



Neutral Citation Number: [2022] EWHC 1894 (Admin)

Case No: CO/4070/2021

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
SITTING IN MANCHESTER

Tuesday 19th July 2022

Before:
MR JUSTICE FORDHAM

Between:
THE QUEEN on the application of WILLIAM LEESON **Claimant**
- and -
HER MAJESTY'S AREA CORONER FOR MANCHESTER SOUTH **Defendant**
- and -
(1) Donald McPherson (2) Scottish Widows (3) Country Wide (4) Vitality Life (5) LV (6) Aviva (7) Zurich (8) AIG (9) Aegon (10) Royal London **Interested Parties**

Sophie Cartwright QC (instructed by Holborn Adams) for the **Claimant**
Louis Browne QC and Sara Sutherland (instructed by Draycott Browne) for **Interested Party (1)**
The **Defendant** and **Interested Parties (2)-(10)** did not appear and were not represented

Hearing date: 19.7.22

Judgment as delivered in open court at the hearing

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

MR JUSTICE FORDHAM:

1. I am going to grant permission for judicial review in this case. In my judgment, the claim crosses the threshold of arguability. That does not mean that I think the claim will succeed or that I think it will fail. What it means is that the claim is properly arguable and should be considered at a substantive hearing.
2. The Coroner's reasoned Ruling on the scope of the inquest limits the temporal focus on events from the arrival of Ms Leeson (the deceased) on holiday in Denmark (on 3 June 2017) until the day of her death (6 June 2017). The context is that this is a resumed inquest, after an acquittal at a crown court trial: see Chief Coroner's Law Sheet No.6 at §20. A conclusion of "unlawful killing" (see Chief Coroner's Law Sheet No.1) has been recognised as being one possibility open to the Coroner. That was recognised by the Judge who considered permission on the papers. It is recognised by Mr Browne QC on behalf of the First Interested Party, in his skeleton argument and confirmed in his oral submissions: he accepts that "unlawful killing" and whether such a conclusion can appropriately be arrived at in the inquest is one of what the Coroner described as "the central issues". Ms Cartwright QC emphasises the importance of "unlawful killing" too, but she contends that the Coroner's approach or the consequence of his ruling has served inappropriately, in effect, to exclude that possibility. The possible conclusion of "unlawful killing" links to an "unlawful force" alternative described by Goose J (at §16) in his Ruling on the Submission of No Case to Answer at the criminal trial. That Ruling is, at least arguably, a relevant reference point. In relation to that alternative, Goose J in that Ruling (at §14) listed "the circumstantial evidence" as to actions "before, during and after the trip to Denmark".
3. As the Coroner rightly recognised, scope is not to be determined "by looking at the broad circumstances of what occurred and requiring all matters touching those circumstances to be explored": see Coroner for the Birmingham Inquests v Hambleton [2018] EWCA Civ 2081 §51. As Mr Browne QC emphasises, the scope of the enquiry is a "matter of judgment" for the Coroner, described as involving a "wide area of judgment" and a "considerable discretion": see Hambleton §50 (and the other passages in that judgment at §§47-57). The Coroner's decision on scope is only challengeable by judicial review if "infected with a public law failing"; specifically, "unreasonableness" in its public law sense: see Hambleton §§48, 51. As Mr Browne QC rightly puts it, it is "classic judicial review territory" and a "high bar". He also points out that Hambleton is an Article 2 case.
4. The Coroner's Ruling on scope recognised the "significant questions arising from the medical evidence", as Mr Browne QC has reminded me. In the Ruling, the Coroner said that findings on "financial and other such matters" were not appropriate. He said a "wide range of financial and circumstantial matters considered in the course of the criminal trial were obviously relevant in the context of a prosecution which sought to establish ... guilt to a charge of murder", where "issues of motive are inevitably highly relevant". But he said he was "not persuaded" that these would "go any significant way to assisting" him, their "exploration" being "unlikely" to result in "direct additional evidence" as to "by what means Ms Leeson came by her death". Among the points made on behalf of the Claimant – in relation to whether the Ruling on scope was a response reasonably open to the Coroner – are these. The point is made that fact-finding at an inquest as to "unlawful killing", appropriately to be considered as an alternative in this case, involves the same "elements" as arise in a criminal trial (Law Sheet No.1;

Law Sheet No. 6 §§12, 21), albeit with a distinctive and inquisitorial process and with the application of the civil standard of balance of probabilities (Law Sheet No. 6 §6). The point is made that, in principle, “motive” is relevant. The point is made that, in principle, so is “circumstantial” evidence, albeit that such evidence is by its nature not “direct ... evidence”.

5. Whether expressed in terms of statutory purpose or the sufficiency of the enquiry, or by reference simply to unreasonableness, I am satisfied that the threshold of arguability in the application of the reasonableness standard of review is crossed in this case. That is all I have decided.
6. Although the claim for judicial review was filed at the end of 3 months, I am satisfied in all the circumstances that there was no lack of promptness – nor is there a sufficient degree of hardship, prejudice or detriment – such as would justify the refusal of permission on delay grounds. I recognise the impact and implications for the inquest, and for the First Interested Party. I also respect the fact, as it is put in the papers: “Where, as here, the proceedings relate to the examination of events culminating in the tragic and untimely death of a family member, the cost is more than financial. Decisions to commit to litigation and legal challenge require psychological and emotional evaluation of a sustained kind.”
7. I add, as an endnote, that I made a ‘transmission direction’ order at the request of a journalist, to allow remote observance of the hearing by CVP. All participants were in the court room. In light of the travel advice this week, I was satisfied – having regard to the new criteria and the new Practice Guidance (Remote Observation of Hearings) – that it was appropriate to allow observation remotely, in the interests of justice and of open justice.

19.7.22