



Case No: AC-2024-LON-001223

Neutral Citation Number: [2024] EWHC 2331 (Admin)

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
DIVISIONAL COURT

The Royal Courts of Justice
Strand
London
WC2A 2LL

Date: 30 July 2024

BEFORE:

LADY JUSTICE ANDREWS
MRS JUSTICE HILL

BETWEEN:

HIS MAJESTY'S SENIOR CORONER FOR NORTHAMPTONSHIRE

Claimant

-and-

(1) NICK AND DIANA LOVELL IAN
(2) SARAH TEAGUE

Interested Parties

MISS A HEWITT (instructed by North Northamptonshire Legal Department) for the Claimant.

THE INTERESTED PARTIES did not appear and were not represented.

JUDGMENT
(Approved)

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1. MRS JUSTICE HILL: Annabelle, known as Anna, Lovell died on 2 August 2021 when she was 18 years old. She had been travelling as a passenger in a car driven by Benjamin Teague, then aged 26, who also died. The cause of both of their deaths was a road traffic collision in Northamptonshire.
2. The Claimant is the Senior Coroner for Northamptonshire. She opened investigations and conducted inquests into the deaths of both Ms Lovell and Mr Teague. The investigations culminated in inquests held on different dates. The inquest into Ms Lovell's death was conducted on 4 May 2022 whereas the inquest into Mr Teague's death took place on 8 March 2023.
3. Pausing there, we observe that it remained unclear to us why the inquests were not heard together and why there was such a gap in time between them. Had they been heard together, the problems we will come to describe that have led to this application might not have occurred.
4. Box 4 of the Record of Inquest (or "ROI") in Ms Lovell's case records a narrative conclusion as to the cause of her death as follows:

“On the evening of 2nd August 2021 Annabelle Lovell was a front seat passenger in a BMW car travelling towards Towcester on the A5 between Potterspury and Paulerspury. The driver of the BMW overtook a vehicle ahead of him whilst travelling way in excess of the speed limit. He crossed to his incorrect side of the road and was in collision with an approaching vehicle. The driver at the time had a significant amount of alcohol in his blood and cannabis. Tragically Annabelle Lovell was confirmed deceased at the scene”.

5. The Claimant now applies under section 13 of the Coroners Act 1988 for an order quashing the determination and findings made at Ms Lovell's inquest and requiring her

to conduct a fresh investigation into her death, in light of evidence that emerged at the inquest into the death of Mr Teague. The Claimant does so, as required, with the fiat of the Attorney General, given on 5 March 2024.

6. The parents of Ms Lovell and Mr Teague are Interested Parties to this claim, although we were told that Mr Teague's parents were not Interested Persons in the inquest of Ms Lovell's death. The two sets of parents were served with the claim form in late April / early May. We were not provided with any direct correspondence from the parents setting out their views. However the Claimant sought to explain their positions as she understood them to be from her dealings with them.
7. The Claimant's grounds indicated that Mr and Mrs Teague support the application. However, on further questioning of counsel, it is not clear that Mr and Mrs Teague have had the full consequences of supporting the application (ie that a fresh inquest would be required into Ms Lovell's death) explained to them.
8. We were told that Mr and Mrs Lovell object to the application.
9. None of the parents attended the hearing. It is right to record that this hearing has been listed at relatively short notice. Since its listing, the Coroner has endeavoured to make contact with the parents to elicit their up-to-date views but that has not been possible.
10. The reason for the Coroner's application is, in summary, that, at the inquest into Mr Teague's death, more detailed toxicology evidence emerged which casts doubt on the indication in the ROI in Ms Lovell's case that Mr Teague "had a significant amount of alcohol in his blood".

