

RULING ON APPLICATION FOR URGENT RELIEF – DEATH OF JOSEPH BURKE-MONERVILLE

John Monerville is the father of Joseph Monerville who was shot on 16 February 2013 whilst in a car stationary on Hindley Road, Hackney in East London. On the 11th July 2016 the inquest into the death of Joseph is due to be conducted by HM Coroner for St Pancras, the inquest being due to last around 2 days. John Monerville seeks an injunctive order preventing the inquest from commencing until after the outcome of an application for permission to judicially review the decision of HM Coroner to refuse disclosure of documents held by the Metropolitan Police.

The documents of which disclosure is sought are threefold. First, there are intelligence and other documents arising from a police operation known as Operation Narmen in respect of which a man named Reid was a target. This operation was authorised as live on the day before the death of Joseph. Second, there are minutes of Integrated Gangs Unit meetings and other material emanating from that unit relating to three men, namely Andrews, Reid and Nowaz. Third, there is material emanating from Operation Trident in relation to an intensive police operation in December 2012 concerning a criminal gang known as the Pembury Gang.

The three men named were charged with the murder of Joseph Monerville. For reasons which are not of direct relevance to this application the trial of those men which was due to take place in May 2015 at the Central Criminal Court ended abruptly before it even began. I understand that a police/CPS review of the case with Mr Monerville and other members of Joseph's family has accepted that there were failings in the prosecution process.

HM Coroner held a PIR on the 6th July 2016. She was then provided with the material of which disclosure was sought. Although she had not reviewed the material prior to the PIR she did so prior to making her decision. Moreover, she reviewed the material in the light of the submission made by counsel (Ms Allison Munroe) which invited her to order disclosure of the documents set out above. I have been provided with copies of the written submissions provided to the Coroner. I have heard oral submissions this evening from counsel in relation to the application generally. She confirmed that the submissions she made on the 6th July 2016 did not add materially to the written submissions. I have not seen the material in question. But that does prevent me from reaching a conclusion as to whether there is any sensible prospect of the decision of HM Coroner being found to have been unreasonable.

The inquest due to commence on Monday is not an Article 2 Inquest. It is not in reality a Jamieson Inquest. When making submissions to me this evening, counsel accepted that there was no clear allegation that a lack of police care had led to the death of Joseph. As she put it the case being put involved a degree of speculation. The critical question for HM Coroner was whether the material concerned was relevant. Although she had the advantage of reading the material, it is possible to reach a proper conclusion on the issue of relevance simply by reference to the nature of the material as described in the statement of the Borough Commander, a DCS Laurence.

The core of the submission made by counsel to HM Coroner is set out at paragraphs 21 and 22 of the submission dated 17th June 2016. It is said that armed individuals were able to act with impunity despite a high degree of police monitoring. Whether the police were in a position to put measures in place to prevent the shooting of Joseph is said to be a legitimate issue to be explored at the inquest. If there were some real prospect of showing that the shooting of Joseph – who was an entirely innocent victim unconnected to any gang – might have been due to some failure on the part of the police, the material would be of relevance. Nothing in the primary material which is available to Joseph's family and which I have seen provides any support for that proposition. As counsel accepted in the course of the telephone hearing this evening, this inquest cannot be a route for

Joseph's family to air their grievances – which are very real and wholly genuine. The fact that the family feel that material is being withheld from them cannot make that material relevant. It was argued in the hearing before me that the recent history involving the relevant gangs ought to have alerted the police to the likelihood of reprisals. That may be so. Indeed the actions taken by the police as described by DCS Laurence indicate that the police did consider that to be likely. It cannot sensibly be argued that the investigation into the circumstances in which Joseph came to be shot can or will be informed by the detail of police operations of the kind referred to by DCS Laurence. It follows that the decision of HM Coroner cannot be impugned as unreasonable.

The draft application for permission to apply for judicial review cites *Osborn v Parole Board*[2014] 1 AC 1115. It is said that this decision is relevant in the context of this case by reference to the requirement for procedural fairness. Having had cause to consider the case of *Osborn* in some detail when I decided *Morgan v Secretary of State for Justice* earlier this year, it is not clear to me how any question of procedural fairness arises in this case. HM Coroner reached her decision in relation to disclosure after hearing full submissions. That her decision is questioned in relation to its substance does not render it procedurally unfair. Nor will the inquest be rendered procedurally unfair due to the non-disclosure. If there is any unfairness (which I do not consider there is) it is substantive. I am very grateful to Ms Munroe for her submissions both written and oral as indeed should be the Monerville family. She has said all that possibly could be said in favour of this application. However, I conclude that it cannot succeed. The inquest must proceed on Monday. This does not prevent an application for permission to apply for judicial review but any such application will have to follow the event.

Mr Justice William Davis
8 July 2016