaneous statements

on 06-Nov-2007 at 05:45. With the aggravating circumstances of having committed the crime against public officials during the fulfillment of their duties and finally the impunity of the crime of murder of Meredith Kercher. In Perugia on 13-Mar-2009; the 12 and 13-Jun-2009.

Identified as the persons offended:

Anna Donnino (Perugia Police); Rita Ficarra (Perugia Flying Squad); Lorena Zugarini (Perugia Flying Squad); Ivano Raffa (SCO Roma); Luca Scatigno (Perugia Flying Squad); Fabio D'Astolto (Perugia Police).

CONSIDERED AS FACTS AND MATTERS OF LAW

The defendant was summoned to trial by the Judge of the Preliminary hearings with the decree of 20-Mar-2015, for the facts cited in the charges.

The case is a follow-on of a more complex and serious one, regarding the murder of Meredith Kercher, a young English student, which occurred in Perugia between 01-Nov and 02-Nov-2007. Those proceedings concluded with the exoneration of the defendant of murder, that she was accused of together with her boyfriend Raffaele Sollecito, and with her conviction for calumny against Patrick Lumumba, after two Assizes trials in Perugia, with initially a conviction followed by exoneration, a partial annulment by the Court of Cassation, for the murder, another appeal trial in Florence, and finally, the definitive annulment of the conviction of the second level verdict delivered in the referral trial.

Therefore, inevitably there have been continuous references to the main proceedings and its court documents, some of which have been acquired. This to comprehensively reconstruct in its entirety the context in which the investigation was carried out, with respect to which the conduct that today is being blamed as falsely presented by Knox against those persons aggrieved and the civil parties.

With regards to the proceedings, during the hearing of 09-Jun-2015, the evidence requested by the parties was admitted, and in the following one of 03-Sep-2015 the preliminary hearings commenced.

The court documents already included the records of the hearings cited in the charges that were formulated by the Prosecutor, in which the defendant allegedly made those statements the falseness of which is now being disputed, including the relative transcripts.

From these records it emerges that, during the hearing of 13-Mar-2009, in the Assizes Court of Perugia, Amanda Knox made spontaneous statements that those witnesses heard in the same hearing (Barbadori, Moscatelli, D'Astolto, Colantone, Donnino, Volturmo), stating that Knox had not always confirmed the same version, "*even when I said that Raffaele (Sollecito) supposedly said that I had left the house. There was this aggressive insistence about the message I received from Patrick*

(Diya Lumumba), really aggressive! I was called a stupid liar, from all sides... there was also this story of the trauma that this Donnino recounted to me and then after she suggested that this would have been the same in my situation. In the sense that I really couldn't remember well because I had been traumatised and so I should try to remember something more. Then there were these slaps on the head that I really did receive... it's true, I'm sorry, that's the way it was!" (The transcripts were admitted into the court records, page 20).

During the hearing of 12-Jun-2009 (page 43 and following), the defendant had made additional statements during her cross examination, stating that some police officers, not specifically indicated, *"they came and sat with me, they started to ask me the same questions that they had been asking since it had happened. For example, who could I imagine could have been the person that killed Meredith, and I said I didn't know, I still don't know, and so then what happened is that they took me into another room where they do questioning and once I was there I was asked to repeat everything that I had said before, for example what I had done that night. They asked to see my telephone, which I gave to them, looking in my telephone and this is when they found the message, when they found the message they asked me if I had sent a response, which I couldn't remember doing. This was the moment when they became very severe with me, they called me a stupid liar and they said that I was trying to protect somebody, but I wasn't protecting anybody, and so I didn't know how to respond to them, they said I had left Raffaele's house and this wasn't true, and I denied this, but they continued to call me a stupid liar, they put the cell phone in front of my face LOOK at the messages, were you about to meet somebody? And when I denied it they continued to call me a stupid liar and then from that moment on, from that moment on I was so frightened, they treated me so badly and I didn't understand why, while I was there, there was an interpreter who explained an incident that happened to her where she had a traumatic experience and couldn't remember anything and she suggested that I was traumatised and couldn't remember the truth. At first this seemed ridiculous to me, because I remembered with certainty being definitely at Raffaele's house, I remembered doing things at Raffaele's house, I had looked at my Emails and then we watched a film, we talked and we had dinner, and we hadn't left the apartment in that period, in that moment, but they insisted more, they wanted to know everything about each segment of time, and seeing as I hadn't looked at the time I wasn't able to tell them the exact time when I had done everything. They insisted that I had left the apartment for a certain period of time to meet somebody, which for me had not happened but the interpreter said I had probably forgotten it.*

(...)

I have to explain what I need to say.

(...)

Then what happened was I was told to try to remember, what they reckoned I had apparently forgotten and under the pressure and everybody was shouting at me and there were those who were telling me they'd put me in prison for trying to protect somebody, that I wasn't protecting and couldn't remember, I tried to imagine that in some way they could, it was very difficult because when I was there at a certain point I couldn't know why they were so sure that I knew everything, and so in my confusion I started to imagine that maybe I was traumatised as had been said, they continued to say that I had met someone and they continued to place so much emphasis on the message that I had received from Patrick and so I was almost convinced that I had met someone but I was confused."

In reply to the question of Counsel Pacelli, who asked if she had met up with Patrick and why she was sure to have met up with him, the defendant responded that no, she had not met up with him and that in that moment, during the questioning by the Police, she was confused.

Counsel Pacelli was referring to a statement of 06-Nov-2007 at 01:45 and to another at 05:45. With regards to the statement of 06-Nov-2007 at 01:45, the defendant responded that *"the statements were taken against my will and so everything I said was said under pressure and confusion and because it was suggested by the Prosecutor"*. Counsel Pacelli observed that at 01:45 the Prosecutor wasn't present and that only the Police were present and the defendant responded that *"they also put me under pressure"*. The Counsel asked if *"did they tell you to say this, or did you say it voluntarily"* and Knox responded that *"they suggested the way, so the first thing I said, ok Patrick, then they said ok where did you meet up with him? You met him at his house, you met him near your house, maybe near your house, and then my memory became mixed up, other days I remembered seeing Patrick in Piazza Grimana and so I said OK Piazza Grimana. It's not as if I said Yes, that's how it happened"*.

Counsel Pacelli asked if Meredith, before being murdered, had had sex and the defendant responded *"I don't know"* and the Counsel challenged the fact that Knox had said in her statement of 06-Nov-2007 at 01:45, had stated that before dying Meredith had had sex. The defendant responded that *"under pressure I imagined so many different things, during those days where I'd been questioned the Police had suggested that she had been raped"*. Counsel Pacelli: *"so the Police suggested to you to say this?"* Knox *"Yes"* Counsel Pacelli: *"and to make you say this they hit you?"* Knox *"Yes"*.