11. This evidence emerged as a result of specific questions raised by Mr Teague's family of Dr Paul Smith, the toxicologist. He produced three addendum reports, none of which had been available when the inquest into Ms Lovell's death took place. Dr Smith gave oral evidence at the inquest into Mr Teague's death.
12. He stated that there had been toxicological testing of samples of Mr Teague's blood, urine and vitreous humour which had been taken and tested eight days after his death. Ethanol or alcohol was found to be present in all three samples. The reading was 80 milligrammes per 100 millilitres in the blood sample and was at a similar level in the urine sample. It was found to be at a lower level in the vitreous humour. Dr Smith explained that alcohol can be produced by the body post-mortem. In his view it remained likely that Mr Teague had consumed some alcohol prior to his death but it was possible that some or even all of the alcohol present at the time of testing had been produced post-mortem.
13. Dr Smith also explained that the Tetrahydrocannabinol level was found to be 93.5 ng/ml and this meant that Mr Teague must have consumed cannabis at some point before his death, although not necessarily immediately prior to his death. The level of this substance at the time of his death could have been lower and possibly much lower than the reading found post-mortem by reason of post-mortem redistribution. Dr Smith explained that the rate of this can be high if, as in Mr Teague's case, the deceased person suffered injury to vital organs. It was impossible to know what the level had in fact been at the time of his death.
14. Dr Biggs, the pathologist, stated at the inquest into Mr Teague's death that in view of Dr Smith's further evidence it was impossible to know at what level or levels the alcohol and/or cannabis found post mortem had been present in Mr Teague's body at the

time of his death; and it was impossible to know whether his driving ability had been affected by the significant amount of alcohol in his blood and cannabis. It simply refers to the finding to that effect.

15. John Underwood, a forensic collision investigator, had provided several reports and also gave oral evidence at the inquest into Mr Teague's death. He deferred to the evidence of Dr Smith and Dr Biggs so far as the effect of alcohol and/or cannabis on Mr Teague's driving was concerned. He did not repeat the evidence which he had given at the inquest into the death of Ms Lovell to the effect that Mr Teague had consumed alcohol and cannabis prior to the collision and that this would have affected his ability to drive and control the vehicle.
16. It is for these reasons that the Claimant considers that the aspects of her conclusion on the ROI in relation to Ms Lovell to the effect that at the time the driver “had a significant amount of alcohol in his blood” is unsafe such that a fresh investigation is required. Reference is also made in the grounds to the cannabis finding, but the focus in the submissions made today has been on the finding with respect to alcohol.
17. Section 13(1)(b) is the relevant provision where an inquest has been held by a Coroner (as opposed to section 13(1)(a) which applies where a Coroner has decided not to hold an inquest).
18. Section 13(1)(b) applies, in material part, where the High Court is satisfied “...whether by reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, the discovery of new facts or evidence or otherwise that “it is necessary or desirable in the interests of justice that another inquest should be held”.

19. If the High Court is so satisfied, under section 13(2)(a) the High Court may order another inquest to be held into the death either by the same Coroner or by the Coroner for another district in the same administrative area. Under section 13(2)(c), the High Court may quash the “inquisition” on the earlier inquest. The inquisition form has now been replaced with the ROI.
20. The correct approach to applications under section 13(1)(b) was set out in *HM Attorney General v HM Coroner of South Yorkshire (West) and another* [2012] EWHC 3783 (Admin); [2012] Inquest LR at [10], the section 13 application that led to the fresh inquests into the deaths of those who died at Hillsborough, as follows:

“The interests of justice, as they arise in the coronial process, are undefined, but, dealing with it broadly, it seems to us elementary that the emergence of fresh evidence which may reasonably lead to the conclusion that the substantial truth about how an individual met his death was not revealed at the first inquest, will normally make it both desirable and necessary in the interests of justice for a fresh inquest to be ordered. The decision is not based on problems with process, unless the process adopted at the original inquest has caused justice to be diverted or for the inquiry to be insufficient. What is more, it is not a pre-condition to an order for a further inquest that this court should anticipate that a different verdict to the one already reached will be returned. If a different verdict is likely, then the interests of justice will make it necessary for a fresh inquest to be ordered, but even when significant fresh evidence may serve to confirm the correctness of the earlier verdict, it may sometimes nevertheless be desirable for the full extent of the evidence which tends to confirm the correctness of the verdict to be publicly revealed”. [our emphasis].

