Neutral Citation: [2024] EWHC 3274 (Ch) **Claim No: PT-2024-000911**

IN THE HIGH COURT OF JUSTICE
BUSINESS & PROPERTY COURTS OF ENGLAND & WALES
CHANCERY DIVISION

Rolls Building,
7 Rolls Buildings,
Fetter Lane,
London, EC4A 1NL

Date: 3 December 2024

Before:

CHIEF MASTER SHUMAN

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Between:

PAUL ANTHONY READ	**Claimant**
- and -	
(1) JULIE KAREN HOAREAN	
(2) HIS MAJESTY'S CORONER FOR BERKSHIRE	**Defendants**

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The Claimant appeared **In Person**
The First Defendant appeared **In Person** and supported by a McKenzie Friend
The Second Defendant was not present or represented

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Approved Judgment

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

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CHIEF MASTER SHUMAN:

1. Theadore William Read died on 31 August 2024 at Windsor & Eaton Riverside Railway Station, having taken his own life. He was aged 18. I will refer to him as Theo.

2. This claim concerns a dispute between his parents as to who should have responsibility for arranging his funeral. Both agree that Theo should be cremated and that should take place at Henley Road Cemetery, All Hallows Road, Caversham, Reading. There is also a dispute as to what should happen to his ashes. His father, Paul Anthony Read, the claimant, wishes Theo's ashes to be scattered on Dartmoor, a place that I am told he had a close affinity to. His mother, Julie Karen Hoarean, the first defendant, wishes the ashes to be divided so that half can be given to her so that she can inter Theo's ashes in her family's grave and half to be given to the father. I will refer in this judgment to the claimant and the first defendant as "father" and "mother" respectively.

3. Theo's remains are currently in the care of Wexham Park Hospital Mortuary. The second defendant has confirmed by letter to the court, dated 6 November 2024, that the Coroner's Office will be holding an inquest into the death of Theo but no date has been set for the hearing. The Coroner's Office has also confirmed that there is no further need for Theo's body to be retained and his body may be released. The second defendant confirms that they will abide by the decision of the court and therefore had no need to play an active role in these proceedings.

4. Theo died at a very young age and without a will. As he died unmarried and without children, the next in order of priority under Rule 22 of the Non-Contentious Probate Rules 1987 are his father and mother. What that means is that under the Rules they both have a beneficial interest in his estate and are entitled to apply for a grant of Letters of Administration. That also means that both parents are equally entitled to a grant of Letters of Administration. Save for some personal effects, I am told that there are little by way of assets in Theo's estate. He did have money in an account, but the father said in his evidence that he withdrew that money and there is a matter of a few hundred pounds left in that account.

5. The claim that is before the court was issued in the King's Bench Division on 27 September 2024 but then transferred to the Chancery Division. Theo's funeral at that stage had been arranged for 14 October 2024. The mother refused to give consent for Theo's body to be released to the Co-Operative Funeral Directors that the father had contacted to arrange the funeral. Instead, she wished for the Funeral Director that she had contacted, C. H. Lovegrove, to arrange the funeral.

6. Throughout these proceedings the father has acted in person. The mother was represented at the hearing by counsel, Ms Obi-Ezekpazu, who was acting via the Bar Counsel Public Access Scheme. She has also historically represented the mother in Family proceedings in front of his Honour Judge Simon Oliver back in early 2015. Those proceedings concerned Theo.

7. In terms of the evidence that is before the court, the father has made two witness statements. He has also given oral evidence. He was cross-examined by mother's counsel. She had three main themes that she asked him about. Firstly, the wishes and

feelings of Theo, secondly, the mother's involvement with Theo in his life, and thirdly, the proposals both for the funeral and the ashes. Some of the cross-examination was taken up with historical events concerning the litigation history between mother, father, Theo and the involvement of the Local Authority. I had to remind counsel that the father was also a vulnerable party. Practice Direction 1A(e) and (f) were engaged. Further that going back to the Family Court proceedings was going back to events in 2015 and 2016, rehearsing matters that had been heard before and determined by the Family Courts. This would have limited relevance to the issue before the court, which was the disposal of Theo's body.