(...)

Furthermore, Knox also stated that *"when I was with the Police they asked if I heard Meredith's screams, I said no, and they said how come you didn't hear"*

Meredith's screams if you were there, I said look I don't know maybe I had covered my ears and they said ok let's write that and then we're good to go" (...) "In my confusion and under the Police's pressure I had to try and follow a narrative that they suggested and that would be that I heard Meredith's screams, then because I didn't remember this fact they suggested that maybe I had covered my ears, and so I followed this suggestion. (...) They hit me twice before saying Patrick to make me say a name that I couldn't give. (...) it was always a suggestion, following their lead, and so they asked me whether I was in Meredith's room when she was murdered, I told them no, they said but where were you? I told them I don't know they said maybe I was in the kitchen and so therefore I said Ok. (...) the whole interrogation lasted a really long time, for such a long time I continued to say that I had nothing to do with these things and that I remembered being in the apartment with Raffaele, then for such a long time they shouted at me and there is this progressing confusion just following where for hours they called me a stupid liar and so I don't know how describe the state of confusion, because in the end I was confused somewhat, yes I was confused but seeing as I didn't know what to be confused about, I was really confused on different levels, I was dazed I was under pressure".

Regarding the memorial written in the Police Station on 06-Nov-2007, Knox wrote that *"No, I wrote that because I was confused, I wanted to explain my confusion to the Police, because when I told them I wasn't sure that I could be a witness, that I thought it was all a big mistake and they didn't want to listen to me, they told me that I would remember everything later and I just needed to be patient, that I just need to keep trying to remember these things, and I, not feeling comfortable with these statements that I had previously written, I asked to explain my confusion, because I wasn't sure at that point. (...) There was so much confusion that night and through the many hours of questioning, I lost sense of the time. (...) the Police and the interpreter told me that maybe I didn't remember these things and that I should keep trying to remember them, so the fact that I might have just been imagining it didn't matter, because I would remember the truth over time, so the fact that I remembered doing something else was confusing to me, because I remembered one thing, but I imagined something else under pressure of the Police, so I was confused and I felt the need to explain this confusion in some way because they wanted me to testify against someone that I didn't want to. (...) At that moment when I named Patrick I didn't know if he was, if he was innocent or not, I only said it because I was following the suggestion of the Police, then when I wrote in that memorial that I couldn't be sure of those things that I'd said in the Police Station it was to say that I wasn't sure whether he was the murderer or not, I only knew that I wasn't there in the house. (...) I knew that they arrested him, because of me naming him, but they were the ones who suggested his name, so in the end they wanted me to give testimony against him and I didn't like this. (...) I*

wrote in the memorial that all the things I had said could not be true, because I didn't really remember these things, and so for example when the Police went and brought me paper and everything, they said to me maybe you have another truth similar to this, and so I wrote the memorial, this was my way of saying that everything I'd said at the Police Station could be utilised. (...) to be honest I didn't have a good relationship with the Police after that moment, also because, also with the Prosecutor because he suggested things for me to write in my statements, and so I didn't know who to turn to, I felt more at ease when talking to my lawyers instead of with the Police. (...) I wanted it to be known that I had said things and that I couldn't have known these things, but at the same time I wanted to explain in this memorial what I knew and so I accepted the fact while in the Police Station I had thought this thing might have happened, that he was the murderer, and then in that memorial I wrote that I couldn't have known all those things that I had said at the Police Station, that I was confused and so what I had said could not be used."

The defendant also stated that *"there were so many people coming in and leaving and after each one entered and then left, another Police Officer told me that I had left his apartment, or at least Raffaele had allegedly said that I had left his house."* (...) *"during the questioning, people were standing all around me, in front of me, behind me, and one would scream at me from here, another who was shouting no, no, no, maybe you just don't remember, other people were yelling other things and then there was this other policewoman behind me that did this to me. (...) twice, the first time she did it like this and we turned to face her and then she did it again"; they brought me things only after I had made statements, so I was there, they were all shouting at me, and I only wanted to get away from there because I was thinking that my mother was arriving and so I said look can I have my telephone because I want to call my mother but they said no and then there was all of this confusion as they yelled at me, they said to me that, they really threatened me, and it was only after I had made statements that they said for me not to worry, that they would protect me, that's how it happened. (...) after a while they told me that I had to stay in the Police Station, and so I stayed there at the Police Station (...) I was telling them look I'm really confused, these things don't seem to be what I remember, I remember something different and they said no, no, no, you just have to stay here, you will remember it all later, so stay tranquil and wait, wait, wait, because we have to verify some things, then I don't know why at that point I became very confused, in fact I even lost the sense of time. (...) what I can say is that I stayed there at the Police Station for a really long time, and during that time I kept trying to explain to the Police that what I had said wasn't certain, even the moment that they took away my shoes, they took these photos, they did all of this, they stripped me then to take photos and so it seemed a really long time."*

On 13-Jun-2009, before the same Court of Assizes of Perugia, the defendant was cross examined responding to questions posed by the Prosecutor who asked who suggested Patrick Lumumba's name, for which the defendant was then definitively convicted for Calumny; who had pressurised, her; who had hit her and how. The defendant responded stating that (pages 20 and following of the transcript) *"I'm responding about what happened to me on the 5th, the night of the 5th and then the morning of the 6th November 2007. (...) they asked again to continue to talk again about what I did that evening. They always started from the point when... I had last seen Meredith and then moving forward up until the next morning. So I had to repeat it all again, continuously repeating what I had been doing. (...) but did anyone say you were at Raffaele's house. Raffaele says you weren't there at your house during those hours. (...) But are you sure about what you are saying? If you aren't sure about what you are saying, when we go and we have to speak before a Judge, we will put you in prison, if you are not telling the truth. And then they told me this fact that Raffaele had said that I had left the house. I said look, that's impossible. I don't know if he's saying these things to you or not, but look I didn't leave the house. Then they said no you are lying, you have to remember what you did, otherwise we'll put you in prison for thirty years, because you are a liar. I said no, I'm not a liar and they said are you sure you're not protecting someone? I'm not protecting anybody and they continued, no, we're not convinced that you're not protecting someone. Who is it? Who is it? Who is it? Who did you meet up with when you left Raffaele's house? (...) So there was the thing about the telephone and at a certain point they said: Well we have this message, so did you send a message to Patrick? I said I don't think so, they replied no, you're a liar. Look this is your telephone that.. there's this message saying that you wanted to meet up with him, I don't remember sending this message, but ok, I sent it, they said, but it means you wanted to meet up with him, that's the point. Also, there was this interpreter next to me who was saying you... either you are a really stupid liar or you are someone who doesn't remember what you have done. I said, but how can that be? Perhaps you saw something that was so tragic, so grievous, that you can't remember it, because when I once had an accident, I actually broke my legs, I broke my leg and... (...) there was so much confusion, there were so many people talking. So, there was one who was saying Ah but perhaps it's just that, perhaps you can't remember, and there was another who said no, she's a stupid liar. Like that. (...)*

Because it's difficult to know with certainty if a person said something, Oh it was him. No, it was the fact that there were these small suggestions, then there was a person who wanted to say that ...well then, there's this mobile phone, and then there was this fact that ... the thing that most made me try to think of ... to think of something else, was when they said to me: Well, maybe you are confused, maybe

you should try to recall something else. Try to remember those other memories that you've obviously lost in some way, which you need to try and remember. So, I was there actually thinking what have I forgotten? I've forgotten something, ok, I'm thinking, what have I forgotten? What have I forgotten? They were saying come on, come on, do you remember? Do you remember? Do you remember? Boom on my head, you must remember, and I, goodness me, do you remember? (...) these were the slaps."

