

# Australia's Ben Roberts-Smith: The Breaking of a Plaster Saint

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*It was an ugly case lasting five years with a host of ugly revelations. But what could be surprising about the murderous antics of a special arm of the military, in this case, the Australian Special Air Service Regiment, which was repeatedly deployed on missions in an open-ended war which eventually led to defeat and withdrawal?*

Ben Roberts-Smith was meant to be a poster boy of the regiment, the muscular noble representative who served in Afghanistan, a war with sketchy justifications. Along the way, he became Australia's [most decorated soldier](#), raking in the Medal of Gallantry in 2006, the Victoria Cross in 2010, and a Commendation for Distinguished Services for outstanding leadership in over 50 high-risk operations in 2012. He came to be lionised in the popular press, even being named "Father of the Year" in 2013.

A number of his colleagues, keen to take him down a peg or two, saw through the sheen. As did journalists at *The Age*, *The Sydney Morning Herald*, and *The Canberra Times*. The deployments by the special forces to Afghanistan had not, as the narrative would have it, been paved with heroic engagements of military valour. Roberts-Smith, it seemed, was less plaster saint than ruthless executioner and bully.

Some of the transgressions reported on by the papers were very much of the same type investigated by the Inspector-General of the Australian Defence Force. The findings were eventually made available in the stomach churning [Brereton Report](#), released in 2020.

But even prior to that, a [2016 report](#) by sociologist Samantha Cromptvoets, commissioned by the Special Operations Commander of Australia (SOCAUST), noted body count competitions and the use of the Joint Priority Effects List (JPEL) among special force personnel sent to

Afghanistan. The JPEL became what effectively amounted to a “sanctioned kill list”. Unsurprisingly, the numbers that were put forth were cooked, often featuring the gratuitous torture and killing of unarmed villagers.

Roberts-Smith, incensed by the reporting, commenced defamation proceedings against the three papers in question, and the journalists Nick McKenzie, Chris Masters and David Wroe. The use of such a civil weapon is often odious, a measure designed to intimidate scribblers and reporters from publishing material that might enlighten. While the defamation laws have been mildly improved since the trial’s commencement, featuring a public interest defence, the publishers here could only really avail themselves of the truth defence.

In the proceedings, [three groups of articles featured](#), sporting a ghoulish succession of allegations. The first, published on June 8 and 9, 2018, are said to have conveyed three imputations: that Roberts-Smith “murdered an unarmed and defenceless Afghan civilian, by kicking him off a cliff and procuring the soldiers under his command to shoot him”; that he also breached moral and legal rules of military engagement thereby making him a criminal; and “disgraced his country Australia and the Australian army by his conduct as a member of the SASR in Afghanistan.”

The second group of articles, published on June 9 and 10 that year, were alleged to convey three imputations of murder, including the pressuring of a new, inexperienced SASR recruit to execute an elderly, unarmed Afghan as part of the “blood the rookie” ritual and the killing of a man with a prosthetic leg.

The third group of articles, published in August 2018, contain a whole medley of imputations including alleged domestic violence against a woman at Canberra’s Hotel Realm; the authorising of an unarmed Afghan’s execution by a junior member of his patrol; assaults on unarmed Afghans; bullying of one of the troops – one Trooper M – and threatening to report another soldier – trooper T – to the International Criminal Court for firing on civilians “unless he provided an account of a friendly fire incident that was consistent with the applicant’s”.

The trial ended in July 2022, after [110 days](#) of legal submissions and evidence. During its course, Roberts-Smith, through his lawyers, dismissed the reliability of the eyewitness accounts. They were the bitter offerings of jealousy and mania, products of fantasy and fabulism.

On June 1, the Federal Court Justice Anthony Besanko [found](#) against Roberts-Smith. The three papers, along with the journalists, had made out the defence of substantial truth of several imputations made under the Defamation Act 2005 of New South Wales. The defence of contextual truth was also successful on a number of claims.

Most damning for Roberts-Smith was the establishment of the substantial truth of the first three imputations: the murder of a defenceless Afghan in Darwan by means of kicking him off a cliff and ordering troops to fire upon him, breaching the laws of military engagement and disgracing the country’s armed forces. The newspapers had not, however, established the Particulars of Truth on two missions – that to Syahchow (October 20, 2012) and Fasil (November 5, 2012). Contextual truth was also made out on the allegations of domestic violence and bullying claims.

The net effect of the claims proven to be substantially and contextually true meant that the unproven statements had done little to inflict overall damage upon the soldier’s reputation.

The plaster saint had cracked.

In [the assessment](#) of Peter Bartlett, law partner at the firm MinterEllison and also one of the lawyers representing the papers, “Never has Australia seen a media defendant face such challenges from a plaintiff and his funders. This is an enormous and epic win for freedom of speech and the right for the public to know.”

Fine words. Yet this murky case does little to edify the efforts of a unit that executed its missions with a degree of frightening zeal, let alone the commanders that deployed its members in the first place. Therein lies the uncomfortable truth to the whole matter. When trained killers perform their job well, morality beats a hasty retreat. Expectations of priestly judgment and pastoral consideration evaporate before the use of force. The ultimate saddling of responsibility must always lie higher up the chain of command, ending in the offices of the Prime Minister and Cabinet.

Even now, the journalists involved claim they can find gemstones in the gutter, better angels among depraved beasts. According to James Chessell, managing director at Nine, which owns the three newspapers, [the ruling was](#) “a vindication for the brave soldiers of the SAS who served their country with distinction, and then had the courage to speak the truth about what happened in Afghanistan.” But did it really do that?

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*Featured image: Ben Roberts-Smith speaking at the 2015 National Flag Raising and Citizenship Ceremony (Licensed under CC BY-SA 4.0)*

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