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# Launch of new appeal stuns mum of Iraq death soldier

CATHERINE Smith has slammed the UK Government's decision to appeal against a landmark ruling she secured from High Court judges in London.

Her son, Jason Smith, from Hawick, was a TA soldier serving alongside KOSB regulars in Iraq when he died from a heart attack brought on by heat exhaustion in August 2003.

Catherine refused to accept a coroner's findings and claimed the inquest was flawed because it did not examine all the facts. Private Smith's medical records had also gone missing.

She launched a legal action which led to a fresh probe and that resulted in a High Court ruling that soldiers did have the fundamental right to life as framed in the Human Rights Act – even while fighting on foreign soil.

The Ministry of Defence – worried about the implications of the judges' ruling – launched an appeal. And in May this year that appeal was kicked out by the Appeal Court.

But the Government has launched a fresh appeal and is taking the case to the House of Lords.

Catherine said: "Although I suspected they would appeal, I feel stunned. Almost six years after my son's death and a lengthy legal battle, I was delighted that the Court of Appeal delivered its landmark judgment which meant that his death would not have been totally in vain.

"Now I am left in limbo again until the House of Lords decides what to do, which is very hard to take.

"However, the more I see lives

being lost in Afghanistan the more I feel that it is important to fight on for the sake of those out there. It is very saddening to hear that the Government is again delaying a decision that gives soldiers a basic human right that we should all enjoy as citizens."

Her lawyer, Jocelyn Cockburn, of civil liberties law firm Hodge, Jones & Allen, branded the MoD's decision to appeal as outrageous and accused it of scaremongering.

In a written statement to the House of Commons, Defence Secretary Bob Ainsworth declared: "Given the importance of the issues raised by the Court of Appeal's judgment to how we plan and conduct military operations, and to the men and women of the armed forces, I have decided that the right course would be to appeal to the House of Lords in order to obtain as much clarity as possible on the legal framework applying to operations overseas."

But Ms Cockburn blasted: "It is outrageous that the Ministry of Defence is appealing this case again. One can only wonder whether we would be hearing the constant complaints of lack of equipment for service personnel if the Government had recognised their human rights from the start. Rather than appealing this case, the Secretary of State for Defence should be prioritising the safety of his troops."

Private Smith was 32 when he died.