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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT
(Sitting in Cardiff)



No. CO/4931/2018

[2019] EWHC 1082 (Admin)

2 Park Street
Cardiff CF10 1ET

Monday, 18 March 2019

Before:

MR JUSTICE ANDREW BAKER

B E T W E E N :

THE QUEEN
(on the application of Carwyn Jones)

Claimant

- and -

H.M. SENIOR CORONER FOR NORTH WALES
(EAST AND CENTRAL)

Defendant

- and -

(1) BERNADETTE AND JACK SARGEANT
(2) ANDREW SARGEANT
(3) THE LABOUR PARTY

Interested Parties

MS C. McGAHEY QC (instructed by Legal Services Department) appeared on behalf of the Claimant.

MS S. CARTWRIGHT appeared on behalf of the Defendant.

THE INTERESTED PARTIES did not attend and were not represented.

J U D G M E N T

MR JUSTICE ANDREW BAKER:

- 1 On 7 November 2017 Assembly Member Carl Sargeant, having very recently been removed from a Welsh Assembly cabinet post, appears to have taken his own life. I express even that introductory sentence deliberately carefully because this is a renewed application for permission to bring a judicial review claim in respect of an extant and ongoing coroner's inquest. That inquest, being conducted by the senior coroner for North Wales (East and Central) presently stands adjourned. I understand it was adjourned in any event having run out of time during the original hearing window for the inquest. That adjournment, the senior coroner has confirmed, will now continue until these proceedings have been concluded in the Administrative Court.
- 2 The essential proposed challenge to the process adopted by the senior coroner in late November 2018 during the hearing is that he has taken a wrong turn in declining to take evidence from Messrs Attridge and Shotton, and it may be in addition by way of evidence that would be read into the inquest record, the evidence of a Ms Magee and a Ms Perfect in relation to matters to which Mr Attridge at least may give evidence if required to give evidence to the inquest.
- 3 The essence of the application for permission for there to be a judicial review of that procedural decision is that the coroner's apparent conclusion that the evidence in question is irrelevant to the matters he is properly to investigate, and/or the related conclusion that without it there will be a sufficient inquiry, are arguably erroneous in ways that would, in due course, justify intervention by the court.
- 4 The court, in any such application during the life of an inquest, needs to tread extremely carefully, even at a substantive hearing let alone at merely a renewed application for permission, so as not to appear in any way to prejudge matters that, whatever the outcome, will still be for the coroner and nobody else in the first instance to consider and determine.
- 5 The second principal basis for the proposed claim for judicial review is the suggestion that within the body of evidence as a whole that the coroner has, as things stand, decided to exclude there will be evidence of the witnesses other than Mr Attridge that is said to suggest that the initial written statement provided by Mr Attridge for the purposes of the inquest may not have been truthful.
- 6 As it seems to me, notwithstanding Ms McGahey QC's submissions in that latter regard, there is no arguable basis upon which this court would interfere with the view of a coroner. It is not for him to engage in an inquiry within his inquiry as to the truthfulness of written evidence that had been supplied for the purposes of the inquiry but which he had correctly, or in any event lawfully within the boundaries of his discretion and judgment, excluded as irrelevant to the task before him.
- 7 To the extent, therefore, that the grounds proposed for a judicial review of the coroner's exclusionary decisions rely upon claims of duty on the part of the coroner or public interest in an investigation for its own sake into any question whether Mr Attridge's original statement was truthful, I am against the application.
- 8 However, the primary ground seems to me to stand differently. It is rightly emphasised in the submissions on behalf of the coroner, who ultimately takes a neutral stance, that the court will bear in mind on any substantive hearing that the inquest is, as we usually describe them, a 'Jamieson' inquest in which ultimately the coroner's principal verdict will be

expressed by reference to relatively narrowly defined statutory questions. As it has been observed, however, for example in *Sreedharan, R (on the application of) v Her Majesty's Coroner for the County of Greater Manchester* [2013] EWCA Civ.181 at [18] per Hallett LJ:

“There is now in practice little difference between the Jamieson and Middleton type inquest as far as inquisitorial scope is concerned. The difference is likely to come only in the verdict and the findings
(*R (Smith) v Oxfordshire Assistant Deputy Coroner* [2011] 1 AC 1).”

- 9 Ms McGahey QC submits with, as it seems to me, at least arguable force that the evidence now excluded may go centrally to a full and sufficient investigation of the question - to the extent the coroner may be in a position to get to the bottom of that question - why Mr Sargeant did what he did. It seems to me also at least arguable that the scope of inquiry already in effect established by the conduct of the inquest, if not by specific formal rulings, has extended at least to include a focus on what support was or was not available to Mr Sargeant in the particular circumstances of the Welsh Assembly cabinet reshuffle that more or less immediately preceded his death. In that regard it is at least arguable that the senior coroner has, in the circumstances, created at all events the reasonable appearance that this is an inquest in which he will need to give substantial consideration to whether in relation to that focus he will be in a position under which, pursuant to schedule 5, paragraph 7 of the Coroner's and Justice Act 2009, he may become obliged or at any event entitled to make a report with a view to the prevention of further deaths. That focus, as it seems to me, if indeed it is a significant focus of the inquiry, gives rise to a question of causation the coroner must then have in mind to consider, as to the degree to which any support or assistance that he forms a view, if he does, was lacking would have made any difference in the circumstances. It is (at least arguably) difficult to see how the coroner could address that question without as full an investigation as reasonably and fairly he is in a position to conduct into why it is that Mr Sargeant did what he did.
- 10 At this stage, being a renewed application for permission only, the burden on the claimant is to do no more than persuade the court that there is an arguable case with at least a realistic prospect of success. It is not for the court to attempt to reach any formal or firm conclusion as to whether the application will ultimately result in interference by the court. In my judgment enough has been done to persuade the court that there is here a properly arguable case that in excluding the evidence as he has done the senior coroner has, with respect, erred in a way that the court may consider intervening to correct. In those circumstances, subject to the limitation I expressed as to the second principal ground of criticism, permission for this judicial review is granted.
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