21. The central question for us to resolve is whether the new toxicological evidence that emerged at the inquest into Mr Teague’s death renders it necessary or desirable in the interests of justice that another investigation and inquest into Ms Lovell’s death should be held.

22. We turn first to whether such a fresh investigation is “necessary” in the interests of justice.
23. On balance, we do not consider that it is. To quote the Hillsborough case, we do not consider that the fresh evidence means that the “substantial truth” about how Ms Lovell met her death was not revealed at the first inquest.
24. The new evidence does not affect any part of the ROI other than one part of one sentence of the narrative conclusion. Even then, that sentence does not say in terms that the driver’s driving was impaired by reason of the high levels of the “significant amount of alcohol in his blood”: it simply records that they were present “at the time”.
25. If this sentence was revised to reflect the words “at the time of post-mortem testing”, it would be entirely accurate and accord with the latest toxicological evidence. Alternatively, the sentence could be removed entirely from the conclusion and the “substantial truth” about how Ms Lovell died would still be clear. Indeed, Ms Hewitt very fairly accepted this during the hearing.
26. Pausing there, we observe that, although the removal of certain words from an ROI is permissible as a remedy in a judicial review claim, the same cannot be done on a section 13 application, such as this: see the authorities cited in *Jervis on Coroners* (15th Edition) at 19-10, footnote 28.
27. A fresh investigation would, therefore, only result, potentially, in a different conclusion in Ms Lovell's case in this very narrow respect. Otherwise the outcome is likely to be the same.

28. We do appreciate that it has been suggested to us that Mr and Mrs Teague support this application. We understand that, as was conveyed to us by counsel, they may be concerned to ensure that the public record in the form of the ROI in Ms Lovell's case is accurate insofar as it affects their son. There is also a public interest in ensuring that this is the case, which is, no doubt, why the Coroner has brought this claim.
29. However, on balance, we consider that a fresh investigation is not necessary to achieve this. We remind ourselves that the ROI in Ms Lovell's case does not name Mr Teague. This is because section 10 of the Coroners and Justice Act 2009 provides that no determination under subsection (1)(a) may be framed in such a way as to appear to determine any question of criminal liability on the part of a named person, or civil liability. The effect is that anyone reading the ROI without any wider knowledge of the case would not know that he was the driver referred to.
30. We are also satisfied that, to the extent necessary, that the ROI in Mr Teague's own case and this judgment, read together, correct the public record. For the avoidance of doubt, we reiterate that on the current evidence it is now impossible to know at what level or levels the alcohol and/or cannabis found post-mortem had been present in Mr Teague's body at the time of his death and it is, therefore, impossible to know whether his driving ability had been affected by either substance.
31. We now consider whether such a fresh investigation is "desirable" in the interests of justice.
32. The views of the deceased's family are plainly a material consideration: see, for example, *HM Senior Coroner for Gwent re the Inquest into the Death of Vaughan* [2020] EWHC 36703 (Admin) at [18], where it was held that it was desirable for a fresh

inquest to be held because that was what the deceased's brother wanted; and because there was the possibility of a different conclusion.

33. We are, therefore, guided by the fact that Mr and Mrs Lovell clearly do not consider that a fresh investigation is desirable. We are hampered by not having further information about their reasons, but we understand that they simply do not consider a fresh investigation necessary and they do not wish to have the distress of the thought of a second inquest. We can quite understand that they would not wish to reopen painful matters and face a potentially lengthy delay until a fresh investigation is concluded. We note that it is already almost three years since Ms Lovell died.
34. Another reason why a second investigation and inquest in Ms Lovell's case is undesirable is that it opens up the risk, however small, of yet further inconsistent findings relating to this single accident which killed both these young people.
35. For all these reasons, we are not persuaded that a fresh investigation is either necessary or desirable in the interests of justice, such that we dismiss the Claimant's application.
36. We conclude this short judgment by thanking counsel for her very clear and helpful submissions and by reiterating our condolences to both Mr and Mrs Lovell and Mr and Mrs Teague for their losses.