The person who slapped her was "a police officer, but I didn't know the officer's name. (...) Because there were so many people asking me questions, but the person who started to talk to me was a policewoman with long hair, dark brown, but I don't know her. Also among the circle of people around me there were certain people who were asking me things. For example, there was a man who had the mobile phone, who literally pushed the mobile phone in my face, saying but who is this? So, did you intend to meet this person? Then there were the others who, for example, this woman who directed things was also the one who at a certain point was behind me, because they moved around, they were right around me, right above me. I was on a chair, then there was the interpreter on a chair and all of them standing around me. I didn't see who gave me the first slap, because this person was behind me, then I turned around and I saw the woman and then came another on my head. (...) Those who were surrounding me... I think they were thinking... well, there are so many people, so there were so many people who suggested in a way asking me: so, you met up with someone, I would say no, they would say yes, because we have this mobile phone here that says you want to meet up with someone. Did you want to meet him? I don't remember, Ah, try to remember, otherwise we'll put you in prison for thirty years, but I don't remember, maybe you met up with him? Maybe you met up with him and you can't remember? That's how it was. (...) The fact that I received this message from Patrick, that they were so taken by this. So, the fact that I received a message from him... (...) So, it was for this reason that they were saying I had met up with someone. Then, they mentioned the thing about this message, asking me are you sure you can't remember? It's true, you met this person, because you wrote this message. (...) In that period I had to first think in English, translate, and then write. (...) So, the situation was that they wanted a name, so, the fact that this message was ...". In answer to the question by the Judge who asked why the officers wanted a name, Knox responded that it had been asked in connection with "who had actually committed this crime. They were saying to me that I knew and that I didn't want to say, if I didn't want to say because I couldn't remember or because I was a stupid liar. Then, there was always this fact, about the message, about the fact, that they shoved right in my face ..." Ah look you are a stupid liar, don't you remember this? At first I couldn't remember sending this message, then the fact that there was this interpreter next to me and who was

continuously saying to me but maybe you can't remember, maybe you can't remember, I tried... Then there were these people saying but try to remember something more, try to remember this fact about meeting somebody. So, I was there thinking Ok, try to remember, try to remember, and then there was this one behind me who really did... it's not that it really hurt me physically, but it frightened me".

The Judge then asked "Did they say it was him?" and the defendant responded "No". Compared to statements made previously and challenged by the Prosecutor during the hearing, the defendant responded "I explained it better now".

The defendant continued the cross examination stating that "First I started to cry. Then, at a certain point, all these Police Officers were telling me you have to say why, how was it, they wanted all these details, that I didn't know how to explain, how to provide, because in the end what happened is this, that when I mentioned Patrick, I really did imagine a certain type of scene, but always with this idea of memories that didn't concur, but memories that perhaps could have explained the situation. Therefore, Patrick's face, then Piazza Grimana, then my house, then a green thing that they had explained to me that could have been the sofa. So, following this thing, they wanted to have all the details. Everything I did... I didn't know how to say it, so they, talking with me, said: So, you left your house, OK, that's good, you met Patrick, where did you meet Patrick? I don't know, maybe in Piazza Grimana, maybe near there... because I don't know, I have this image of Piazza Grimana; ok, that's good, so you went with him to your house, ok, fine, how did you open the door? I don't know, I have the keys to my house, you opened the door, ok, yes, then what did you do? I don't know, but he went there... was she already there? I don't know, ok fine, somehow she arrives or was she already there? Ok, who was there with you, I don't know, was it only him or was Raffaele also there, I don't know. There was the fact that... and this was still happening when the Prosecutor arrived, because he was asking me: excuse me but I don't understand, it doesn't make any sense. You heard this noise, for example, some screams? No, but how is it that you didn't hear any screams? I don't know, maybe I had covered my ears. So, it was always this emphasis on, I dunno, maybe to imagine."

In response to another question, the Judge observed that "Excuse me, please, but on this matter the defendant says: on the basis of these elements, I have tried to recreate the scene that could have happened. So on these terms, not because... but has elaborated mentally and with her imagination, it seems to me that, the scene could have been verified, with these elements that which we progressively approached. This was it."

The defendant confirmed the observation of the Judge by saying: "Of course, exactly".

Knox, later in the cross-examination stated that *"The confusion arose because I didn't understand, first of all, because the Police were treating me like this, and then because when I explained to them that I was with Raffaele all of that time, they said: no you are a liar, there was always this... either I'm a liar or I can't remember. So, the fact that I repeatedly stated the same thing and they said no, you're going to prison now, if you don't tell the truth and I say no, I've told the truth, no you are a liar, now you're going to prison for thirty years because either you're a stupid liar or you have forgotten, and if you have forgotten you must now recall exactly what happened, and this is because I was confused, because I couldn't understand, I didn't understand because I didn't understand anything anymore, because in that moment I was so frightened, I was affected by this, such that at a certain point I thought, damn, maybe they are right, maybe I've forgotten"*.

The defendant continued saying that *"The fact is that I was actually led to believe that in some way I had forgotten the reality, and so, with this idea of having forgotten, I also... I was also almost convinced that in some way I had really forgotten and that these images, that I really forced myself to imagine, were really forgotten memories. Therefore, I wasn't sure if these imaginings were reality or not. But, explaining this to the Police officers, they didn't want to hear that I wasn't sure. They treated me as if I'd somehow remembered everything and everything was in its place and that I could be a witness in court against someone, to accuse someone. I didn't feel sure about this, I didn't feel..."*

(...)

"I didn't even know how to explain it to myself, because I had seemingly had these images, because I didn't know whether they were real memories or not. Therefore, I wanted to say that, yes, I made these statements that they asked me to sign and everything, I did this, but in this memorial I wanted to explain this doubt, this fact that I wasn't sure, because nobody wanted to listen to me when I said look, I don't know".