8. This is a devastating time in the lives of the father, the mother, their extended families, Theo's stepmother and Theo's friends. The father was impressive in his evidence. He answered the questions fully and with sincerity. He gave real insight into Theo and his own failings in the past. He had insight with hindsight about the breakdown of the relationship between him and the mother. He said candidly and frankly that he should have reached out to the mother after Theo died, she should have been involved in the funeral arrangements, although he went on to observe that it was a two-way street and that the emphasis cannot simply be on him but should also be on the mother.

9. The father's evidence I accept was credible. He was trying to do the best that he could in extremely difficult circumstances. The deep love and affection that he had for Theo was obvious, and I accept his evidence.

10. I also heard oral evidence from the mother. She also provided a lengthy witness statement to the court. There obviously remains hostility and mistrust as to the events that led to Theo being removed from her care and the complete breakdown of contact between her and her son. There was a rehearsal in her evidence of events that took place when contact broke down, accusations made against the father for his role in that. I have no doubt that the mother also has a deep love and affection for her son and that she, like the father, is traumatised by his death and, given the disconnect between her and Theo's life which from her evidence was not in any way of her wish or desire, that this has been a very difficult time for her as well. She also has serious health conditions, and I have seen medical letters to support that. The mother is also plainly a vulnerable party for the purposes of Practice Direction 1A, both in respect of factors (e) and (f) but also (c) as well.

11. I had already put in place special measures in advance of the hearing and I reiterated the ground rules for the hearing at the start. I had adjourned the case that was originally listed for final hearing to last week to enable the mother to have legal representation on the day that she could obtain representation for. The hearing itself was listed as hybrid so that the mother could attend remotely and her barrister attend court in person. All documents and directions have been sent out by the court rather than required to be served by one party on the other directly and those have been sent out by the court to the parties separately. In addition, counsel for the mother recommended in her note various other measures that should be put in place, and those have been followed.

12. In particular, I did not permit the father to cross-examine the mother directly, and indeed, he proposed to write down questions that he wished to ask. Of those seven questions I decided that three were relevant and I read those out to the mother. I am

entirely satisfied that the mother was also trying to assist the court to give the best evidence that she could in harrowing circumstances. However, the protracted historical Family Court proceedings and the breakdown of her relationship with Theo, which she lays firmly at the door of the father, impacted on her evidence. Where there is a dispute of fact between the mother and the father I prefer, firstly, the contemporaneous written evidence and, where there is none, the oral evidence of the father over the mother.

13. I also have before me witness statements of various friends and family of Theo. They were not called to give evidence. As I have already indicated, I had two witness statements from the claimant. In addition the following evidence: a witness statement from Anthony Richard Read, who is Theo's paternal grandfather and from the contents of his statement had a close relationship with his grandson; a witness statement of Caroline Fuller, Theo's grandmother, and who for an extensive period before his death he lived with. I also had a witness statement from Gemma Fuller, the father's sister and therefore Theo's aunt. In addition, Katerine Du Plooy and Poppy Whitbread, both close friends of Theo during his teenage years, provided witness statements. There was also a witness statement from Alexandra Merryfield, Theo's stepmother. She is separated from the father now, but for a period of time during Theo's childhood she brought him up with the father in their family home. I also have a WhatsApp message that the father has disclosed which was sent to him by Theo on 15 July, which sets out how much he deeply cares about his father. There is also a handwritten note, which is a suicide note which was sent to Theo's grandmother and was a note that he wrote in respect of a previous suicide attempt. All of the witness statements have statements of truth attached to them. Criticism was made that the witnesses were not called to give evidence and that the court should attach little weight to their evidence, but as I have indicated, all have been signed by a statement of truth; they give the witness maker's view of what should happen to Theo's body and his ashes.

