

Broadcast

Panorama wins by standing firm

'Fake Sheikh' ruling was a boost for BBC's investigative journalism, says Dominic Crossley



John Sweeney's much-vaunted *Panorama* on the 'Fake Sheikh' went ahead last week, and it didn't pull its punches. Mazher Mahmood, the undercover tabloid reporter, is firmly on the canvas, having failed to stop the fight.

A collision of two investigative journalists? That's plenty of work for lawyers and it's no wonder it went out a couple of days late.

Mahmood applied for an urgent injunction, which was rejected, then made an unsuccessful attempt to seek permission to appeal that decision. *Panorama* then faced a letter from the Attorney General and 'new evidence' sent to the BBC in the few hours between the decision in the Court of Appeal and the proposed broadcast.

Mahmood's injunction application was described by his own silk as involving "supercharged" privacy rights to protect his current image from being broadcast. He relied on Articles 2 (the right to life), 3 (the right to be protected from torture/violence) and 8 (the right to privacy) of the European Convention on Human Rights and referred to cases where notorious murderers had achieved similar injunctions to protect them from retribution.

One could see circumstances where an injunction of this type may be granted. Investigative journalists, like undercover policemen and the security services, use subterfuge to immerse themselves in the lives and activities of individuals who, if the truth was known, may well turn to violence.

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freedom of expression (Article 10) in broadcasting his true identity.

The judge concluded that there was 'no clear

evidence' that showing Mahmood's appearance would 'materially increase' the risk to his safety. Information about his identity and appearance was already in the public domain.

Mahmood has always been a controversial figure, but his ability to deliver scoop after scoop over two decades has been unrivalled. His skewering of corrupt Pakistani cricketers was the *News of the World's* last great story and was genuinely in the public interest.

At the Leveson Inquiry, Mahmood defended his methods and told of the 253 criminal convictions he had secured by way of his famous Fake Sheikh disguises. This number was later found to be a significant exaggeration.

Perhaps, having lived on the edge for so long, it was inevitable that this façade would slip sooner or later. The sting on Tulisa Contostavlos started the trouble. Tulisa was said to have fixed a drug deal for Mahmood, and his front page shaming of the singer was followed by criminal charges. The case reached trial but the judge dramatically ended the proceedings, deeming Mahmood's critical evidence unreliable.

A red-faced CPS had to abandon not only this case, but also reconsider the many cases it had co-operated in with Mahmood.

Panorama sensed that the time was right to unmask the man behind the story and found plenty of his victims willing to tell their tale of being tricked and exposed. The producers made it clear that their justification for exposing his identity was to make it more difficult for him to use these techniques to trap future victims.

Mahmood remains defiant and described *Panorama* as "deeply irresponsible". Judging from what it broadcast, he should know.

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