Regarding the confusion between imagination and reality in the recollection of the facts of the situation, the defendant stated that *"no, I've never had this problem before, but at the same time I've never been questioned like this"*.

The Prosecutor challenged the content of the memorial of 07-Nov-2007 in which the defendant expressed herself with the words *"I didn't lie when I said that I thought Patrick was the murderer. In that moment I was really stressed and I really thought that he was the murderer. But now I know that I can't know who the murderer is because I didn't return home"*. The defendant responded stating that *"Yes, because I was convinced that somehow I was able to forget. So, in that moment..."*. The Prosecutor asked, *"that what you said could have been true?"* and the girl stated *"Yes, that it could be true, but only in that moment. Then was I was*

able to think again about the facts, it was clearer that it made no sense, that it was really ridiculous what I had thought, what I had imagined."

(...)

"At the Police Station I actually said look, I'm not sure, and they didn't want to hear it, they didn't want to listen because they said no, you'll remember later, you just need time to remember exactly these facts. I said no, I don't think this is true, but they didn't want to listen".

(...)

For me it depends on the situation, I can only talk about my experience, which was that I had to... I really forced myself, because they were saying I had to remember something else, to remember something more. So, I forced myself so much that I tried to imagine that it was a reality that I had forgotten, then I became confused whether the thing I had imagined was really a memory or a figment of my imagination, because it was just fragments. So, these were just images that, I imagine, I had seen in my life. For example, I saw Piazza Grimana every day, I saw Patrick almost every day, these things were fragmented, which I didn't know if they belonged to that evening, in that... following that line of reasoning. I didn't know and so, not knowing what the reality was, what was the fruit of my imagination, this state of confusion".

With regards to the presence of the interpreter during the questioning on 05-Nov-2007, the girl stated that *"it was actually like a meeting between two people, she was here, but... she was always conversing with me in my ears, saying come on stop it, tell the truth because I want to go home. Come on maybe you don't remember, so always this, it's not the case that she was translating what the others were saying. Yes, she also did that, but she always spoke in my ear like this. (...) ... they asked me what I imagined? I... maybe you imagine this? And so they said Ok, let's write it like this and you tell us if it's OK or not. So they were writing saying ok, you met up with Patrick in Piazza Grimana, for example, you saw this, you put your hands over your ears, me OK, OK. (...) They asked whether I heard Meredith scream. I said no and they asked me: but how can it be that you didn't hear her scream, while she was being murdered? I don't know why they asked me this question, but I responded no, and they said how can that be? And I said maybe I had covered my ears".*

Regarding the memorial written Knox stated that *"for me it was important to tell the truth about the situation, it's not as if I entered the Police Station to voluntarily say these things, it was against my will, and then... I was really confused, the doubt, the confusion, the fact that I didn't... I couldn't understand how I found myself in that situation, so the fact that I wanted to tell the truth, that I... about the situation, because..."*.

With the agreement of the parties, all witness statements given by Knox and cited in the charges, as well as the transcripts of witness statements indicated by the Prosecutor and acquired in the first level trial in Perugia during the proceedings for the trial for murder, were included into the records of these proceedings.

During the hearing on 03-Sep-2015 some witnesses were heard, by both the prosecution and the defense.

Rita Ficarra, chief inspector at the Perugia Police Station, described the salient points of the investigation into the murder of Meredith Kercher and in particular the activities carried out with the participation of Amanda Knox. The inspector dealt with taking statements from Knox on the 2nd, 3rd and 6th of November 2007. Regarding the first statement, the witness stated that taking it took around four hours, while the second took much less, and the statement of the 06-Nov-2007 which started at 1:45 had been proceeded by an interview with Knox, and was started and interrupted when the young woman mentioned Patrick Lumumba as having committed the crime which was being investigated. The activity of obtaining her statement had taken around two hours, and then that statement was confirmed in front of the Prosecutor with a statement starting at 5:45 and lasting about 15 minutes.

On this point, it is noted that declarations made in the first statement, but also in the second statement of 6-Nov-2007, in the police station, were judged as not being usable by the Court of Cassation (decision made after a defense request) because the girl should have been heard with the guarantees reserved for persons under investigation from the beginning, and so not as a simple witness, given that substantially this was evident when considering the investigative developments as they evolved.

Following on, this finding obliges us to point out how the investigation, as emerges from the records and as described by the numerous witnesses heard, including Ficarra, was characterised by multiple operations being carried out, but also by singular omissions which were highly irregular, in the phase of documenting it: as well as not respecting the procedure for obtaining information from a person under investigation, as observed by the Court of Cassation, none of the statements contained a note of when they were completed; two of the interpreters, Donnino and Colantone, were civil employees of the Police Station, there in service as interpreters, and D'Astolto – also used as an interpreter, given his personal knowledge of the English language – was, furthermore, an assistant chief in the Police Station, directly belonging to the personnel who were carrying out the investigation; some comments by the witness Ficarra were not included in the statement of 1:45 on 06-Nov-2007, and for example, the circumstance of having heard from a colleague the news that Raffaele Sollecito, the girl's boyfriend who was

being questioned separately at the same time, was no longer supplying her with an alibi, saying that around 20:30 on 01-Nov-2007 she had left his home, a fact that Knox was challenged on during the acquisition of her statement; the same statement also left out the circumstance regarding Knox's telephone, which was taken by a colleague of Ficarra, examined and shown to her, in relation to a message received and exchanged with Patrick Lumumba, without a formal warrant for confiscation to be adopted when concerning a person already strongly suspected; all the statements drawn up and the spontaneous statements given to the Prosecutor are very brief, although the activities lasted, in some cases, several hours, according to the same witnesses and Ficarra in particular. Such approximation, which does not satisfy the canon of synthesis when drawing up the statements, inevitably led to not faithfully representing the activity carried out in its details. Inaccuracies which also include the times the statements were started and the intervention of participants, in some cases (see the witnesses D'Astolto and Donnino, which are referred to later).

Fabio D'Astolto, assistant chief in the Police Station, referred to having participated as an interpreter during the acquisition of the 02-Nov-2007 statement, as he can speak English, and to have intervened after around two [hours] after the start of the questioning, at about 17:30, while the statement indicated it was started at 15:30, with the presence of the witness at that time. A statement in which, curiously, no questions are reported and with it indicated that Knox replied to questions only on page 3.

The witness referred to having taken Knox for photo identification after the statement was drawn up.