14. On behalf of the mother, she has filed her own detailed witness statement, a witness statement of Sadie Morgan from Cyril H Lovegrove Funeral Directors, and also a witness statement from Laurence De Mello. The latter describes herself as a journalist, resident overseas, who has supported the mother through the Family Court proceedings. In this statement Laurence De Mello says that she has known the mother since 2018. Plainly, the author did not know Theo personally. The witness statement itself seems to summarise the Family Court process, albeit patently biased towards the mother's viewpoint, and I question where this evidence takes matters in terms of the issues that the court has to determine.

15. The mother has also exhibited extensive documents providing a selection or snapshots from the Family Court proceedings. In terms of the other documentation, some of the cross-examination by counsel of the father concerned a note in General Practitioner records in August 2017. That referred to Theo being of a very low mood following the separation from his mother. That relates to events some seven years ago and, given the undoubted love of both of these parents for their son, it does not in any way surprise me that Theo would be affected so much by the separation from his mother. In fact, the mother has had no direct contact with Theo since 2016. He was then aged 10. Theo was removed from her care by an Interim Care Order made by District Judge Henson on 11 July 2014, who was satisfied that Theo's safety

demanded an immediate separation. Private Law proceedings had already begun in December 2012 and as a result of concerns during those proceedings a section 37 report had been directed from the Local Authority.

16. Theo was born on 21 April 2006 so he was aged eight when he was removed from his mother. On 9 March 2015, in a detailed judgment from his Honour Judge Simon Oliver, Theo was placed with his father permanently, with contact to take place with his mother. Unquestionably that contact broke down and that is why, since 6 August 2016, the mother very sadly has had no direct contact with her son Theo.

[In order to give Ms Hoarean a break, I am going to now have a break for five minutes, so I will resume in five minutes. If Ms Hoarean needs a longer time please just let my Clerk know and I will break for 10 minutes, if necessary.]

(Following a short adjournment)

17. I am now going to resume my judgment and return to the law. Counsel for the mother has very helpfully in her note to the court, which was sent to the father, set out some of the pertinent parts of the law in this area. In addition, she provided a copy of an article written by Heather Conway of the School of Law, Queen's University Belfast, entitled: "Dead, but not buried: bodies burial and family conflicts" , a decision of Judge Boggis QC, sitting as a Judge of the High Court in *Fessi v Whitmore* [1999] 1 FLR 767. Then on the day of the hearing, shortly before the hearing commenced, the case of *Anstey v Mundle* [2016] EWHC 1073 which was a decision of Jonathan Klein KC, sitting then as a Deputy Judge of the Chancery Division, and a decision of Mr Justice Peter Jackson *JS v M and F* known as *Re JS (Disposal of Body)* [2016] EWHC 2859 (Fam).

18. As I have already indicated, Rule 22 of the Non-Contentious Probate Rules gives an order for priority as to who may apply for a grant of Letters of Administration and the court has jurisdiction under its inherent jurisdiction to determine arrangements for disposal of a body. There is no general right in someone's body, but there is a duty at common law to arrange for the proper disposal of the body. Possession of the body will pass to the Executors if the deceased left a will, but otherwise to the Administrators, and that is why it is relevant in this case to consider Rule 22 of the Non-Contentious Probate Rules.

19. Also, under section 116 of the Senior Courts Act 1981 the court can determine that someone can be passed over as Administrator of an Estate, if special circumstances exist, and the court can pass over that person in favour of someone else, if it is necessary and expedient to do so. That is what happened in the case of *Pangou v Nzoulou* [2022] EWHC 147, a case where there was an issue between the adult daughter of the deceased and the deceased's partner who he was cohabiting with at the time of his death. In that case the adult daughter had sought repatriation of her father's body to France and his partner had sought that the deceased's body be buried in England, in Kent. In that case, given that the cohabitee was not a member of the class of family in the order of priority for the purposes of Rule 22, the court passed over the adult daughter in favour of the deceased's partner and she was directed to arrange the funeral for the deceased in England.

