

Neutral Citation Number: [2015] EWHC 1360 (Admin)

CO/691/2015

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

Royal Courts of Justice
Strand
London WC2A 2LL

Wednesday, 1 April 2015

B e f o r e:

LORD JUSTICE BEAN

MR JUSTICE WARBY

Between:

HER MAJESTY'S CORONER FOR THE ISLE OF WIGHT_

Claimant

v

(1) HER MAJESTY'S PRISON SERVICE
(2) THE FAMILY OF ALVIN BAY (DECEASED)_

Respondents

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Ms E Dehon (instructed by Isle of Wight Council) appeared on behalf of the **Claimant**
The **Respondents** did not attend and were not represented

J U D G M E N T
(Approved)

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1. LORD JUSTICE BEAN: On 14 August 1994 Alvin Bay was discovered hanging in the hospital ward at Her Majesty's Prison Parkhurst. An inquest was opened into his death in the usual way and was adjourned until 7 August 1995. On that date after hearing evidence the jury returned an open verdict. The inquisition records the time, place and circumstances in which injury causing death was sustained as follows:

"On 14 August 1994 at about 02:00 in the hospital wing at Parkhurst Prison Alvin Bay, a prison inmate, was watching television. A little later the set was seen still to be on with no one watching it. At 03:00 another inmate, Peter Brown, used the urinal and then suddenly noticed Mr Bay hanging from the window bars by means of bandages tied round his neck. Mr Bay was certified dead at 03:30."

2. That was indeed the evidence as presented to the coroner and the jury in 1995. However, Peter Brown subsequently confessed that that evidence had been untrue and that he had killed Mr Bay. He was indicted for murder and pleaded guilty to the murder of Mr Bay on 14 October 2013 in the Crown Court at Winchester.
3. In those circumstances the claimant, Her Majesty's Coroner for the Isle of Wight, takes the view that the open verdict recorded by the original inquest and on Mr Bay's death certificate was incorrect. She applied to the Attorney General for his fiat to make the current application. The Attorney General properly asked for the views of the next of kin of the deceased. Mr Bay's mother has entirely understandably taken a neutral attitude in relation to the application and does not wish to take an active part either in these proceedings or in a new inquest if one were to be ordered.
4. The Treasury Solicitor on behalf of Her Majesty's Prison Service does not oppose the application. The Attorney's fiat was granted on 27 January 2015. Section 13(1)(b) of the Coroners Act 1988 provides that if this court is satisfied that where an inquest has been held by a coroner but by reason of the discovery of new facts or evidence it is necessary and desirable in the interests of justice that another investigation should be held, it may quash the original inquisition and order the coroner to conduct a new investigation into the death.
5. As this court held in the Hillsborough case, Attorney General v Coroner of South Yorkshire (West) & Anor [2012] EWHC 3783 (Admin) the language of section 13 requires a single question to be answered, namely whether the interests of justice make a further inquest either necessary or desirable. There can, in my view, be only one possible answer to that question in this case, which is yes.
6. I would therefore order that the inquisition held on 7 August 1995 in respect of the death of Alvin Bay be quashed and the claimant be directed to hold a fresh inquest into the death of Alvin Bay. We were glad to learn that arrangements have apparently been made for such an inquest with a jury to be held in the very near future.
7. MR JUSTICE WARBY: I agree. It seems to me obvious that the interests of justice make it necessary for a fresh inquest to be ordered in this case.