Raffo Ivano, assistant chief in service at the Central Operations Service of the police, in Rome, referred to having participated in taking summary witness information from Knox during the night of 06-Nov-2007, at 01:45. He said the young woman was reassured, while the act was being drawn up, also with physical contact (a circumstance that was previously excluded by the witness Ficarra) and that he himself, in particular, held her hand; such a gesture, which is not mentioned in the statement, was erroneously considered by the witness as commendable and of human significance, but was in reality totally anomalous and inappropriate, in itself, and a tangible sign of these ambiguous procedures that led to the sanction of inadmissibility of the same statements, due to defects pointed out by Cassation (taking statements from a person who was in reality a suspect).

Regarding the message that Knox had exchanged with Patrick Lumumba, the witness referred that Knox was challenged about the circumstance, a fact not mentioned in the statement, as already pointed out.

The witness Chiacchiera, deputy head of the Perugia Flying Squad at the time, referred to the activities carried out, in particular to his participation in the 04-Nov-2007 statement, without indicating any circumstances particularly relevant or dissonant in comparison with the other witnesses, also because his role was marginal, in the matter of the statement under discussion.

Aida Colantone, linguistic worker for the Home Office, with duties as an interpreter at the Perugia Police Station, said that Knox spoke in English and that she had translated her statements on 04-Nov-2007, at 14:45. The activity had lasted around an hour. After the taking of the statement, the girl sat in a small room with the witness, and stayed there for a while.

The girl wrote a memorial on 06-Nov-2007, which was translated by a team, with the contribution of the interpreters who had carried out activity on the occasion, including the witness Colantone. The memorial and her translation were shown, made up of some computer files, unaccompanied by any statement of delivery or report, unsigned, and the witness recognised the work as being done by the group in question, which she had taken part in.

Anna Donnino, a colleague of Colantone who does the same job, referred to the activity she carried out during the 06-Nov statement, at 1:45, declaring that her interpreting activity started at around 00:30, that is before the time indicated on the statement, whose closing time, like all the others, is unknown. This is considered another reason for considering the relative documentation as untrustworthy, also regarding the time the activity started.

The witness confirmed telling Knox about the episode in her private life, when she had broken her leg during an accident, showing the young woman, who continued to insist that she could not recall the circumstances she was being questioned about, that she understood how she felt, not being able to remember, which had also happened to her on that occasion. This circumstance is also not shown in the statement, which the witness said she had recounted in a spontaneous sense of solidarity with Knox.

Regarding the investigative activity, the witness stated that Knox was asked the questions several times, as she claimed, talking of indefinite repetition of the questions that she was asked, for example in relation to reconstructing her movements that evening.

The witness stated that Knox had, firstly, stated that she had not replied to the message received from Patrick Lumumba, although it is shown in the statement that Knox had stated, on the contrary, to have replied to Patrick that they would have seen each other later. In fact the witness confirmed that the phrase on record, *see you later*, should be understood as an invitation to a totally generic future meeting,

equivalent to *a presto* [*see you soon*] or something similar, rather than to an imminent and certain invitation.

The witness confirmed reporting that Knox's statements were considered as lies, but also stated not recalling if the affirmation of not having replied to Lumumba's message had been taken of her own initiative or because of a decision of the interrogators. Also this circumstance, insofar as it showed perplexity concerning the traceability of the qualification in question, nevertheless signals a non-indifferent condition of the interpreter, which inevitably suffers from analogous contamination of her role by an emotional involvement given that her colleagues were the police officers who were carrying out the investigation.

At the 07-Sep-2015 hearing other witnesses were questioned by the Prosecutor, some of whom were also questioned by the defense.

Dr. Mignini, at the time the Prosecutor that was carrying out the investigation, referred to starting the investigation and its successive development.

Concerning the statement of Knox's spontaneous statements in his presence on 06-Nov-2007, at 05:45, the witness reported that at 23:30/24, more or less, of 05-Nov-2007, he had been called by Mr. Profazio, of the Perugia Police Flying Squad, who had told him that Raffaele Sollecito was no longer confirming Knox's alibi, suggesting the necessity to speak to the girl.

Later, at around 03:30, on 06-Nov-2007 he was told that the girl had accused Patrick Lumumba of the murder, and so he went personally to speak to Knox at the Police Station, proceeding to make a transcript of the spontaneous statements at 05:45.

The statement being drawn up at 01:45 had been suspended, but without defensive information being given to the person being investigated. Then the spontaneous statements were drawn up in her presence, without anything being disputed, as is shown in the statement, and the activity lasted around half an hour.

The witness confirmed that Inspector Raffo had hugged the girl and had caressed her, while she was making accusatory statements against Lumumba, tender behaviour which struck the magistrate in a positive way. Vice versa, Knox hugged the inspector.

Later, in the early hours of the morning, the arrests of Knox, Sollecito and Lumumba were issued.

It had not been thought that the Police had carried out a particularly aggressive behaviour which could lead to pressure against Knox, while realising that the version of events she offered was not trustworthy, due to the contradictions it presented.

The witness said that no proceedings had been started against the police officers following Knox's statements against them, which could now be considered as calumnious.

Monica Napoleoni, head of the homicide section at the Perugia Police Station, reported having coordinated the investigation regarding the murder of Meredith Kercher, along with her colleague Profazio. In particular, numerous witnesses were questioned immediately after the crime, and she, on 04-Nov-2007, had taken part in questioning Amanda Knox.

The girl had been treated well and her every wish had been met with regards to providing her food and drink.

Regarding the information taken during the night of 06-Nov-2007, it had been she who communicated to her colleague Ficarra, who was questioning Knox, the existence of a telephone message found on her mobile phone concerning the meeting with Lumumba.

The witness Lorena Zugarini, of the Perugia Police, had taken part in obtaining information from Knox during the night of 06-Nov-2007, at 01:45.

At around 22/22:30 on 05-Nov-2007, Amanda Knox had come to the Police Station together with Raffaele Sollecito, who had been called as a witness. While waiting, the same witness took some information from the girl, regarding telephone numbers considered useful to the investigation. Later, the news arrived that Sollecito was no longer confirming Knox's alibi, who was maintaining she had stayed at her boyfriend's home the whole evening on 05-Nov-2007 [sic: should be 01-Nov-2007]. Thus, with this investigative news, the interpreter Anna Donnino was called, who reached the Police Station at 00:00/00:30 on 06-Nov-2007, thus interrupting the interview between the witness and the girl, which was not taken as a statement. The interview restarted with the interpreter, when she arrived at the Police Station, but with the statement starting at 01:45.

The statement in question contains information about Lumumba and generic accusations against him (*"I find it difficult to remember those moments but Patrick had sex with Meredith (...). I vaguely remember that he killed her"*), but it does not contain what the witnesses said during her questioning, nor a description of how the information was obtained.

The witness stated that Donnino, the interpreter, had a maternal attitude towards Knox, as she said herself, and indeed even had a hand on her shoulder.