20. The court also sent out to the parties the decision of *Hartshorne v Gardner* which is reported at [2008] EWHC 3675. This was a case where the deceased died intestate at the age of 44 in a road traffic accident in which his fiancée was also injured. The claimant in that case was the deceased's father and the defendant his mother. They had divorced some 35 years ago and they could not agree to whom the deceased's body should be released or as to the form or place of the funeral or interment. The claimant, the father, who lived in Worcester, wanted a burial in Kington. The defendant wanted a cremation in Worcester where she continued to live. They were some 40 miles apart and the deceased's body was in a mortuary at Hereford Hospital.

21. Ms Sonia Proudman QC was sitting at a Deputy High Court Judge in that case. She reviewed the authorities, and at paragraph 9 of her judgment said:

> *"The most important consideration is that the body be disposed of with all proper respect and decency and, if possible, without further delay. Subject to that overriding consideration, it seems to me that there are two types of factors that are relevant in the present case. First, those that do or might be expected to reflect the wishes of the deceased himself. Secondly, those that reflect the reasonable wishes and requirements of family and friends who are left."*

22. She then went on to analyse the facts of the case, the connection of the deceased with the respective parties and his connection with certain areas. She went on to say at paragraph 19:

> *"I turn first to the question of what the deceased may have been taken to have wanted in respect of funeral arrangements. There was some evidence from a friend of the Defendant's, Mrs Gibbons, who was not available for cross-examination but whose witness statement I did read, said that the deceased expressed a revulsion to burial… I have little doubt, taking the evidence as a whole, that the deceased had no reason to and did not contemplate his own death or what arrangements he would want."*

23. The judge then went on to consider the connection of the deceased to certain localities. She considered that the deceased's life in Kington to be an important matter. She also considered the issues of practicality for the survivors. In the end she ultimately decided that the evidence pointed strongly in favour of the claimant's case and she decided the issue in favour of the claimant.

24. In the case of *Fessi v Whitmore*, which counsel provided to the court, that case involved the death of a child and a dispute as to where the ashes should be scattered. One of the issues in that case was whether the ashes should be divided. In relation to that, the judge was quite short, saying at page 770 of the judgment that:

> *"I think that the appropriate case here is that Mark's ashes should be returned to the Nuneaton area and I am greatly heartened at the proposal that they be scattered at the Nuneaton Crematorium. First, it is a place where all the family can have some focus. Secondly, it is a place where Mark's paternal grandfather's ashes have been scattered and therefore has a natural focus for Mark's family and father himself to attend. Thirdly, taking everything into account, it seems to me the appropriate place is one where all members of the family can come*

together to see a fitting memorial to Mark's life. I reject the submission of dividing the ashes as wholly inappropriate."

25. There is then also the case of *Anstey v Mundle* which I have been referred to, and in that decision Jonathan Klein KC, took the view that the court had very limited jurisdiction in relation to section 116 of the Senior Courts Act.

26. What these authorities effectively state is that each case will be very different, they will be highly fact-sensitive, but that in particular the court should consider the overarching principle, which is that there should be a decent and respectful disposal of the body without undue delay. That the court, in addition, should consider the deceased's wishes, the wishes of the deceased's family and friends and the location with which the deceased was mostly connected. Although the court is not constrained to consider only these factors but they are plainly of significance when the court has an issue such as this before it.

27. It probably does not matter for the purposes of this decision, but I question the analysis in *Anstey v Mundle*. It is a restrictive approach to section 116 which appears to me to read it in a literal way, rather than looking at what was intended to be achieved by the purpose of section 116. I consider that it is open to the court under section 116 to appoint one of two parents who would have equal priority under Rule 22 to apply for a grant of Letters of Administration, a position that was accepted by counsel for the mother during her closing submissions. But in any event, no one disputes the power of the court under its inherent jurisdiction in the High Court, both to determine who should have conduct of the funeral arrangements but also to give directions as to those arrangements. That was certainly the position in *Oldam Metropolitan Borough Council v Makin* [2018] 2543 (Ch) which was concerned with a question as to how the body of the Moors Murderer, Ian Brady, should be dealt with and, in particular, whether the intention of his appointed Executor to give effect to the deceased's wishes could and should be overridden as a matter of public interest. The then Chancellor, Sir Geoffrey Vos, invoked the section 116 jurisdiction but also relied on the inherent jurisdiction, holding that the jurisdiction extended not only to directing who should be responsible for ensuring that the body was disposed of, but also extended to giving directions as to how the body of the deceased person should be disposed of. In particular, that is set out in paragraphs 78 to 80 of the Chancellor's judgment.

28. So, with the overarching principle that Theo's body should be disposed of with decency, with respect and swiftly, I will then turn to the relevant factors in this matter.

[I am now going to give Ms Hoarean another break. It is 3.08. What I propose to do is that I will resume again at 3.25. Please send a message if that is a problem for any party. I will break now and resume at 3.25.]

(Following a short adjournment)

29. This is the final part of the judgment in this matter. As I have said, Theo was born on 21 April 2006. He was born in Reading. The relationship between the mother and father broke down when he was very young. In fact, there were earlier Family Court proceedings which were then not pursued when the parties reconciled and resumed living together, but there did come a time when they separated permanently. In

December 2012 the father started proceedings for contact, wanting there to be unsupervised contact between himself and Theo. During those Family Court proceedings it became clear to the court that there were serious concerns about Theo's welfare and, as I have indicated, on 11 July 2014 District Judge Henson made an Interim Care Order removing Theo from the care of his mother. He never returned to live with his mother.

30. Contact finally broke down in 2016. The father applied for a non-molestation order against the mother and that order is in the papers before me, dated 29 August 2017. The order records that the last time the mother had contact with Theo was on 6 August 2016. It was suggested by counsel in cross-examination that this application and order was a device deployed by the father as an excuse to stop contact between mother and son resuming. But this is not the hearing of the Children Act proceedings; that time passed many years ago. The mother has had opportunity to challenge the decisions of the court which, from the limited material before me, she has done. None of her appeals were successful, so the decisions that previous courts made in the Family Court proceedings stand and the findings that the court made in relation to those proceedings stand.

31. It certainly does appear that the father unilaterally stopped contact, albeit there is an order that I was shown during the course of the hearing which suspended direct contact for a period of time. But to an extent, for present purposes, this does not matter. The undisputed fact is that the last contact that the mother had with Theo was eight years ago on 6 August 2016 and at that stage he had been removed from her care some two years previously when he was aged only 8. The sad result in this case is that there has been no direct contact between Theo and his mother since 6 August 2016.

32. The mother in her evidence referred to the fact that she sent letters and presents to Theo but she never knew if he received them, she doubted that the father gave them to Theo. She was not even sure that they were going to the correct address. The father says that he did not give the cards and presents to Theo immediately, he waited until he was a little older, around about 14, then he let him have the letters and presents that his mother sent. I accept that evidence.

33. From the mother's evidence she provided her contact details within her communications to her son, but for whatever reason Theo did not choose to re-establish his relationship with his mother when he was a teenager and for the short time that he was an adult before his death.

34. At the time of Theo's death he was not living with his father. I am told and accept the evidence that he was still extensively supported by his paternal family, that he in fact maintained a good relationship with his father, his paternal family and his friends. It was suggested in closing by counsel that Theo was estranged from his father. That was quite properly corrected by the father. That was never the evidence that he gave to the court, and indeed, the depth of the relationship between Theo and his father is shown in a WhatsApp message that the father has exhibited in these proceedings. That is a WhatsApp message dated Monday 15 July. In that Theo describes how much he loves his father. He says: "You parented me way more than my mum did and you raised me and I wouldn't be who I am today without you. I honestly idolise you and I don't want our relationship to end because of a stupid convo. I hope this

hasn't been a stupid convo but please all I ask is we keep in contact. I love you. Have a good day at work."

35. Theo left home in May 2023. His father's evidence is that he sofa surfed for a period of time before he moved in with his paternal grandmother for some six to seven months, and that was returning back to where he used to live.