In this way, the statements regarding the investigation relevant to this trial were obtained, as cited in the charges, including the Prosecutor's arrest warrant and the statement of it being carried out, as well as the decisions of the Court of Cassation in court and, on electronic media, the verdicts of the first and second level trials in

Perugia, and the first quashing with a new trial decision by Cassation, as well as transcripts of witnesses from the first level in Perugia, which the parties agreed to obtain. Finally, at today's hearing, the annulled verdict without retrial by Cassation, on 07-Sep-2015 was obtained, which made definitive the acquittal of the defendant of Kercher's murder and connected crimes.

In order to carry out a more analytic assessment, the charges against the defendant can be divided into two groups of behaviours. The first ones related to what was allegedly done by members of the police, as expounded in the two charges; the others related to the Prosecutor in charge of the investigation, who is portrayed by the prosecution as having been targeted by Knox's statements as the instigator of the police behaviour, having prompted it in general terms.

**

From this perspective the proof of the truth of the accusation is deemed insufficient with regard to the first group of behaviours, while, as regards the behaviour of the Prosecutor, it must be ruled that the act does not constitute an offense.

The nature of the investigations, as reconstructed from the records of the investigative activities, from the testimonies heard and from the documents filed, particularly the rulings, shows they are not incompatible with what the girl said.

Indeed the investigations performed immediately after the Kercher murder, which directly involved Knox, were characterised by multiple specific procedural irregularities, as already pointed out, which even led to the inadmissibility of the documents coming from said activities (see on this point Cassation ruling 04-Jan-2008, Section 1, which, while ruling about the measures of preventive incarceration, deemed as not usable the 1:45 am and 5:45 am statements of 06-Nov-2007, since they had been collected "without the guarantees of the law from a person who had already formally assumed the status of a person under investigation").

More in detail, and in addition to what was mentioned above, which represents the most serious sanction of law for the irregularities of the mentioned documents, the flaws of said activities have also made the reports themselves unreliable with regard to the indication of the start of the reported activity, the presence of those who participated, the end of the activities - never specified, since in no report is there a mention of a concluding time.

The most glaring examples of such flaws are those concerning the *Procès-verbal* of 06-Nov-2007, whose starting time is indicated as 1:45 am, while the interpreter testified she began her job at about 0:30 am; as well as the 02-Nov report, in which D'Astolto is reported as present, while in fact he joined in only after two hours after

the start, which was reported as occurring at 3:30 pm, according to what he himself testified. Also consider what was said as an immediate comment to Ficarra's testimony above.

But also the totally inappropriate choice of the interpreters was irregular. They were chosen among members of the personnel of the Central Police Station of Perugia and, hence, people who were necessarily in a condition of understandable professional kinship with their colleagues who were performing the murder investigation. A condition that, moreover, translated into an empathetic behaviour, at least apparently and such that she so perceived it, towards Knox. All that happened in an extremely sensitive context, not just for the investigation, Knox's most significant statements having been ruled not usable, but also for her real status as a person under investigation.

Such an ambiguous condition as both an external support to police and, at the same time, as a member of the investigative team, degenerated then also into maternal and affectionate behaviours (the reference is to the behaviour, certainly not required, not by chance, by any procedure and, hence, at the very least anomalous, of interpreters Donnino and Colantuono, as well as, and even, of Inspector Raffo, a behaviour they themselves described during their testimony, to which the reader is referred also for the comments there). The feeling of spontaneous solidarity expressed by interpreter Donnino was not at all required by the only protocol usable and admissible in such a circumstance, namely the penal procedural code and its corollary of regulations, and it belongs in the same league as the other anomaly of the same nature, that is witness Raffo holding the hand of the girl. An anomaly directly descending from the original one, that is the interpreter having inappropriately not been chosen from a different and unrelated milieu, as any interpreter working in a criminal proceeding must be, exactly for the patent and obvious end of preventing conflicts of interest that may damage the professionalism of the auxiliary personnel. The latter, if not foreign to the parties involved - the individual under questioning and the investigators - is unavoidably, albeit possibly unknowingly, led to manifest sympathy, even just at the emotional level, towards one of the parties: the public one if they are akin to the investigators, the private one if they are close to the person of interest. On the contrary, their unrelatedness to both contexts guarantees their professionalism, which must be exercised in the most transparent way.

All these reported events do not appear, very understandably, this also being evidence that they were reckoned as anomalous, in any written report. However, they have been presented, and even stressed multiple times, by the witnesses heard, with the manifest aim of pointing out at the fair, indeed nice, treatment reserved for Knox. In this way the witnesses and the civil parties have, probably, meant to introduce an element of support to their case, disproving at the same time

the defendant's accusations against them. But they probably did not realise, and this too is likewise characteristic, that in such a professional context, the only correct approach required towards Knox, indeed the mandatory approach, was that of informing her of her legal rights, which have been proclaimed, not by chance, sacrosanct by our Constitution (article 24). And this because of the obvious and textbook-like reason that she was a subject who had to be enabled to defend, in an unhampered way, her personal freedom against the power of the State, since the latter had, through its law enforcement, already marked her as a person under investigation.

The different, unorthodox, method applied by the law enforcement and their auxiliary personnel, while apparently sugarcoated, is certainly not an elegant counterpoint to, but rather in irreconcilable conflict with the immediately subsequent incarceration of the woman: she had been, until shortly before, even in presence of evidentiary elements against her, treated maternally or with friendly affection. This aspect too, which certainly must have generated some embarrassment, at least to the person concerned, should have been avoided from the outset by the protagonists, who should not have allowed themselves to manifest solidarity, or even merely empathy, towards a subject in a state of inferiority in the given investigative context. All this with the aim of protecting her personal dignity, which - it should be recalled and repeated - is that of an individual facing the authority prosecuting her and whose fundamental rights must be safeguarded, precisely to prevent abuses of power by said authority, possibly in underhanded and surreptitious ways. This indeed is the purpose and the main fundamental essence of the existing rules governing the proceedings, since the beginning of the investigations. No friendly, affectionate or maternal treatment is, hence, due - nor allowed, as explained just above - but only the respect of the legal right to an appropriate defense, deemed inalienable because of its necessary role in all those situations where private citizens find themselves pitted against the might of the State in a criminal proceeding.

Situations of this kind concern personal freedom as a fundamental and unshakable right of the individual (Constitution, article 13), a direct logical and legal consequence of the recognition of the fundamental human rights, both as those of a single human being and in the context of the society in which he or she lives (Constitution, article 2). Situations also connected to the ultimate recognition of the equal level of dignity between individual subjects - also in a context like the case here discussed and meant as a sum of rights and duties - and the authority of the State (Constitution, article 3).

Even more than that, this system of recognised individualities and of their interrelationships, includes also all the relationships between the citizen and the

State, from a perspective shunning authoritarianism, which instead unilaterally privileges the State, with various justifications.