36. Sadly, what is clear from the evidence before me, is that Theo suffered from mental health issues. After several suicide attempts he was sectioned and placed in a psychiatric hospital for some two to three months. During this time he moved care regimes from CAMHS, The Child and Adolescent Mental Health Service, to Adult Psychiatric Care. Very much against the wishes of his family, he was discharged into assisted living. He lived there for some two to three months before he died, so when it is suggested by counsel for the mother that there was an estranged relationship between Theo and his father for either the year from when he moved out of home to his death, or shortly before his death, I reject that position. It is quite clear to me, and I accept, that Theo enjoyed a close relationship with his father.

37. Turning then to Theo's wishes. These were not known. The only matter that is before me in relation to his wishes concerns a previous suicide note that he sent to his grandmother. In that he said he wished to be cremated. The mother in these proceedings has questioned the authenticity of that note, questioned if that is in his hand, but the problem is that he was moved from her care when he was only 8 and she has had no contact with him since he was 10. I have no reason to doubt that this suicide note is authentic and that it is the feelings of Theo at the time that he wrote them for his grandmother.

38. I will then turn to Theo's connections and then on to the wishes of Theo's family and friends. In terms of connections, Theo was living from 2015 with his father. He had moved from where he had been based near Reading further out to Oxfordshire. As I have said, a year or so before Theo died he left home, moving to his maternal grandmother's and he had chosen to return to live in Caversham. Although those connections are not the totality of Theo's connections with places. The father in his witness statement refers to the fact that Theo was born and raised in Emmer Green, Caversham, Reading where he lived for much of his life. The father has respected that, and proposes, and in fact both parties agree, that the funeral should take place at the Reading Crematorium in Henley Road, Caversham. But he goes on to say that one of Theo's happiest places was Hound Tor in Dartmoor, Devon, where he spent much time with his father, his sister and his grandfather. This was a place where the father describes that Theo was truly at peace.

39. It seems to me from this evidence so far that Theo had not only a strong connection of course with Caversham, where he grew up, but also of other places, of places where he had much fondness on holidays. His grandfather, Mr Anthony Read in his witness statement says: "I spent a lot of time with Theo since the day he was born. We shared hundreds of camping trips, clambering the moors amongst a lot of other outdoor adventures, birthdays and Christmases. Theo has struggled over the last couple of years or so with his mental health. We talked about his previous attempts at suicide where he said he wanted to be cremated like his granddad. These conversations were distressing, but I thought it would allow Theo time to talk through these struggles in the hope it would help. I know that Dartmoor, Hound Tor, was a favourite for us, and

in particular Theo, who liked the Hounds of the Baskervilles, this is where it was filmed, would play and spend time exploring the caves and crevices and hiding."

40. Caroline Fuller, his grandmother, says: "Theo was most happy when he was outdoors, camping, rambling, climbing and exploring and loved nature. Theo did all of this with his father, his younger sister and his granddad." His grandmother goes on to say: "Theo loved Dartmoor, especially he felt free."

41. Katerine Du Plooy, Theo's friend, says: "As Theo had lived mainly in Emmer Green in Reading, Caversham, it seems right for his funeral to take place at Reading Crematorium. I spent a lot of time with Theo in Reading, usually just wandering around, and have very fond memories with him there. It is a place that I will always associate with him, as especially towards the end of his life we hung out there frequently. A place he was very connected to was Dartmoor, where he made plenty of happy memories with his sister, grandfather and father. I agree with his family that it would be in Theo's best interests for his ashes to be spread in Dartmoor."

42. Again this is repeated in the witness statement from Poppy Whitbread, another one of Theo's friends, who says: "It would only be right for the funeral to be held in Caversham, Reading. This was where he grew up and lived for so long. Every time Theo and I hung out it was to explore Caversham or Reading further for hours on end, finding new spots, so that place is deeply connected to the memory of him in my mind. As to where his ashes should be spread, I agree it should be in Dartmoor. He often told me stories of when he would stay there, how much he was looking forward to going again. I could tell his time there was extremely important to him."