**

The overall picture thus outlined is described with extreme lucidity by the referenced articles of the Constitution, to which article 111 must also be added. The latter gives a sense of finality to the individual/State relationship in the particular case of the management of a criminal trial. Said management requires nothing more than the recognition of and the compliance with the mentioned dispositions of law, with the further goal of the observance also of the transparency of the individual/State relationships, besides that of the individual.

From there comes the further systemic corollary, deriving from the rejection of an authoritarian slant in the relationship we are talking about, of accepting the risk of setting a culprit free, rather than convicting an innocent, as per article 27/2 of the Constitution. This implies that there must be a sure reliance on the shared rules, which must be prized and applied as binding norms by everyone, including the leading actors in criminal proceedings.

From there further derives the need to avoid any hypocrisy, consisting of a merely formal adoption of said rules, which would be in reality freely transgressed by the public actors, albeit in a pleasing and apparently non-violent way, as well as with the justification of the pursuit of the public interest, namely the repression of crimes in this case. Such a pretense would do nothing else than reintroduce, in the substance, the authoritarian nature of the procedural relationship under discussion, while apparently and only formally following the opposite path, but in truth neglecting it.

**

In this specific case, all the described principles would certainly have been compromised overall by investigators and auxiliary personnel who had let themselves loose with extemporary and misguided displays of emotionality. As such, said behaviour is uncontrollable and ambiguous, in itself a product, and at the same time a source, of arbitrary, and hence discriminatory, decisions in the management of the situation, which are incompatible with the principles of equality and equal human dignity. Therefore said behaviour also leads unavoidably to a violation of the right of defense and it stands out as a sheer, but sterile - as it in the end was exposed to be - pursuit of a public interest, thought to be - debatably, as said above - dominant: the prosecution of the crime at any cost, considered at that time a goal preeminent above any other. The outcome being the ultimate neglect of the principle expressed by the so called presumption of innocence.

This is what, indeed, unquestionably happened in the case in question.

The compliance with all the rules governing the investigations, and nothing else, was all that was demanded, but those limits were trespassed, causing the corruption of the procedures, which ultimately led to their being deemed invalid, as established by the judgment of legitimacy [translator's note: i.e. by the Court of Cassation].

**

So, having to rule about the case, one faces two sources of evidence, Knox's statements and those of the prosecution witnesses, which are in conflict, since what she asserts, the others deny; but the first source is also supported by a wealth of other evidentiary elements, concerning secondary and indirectly linked facts, which, because of their substance and consistency, weaken, from the point of view of reasoning, the value of the accusations against the defendant. For this reason, to overcome the uncertainty caused by the opposing sources of evidence, the evidence against the defendant would need to be supported by some element confirming the statements, of a purely negative nature, of the witnesses, who are for the most part also the offended persons, almost all of them civil parties, and hence directly interested in the case and to a conclusion favourable to them.

As regards the evaluation of the opposing statements, this judge recommends, agreeing with its content, the reading of the section of the ruling of 03-Oct-2011 by the Court of Assizes of Appeal of Perugia, pages 30 and following, dealing with the investigative context outlined above. The Court wrote that:

To determine the real significance of the "spontaneous" statements and the note written practically right afterward, we must take into account the context in which the former were given and the latter was written.

The obsessive length of the interrogations, carried out during [both] day and night, by more than one person, on a young and foreign girl who at the time did not speak Italian at all well, was unaware of her own rights, did not have the assistance of an attorney (which she should have been entitled to, being at this point suspected of very serious crimes), and was moreover being assisted by an interpreter who — as shown by Ms. Bongiorno — did not limit herself to translating, but induced her to force herself to remember, explaining that she [Amanda] was confused in her memories, perhaps because of the trauma she experienced, makes it wholly understandable that she was in a situation of considerable psychological pressure (to call it stress seems an understatement), enough to raise doubts about the actual spontaneity of her statements; a spontaneity which would have strangely arisen in the middle of the night, after hours and hours of interrogation: the so-

called spontaneous statements were made at 1:45 am (middle of the night) on 11-6-2007 (the day after the interrogation had started) and again at 5:45 am afterward, and the note was written a few hours later.

In order to show that, in the days following the killing of Meredith, Amanda Knox was not at all disturbed at the police station, the testimony of some police officials and other young women who had been summoned there was recalled: Amanda and Raffaele, they said, were displaying affection, and Amanda had even engaged in a few gymnastic maneuvers while waiting.

In reality, however — beside the fact that the affectionate displays, simple tenderness of two lovers, could have been a way of finding comfort in the situation, and beside the fact that gymnastic exercises could also themselves be a way of relieving what was certainly an anxious and frightening environment for all involved — apart from all these considerations, it must be observed that this testimony refers to the beginning of the time at the police station and not late at night (1:45 am and 5:45 am) when the so-called “spontaneous” statements were made. Which, contrary to the prosecution’s assumption, serves [only] to demonstrate that Amanda Knox, who at the beginning had no reason to be afraid, went into a state of oppression and stress precisely as a result of her interrogation and the way it was conducted.

At the hearing of 13-Mar-2009, the Public Minister, evidently to support the absolute legitimacy of the transcription of the so-called spontaneous statements, asked Ms. Donnino (the interpreter present at the time of the “spontaneous” statements, but appearing at said hearing as a witness): “Is it your understanding that at the beginning Amanda Knox asked that the questions also be transcribed?...Is it your understanding that she asked that questions and answers be transcribed in her native language, that is in English in addition to Italian?”

To [both of] these questions Ms. Donnino replied in the negative.

But could one really expect that a twenty-year old girl from a foreign country, subjected to interrogation for hours by the police, would be so quick, lucid, and even courageous as to formulate requests of this sort, or indeed even to suppose that she might be in a position to formulate them?

Beyond the formal aspect, the context in which those statements were made was clearly characterised by a psychological situation which for Amanda Knox had become an unsupportable burden: witness Donnino reports that an outright emotional shock on the part of Amanda Knox occurred when the matter of the exchange of messages with Lumumba was raised.

Now, since Lumumba was in fact uninvolved in the murder, the emotional shock cannot be considered to have arisen from her having been caught (doing what, exchanging a message with a person who had nothing to do with the crime?), but rather from having reached the limit of emotional tension.

In that context, it is understandable that Amanda Knox, yielding to pressure and fatigue, would have hoped to put an end to that situation by giving her interrogators that which, in the end, they wanted to hear: a name, a murderer.

But why Patrick Lumumba, exactly? Because the police had found, on Amanda Knox's phone, the message "see you later", sent by her to Lumumba on the evening of November 1; which could also mean she actually intended to see him later to go somewhere, maybe to the house on Via Della Pergola — whence the insistent questioning about that message, its meaning, and its intended recipient.