43. The same points are made by Alexandra Merryfield as well, Theo's stepmother.

44. So notwithstanding all of the connections that Theo had to Caversham and Reading, all of Theo's paternal family and his close friends that have put witness statements into these proceedings support the proposal by the father. I understand and respect the decision of the mother, her desire to retain part of Theo by interring his ashes, but the father in his evidence was very clear about Theo's connection with Dartmoor, and he said this in his evidence: "All that knew Theo, all the persons knew where he was most happiest, where he thrived, where he was happy, where he felt at home. All family members and friends knew this. He would go to Dartmoor at least one to two times a year with his granddad. He went there last the year before he left home in 2022. He did speak about other places like Caversham, but he also spoke about Exmoor and the woods where he grew up as a younger child, but places and personalities change over time."

45. The father spoke in evidence about Theo's teenage years and how much he loved walking and that he would hear him pacing in the room upstairs and that he just liked to be out in the wild. He loved camping and fires, that they would go to Dartmoor, to Exmoor, to Wales, but Dartmoor was the place which held a specific significance for Theo. His father described it as "manly bonding" where they would sit round the campfire, where there would be streams outdoors, where Theo would find solace and peace. He also spoke about Theo's sister, who is the father's daughter, not the mother's daughter, how much she loves the place as well and very much it is a generational place for Theo's paternal father's family.

46. So I do accept the evidence of the father, as supported by the witnesses who were not called to give evidence but have filed witness statements with statements of truth in this matter, that Theo had a deep connection with Dartmoor where he felt truly free and where he felt at peace, and that was something that, sadly, Theo did not experience throughout his very young life.

47. In terms of the ashes, I heard the evidence from the mother and the father in relation to that, and mother's evidence in relation to the ashes obviously comes from the heart. She said that she could not see why dividing the ashes would be disrespectful, she just simply could not see why, because he was equally part of both of them, and if his ashes were scattered they would be lost to the wind, that she cannot go and say goodbye to her son, so that is why she proposed that there be two ceremonies and that Theo's ashes be divided equally between the parents so, as she describes, each got what they want.

48. But what I have to consider is not simply the wishes of the mother and father alone, I also have all the wishes and feelings of Theo's family. I also have the fact that Theo had a deep connection with his father in life and that he sadly had lost all contact with his mother, certainly for the last eight years of his life, and that, as I have said, I accept that the father gave Theo the cards and the presents that his mother had sent him.

49. In relation to the father's evidence in relation to the ashes, he has set out in his witness statements his proposal, and he also said in cross-examination when questioned as to why he objected to the ashes being divided, he said: "It is not Theo's wishes that the ashes should be shared, that must be his personal view on it." The father also considered from a personal point of view that it was morbid and disrespectful to divide Theo in death and to divide the ashes of a loved one. He plainly felt very strongly about this. It was put to him in cross-examination that he did not know what Theo's wishes were in relation to the ashes specifically. He accepted this but observed that, "No, I do not, but then nor did Ms Hoarean, and she did not know Theo's personality either."

50. The mother has proposed two services and the father has said he has no issue with there being two services. At the end of his evidence he showed a significant degree of insight, and in particular during his closing submissions, about things that he could have done differently and perhaps, with hindsight, wished that he had done differently. He did say in his evidence, and it is obviously the case, that the delays in the investigation with the Coroner and the delays indeed with having to bring this matter to the court has left the father exhausted and struggling to make sense of it all. He needs, as does the mother, an opportunity to start the grieving process, as do all of Theo's family and his friends.

51. So in this case, having considered carefully the evidence of the parties, both in writing and the oral evidence they have given to the court, I am satisfied that it is not known what Theo's wishes were. Theo, whilst having close connections with Caversham, Reading, where he grew up, also had close connections and a feeling of peace when he was at Dartmoor. A cremation should take place at Caversham, as both parties agree. Thereafter his ashes should not be divided but be scattered on Dartmoor, ideally near Hound Tor. The father has indicated that the mother can attend this.