By "giving up" that name to those who were interrogating her so harshly, Amanda Knox probably hoped to put an end to that pressure, now a true torment after long hours, while adding details and constructing a brief story around that name would certainly not have been particularly difficult, if for no other reason than that many details and inferences had already appeared in many newspapers the next day, and were circulating all throughout the city, considering the modest dimensions of Perugia.

Furthermore, the very manner in which the story is told, as contained not only in the transcripts of the spontaneous statements but also in the note written immediately afterward, makes it seem like the confused narration of a dream, albeit a macabre one, and not the description of events that actually happened — which confirms the state that Amanda Knox was in at the time she made the spontaneous statements and wrote the note, and rules out the possibility that the purpose of either could have been to conceal the

name of the actual perpetrator, Rudy Guede, [even] on the assumption that it was known to her, as a co-conspirator.

It is indeed totally illogical to suppose that Amanda Knox, if she actually had been a participant in the crime, could have hoped that naming Patrick Lumumba — whom in such a case she would have known to be entirely uninvolved and far, even physically, from where the crime took place — would have helped her position in any way; it would, if anything, have been easier for her to indicate the real perpetrator, even while stressing her own absolute innocence: after all, she lived in that house, and for her to have been in her own room at the time of the crime, perhaps actually entertaining Raffaele Sollecito as held by the first-level Corte di Assise, would have been entirely normal, and would certainly not have entailed responsibility for a crime committed by others in the next room.

Thus for Amanda Knox, in the event that she had been inside the house on Via Della Pergola at the time of the murder, the easiest way to defend herself would have been to indicate the true author of the crime, [who would have been] present in any case inside the house, because this would have made her credible; and not to instead indicate a totally innocent individual, whom she had no reason to hope would be without an alibi, and who might have been able to refute the account she had provided to the police.

This Court therefore finds that Amanda Knox had indicated Lumumba as the perpetrator only because, at that moment, it appeared to be the quickest and easiest way to put an end to the situation in which she found herself, her interrogators having insisted on an explanation of the message she sent to him.

It follows from this that, with regard to the murder, not only may the “spontaneous” statements not be used, but in reality neither may the note written later, since, although usable from a procedural standpoint, it does not deserve to be relied upon from a substantive one, as it does not represent what really happened in this case.

Besides which, in the note in question Amanda Knox does not indicate either herself or Raffaele Sollecito as the perpetrator of the crime, but [instead] writes of total confusion, [and] of not being in a position to remember what she is asked — the only thing of which she is sure being her and Raffaele Sollecito’s innocence.

(Pages 30 and following of the cited sentence).

The Court of Cassation (Section I, 26-Mar-2013), in the context of their annulment with referral and paraphrasing the above-mentioned assessments by the Court of Assizes of Appeal of Perugia in a way this judge agrees with, argued vividly that “according to the Court of Appeal, instead, Lumumba’s name was offered to the investigators as a means of escaping without further consequences the situation of unbearable psychological pressure weighing upon her, generated by the exasperated insistence and pressures brought on her with the aim of obtaining revelations important for the development of the investigation”. In this context, “the young woman, by a drastic act, named Lumumba” also and not “only to get out of a state of intellectual discomfort in which she had been led by the excess of zeal and the inexcusable excesses of the investigators.” (page 42 and following).

The context of the investigations was described in similar words and likewise stigmatised by the definitive annulment ruling of the main case: “4.1. Certainly an unusual media clamour about the case, was due not only to the means of death of the 22 year-old [sic; correctly, 21 year-old], so absurd and unusual in its origin, but also to the nationalities of the people involved. (A citizen of the United States, Knox, accused of involvement in the murder of a flatmate, who was also sharing the experience of studying overseas; a British citizen, Meredith Kercher, found murdered under mysterious circumstances in a place in which, probably, she felt most protected, it being “her house”), and therefore, reflecting the “international” nature of the story, it led to a sudden acceleration of the investigations, in the frantic search for one or more guilty people to placate international opinion, and certainly did not help lead to the real truth. In homicides such as this (such pressure) affects not only the timing but also the competence and the correctness of the investigative activities.” (Cassation, Section 5, 07-Sep-2015, Knox et al.)

**

In such a shared [between the rulings] perspective and following the methodological foreword expounded above - which demands that further corroboration be found of the statements of witnesses, all of them being involved, with varying degrees, in the events - these elements of validation of the statements against the defendant are missing. This deficiency prevents the overcoming of a reasonable doubt about the truth of the accusations against that same defendant, given the available evidentiary material, which served to highlight, with the words used above, how the most prominent part of the investigation in the main case was performed. It was characterized by rushed, as well as inefficient, investigative strategies, which, clearly, generated more mistakes than reliable and technically usable results.

**

There is not, hence, sufficient evidence that the events did not occur as Knox reported, as regards the police. But it is also plausible, given the dramatic context that has been revealed, that Knox was convinced or had the - reasonable - doubt of being the victim of an unjustly oppressive and abusive machinery, which she described - in a basic and embryonic but effective manner - at the March hearing, as regards the status of the Prosecutor, evidently thought to be the hierarchical instigator and the authority overseeing the police activity. The Prosecutor was believed by her to be, albeit mistakenly, the primary architect and the inspiration behind her state of subjugation and submission. Hence it follows that, as regards this charge, the fact does not constitute an offense, since it is missing the subjective element [of knowing the innocence of the accused person], there being at most the possibility of [the defendant] accepting this eventuality [dolo eventuale], which is incompatible with the crime of calumny.

It can be, therefore, concluded that the chosen investigative practices induced in the defendant the conviction, or the reasonable doubt, that she was being subjected to a planned, oppressive and unfair investigative action - this also takes into account Knox's definitive acquittal in the main criminal trial because she did not commit the crime of murder - in light of the overall way in which her interrogation was performed.

There is, therefore, an absence of the evidence to place beyond a reasonable doubt that the events did not indeed occur as the girl related and that she was fully aware of the non-involvement of the Prosecutor in the way the investigations concerning her were performed.

For These Reasons

Pursuant to article 530 of the Italian Code of Criminal Procedure,

acquits Knox Amanda Marie for the charge under letter a), because the facts do not exist, and for the charge under letter b), because the facts do not exist and because the act does not constitute an offense, as regards the accusations addressed to Dr. Giuliano Mignini.

The motivation report will be published in ninety days.

Florence, 14-Jan-2016

The Judge
Dr. Giampaolo Boninsegna

Translated by volunteers of <http://www.injusticeanywhere.org/>
Translators: Alex K, David Smith, John Rowell, Luca Cheli
(including excerpts from the Hellmann Appeal translation)
Editors: Avrom Brendzel, John Rowell