52. So I direct that a grant of Letters of Administration limited to dealing with the disposal of Theo's body and his ashes is to be made to the father. He is the person to make the arrangements for Theo's cremation and the scattering of his ashes. The Co-Operative Funeral Service who had already arranged the first planned abortive cremation and they should proceed to arrange the cremation at the direction of the father, which should go ahead promptly.

53. There was some dispute between the parties, or criticism about what had happened at the time that this claim was issued. The mother in her evidence said that she had effectively offered for CH Lovegrove to involve the father in the funeral arrangements. However the father described that he had offered an "Olive branch" to the mother. Ms Short of the Co-Operative Funeral Service had offered the mother the opportunity to be involved with the funeral, which was not taken up.

54. It does seem to me though in this case that the mother must be allowed an opportunity to spend time with Theo and to have a service in relation to Theo. I would hope that the parents can now work together to resolve any issues surrounding the funeral of Theo and the disposal of his body, but if they cannot, I direct that there should be a service where the mother is allowed to spend time with Theo before the cremation, and in addition, if she wishes to, there should be arrangements put in place so that she can spend some time with Theo's body. However it is important that the cremation proceed without further delay, Theo's body must be disposed of promptly and with decency, his family and friends given the opportunity to say goodbye to Theo and start the grieving process.

55. The main funeral will take place, as the parties agree, at Caversham, Reading, whether that takes place with mother and father together, or whether the mother has a service separately beforehand before will be a matter for the father to arrange with the Funeral Directors. Any arrangements should be copied to the mother so that she knows what is happening.

56. I also direct that the father should give some personal items to the mother. These should be agreed between the parties so that she has some tangible memories of Theo. As to Theo's ashes, the father has conduct of the arrangement of the funeral. He has said that he will have a plaque installed at the Crematorium to honour Theo. That will allow family and friends to come to a focal point to remember and grieve Theo. That should be done, but the father will take charge of Theo's ashes and those ashes should be scattered in Dartmoor to honour the memory of Theo.

57. In terms of the costs of the funeral, the father has already indicated he will pay the funeral costs of the cremation. That is my decision in relation to this matter. What will happen next is that the court, because the parties are in person, will draw up an order reflecting that. The order will also reflect that arrangements being made for the funeral passing between father and the Funeral Director should also be sent to the mother. If there is an issue with emails passing directly between father and mother, then although the Funeral Directors are no longer a party to these proceedings, I will provide in the order for a recital that they should, wherever possible, send a separate email to the mother so that she knows what the arrangements are and so that she has some involvement in the arrangements, but ultimately, it will be the father who is granted the Letters of Administration limited to deal with the disposal of Theo's body and the scattering of his ashes.

(Following an application for permission to appeal and a stay by the First Defendant)

58. Technically, I will take this as an application for permission to appeal my decision and then a stay of my decision pending determination of the appeal. The test for a permission to appeal is set out in CPR 52.6 which provides that permission to appeal may be given only where the court considers that the appeal would have a real prospect of success, or there is some other compelling reason for the appeal to be heard.

59. The mother's view is that she was not by choice out of Theo's life, that there is more to the background in relation to the Family Court proceedings and that her wishes are equally important in terms of what should happen to Theo's ashes. That seems to be the main position for the mother.

60. I am not satisfied that there is any real prospect of success in this matter, or indeed any other compelling reason for the appeal to be heard. I have analysed the evidence at some length in the judgment and I will not grant permission to appeal. What will happen now is, Ms Hoarean, you will need to obtain permission to appeal from a High Court Judge. I will fill out a form and have it sent to you with the order which will say that you need to seek permission from a High Court Judge.

61. In relation to the application for a stay, I am not minded to grant a stay *per se* of the order that I will be making or will be drawn up by the court, because again, it seems to me that there is no prospect of success in relation to an appeal. However I will provide that the order is not to take effect for a period of two weeks. That will allow you time, Ms Hoarean, to speak to your legal representative. I will see how quickly a transcript of the judgment can be obtained so I can approve it, because it will be helpful for you to have that when you are seeking permission to appeal, which I have said will be from a High Court Judge. That is my decision in relation to this matter.

(This Judgment has been approved by the Judge.)

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