

In-house transcript of the First Pre-Inquest Review in the 2nd Inquest touching the death of Jeremiah Duggan

Held at: Barnet Coroners' Court

Date 22 June 2010 at 9.30am

**In attendance: Coroner, Andrew Walker ("AW")
 Coroner's Officer, David Howard ("DH")
 Counsel for the family, Neil Sheldon ("NS")
 Erica Duggan, client and family representative ("ED")
 Frances Swaine, Mrs Duggan's solicitor ("FMS")
 Gideon Habel, Trainee to FMS ("GH")**

Coroner Walker opened the Pre-Inquest

AW May I first start by saying that I send my deepest sympathies to the members of the family at this difficult time. I understand Mr Sheldon you act for the family and you are instructed by Leigh Day & Co. This is the first Pre-Inquest Review into this matter so how can I assist?

NS Sir, you will have received the letter outlining the issues that the family see as being central to this Inquest which we sent yesterday?

AW Yes. However, I have a first question: do you know whether I need to re-open this Inquest, given that we have already had a first, or is it the situation that the Inquest is already open and there is no need therefore formally to open it?

NS I understand that the latter is the case sir.

AW I assume that the Inquest then has been quashed so we just need to continue? Anyway I have the letter so let's go through it.

NS Sir, if you would allow me I would like to put it in context a little first. Firstly, I would like to say that this has been a 7 year struggle for the family and included one flawed previous Inquest to reach this point. The family is very anxious to provide the Coroner with any assistance it

can through Leigh Day & Co. This might be in the form of questions to be asked, names of witnesses and so forth. The family are also delighted that you, sir, are the Coroner who will be hearing this Inquest.

Secondly, as you will see from the judgment, there are very serious potential allegations of wrongdoing involved in this Inquest. There is at least the possibility of Mr Duggan having been killed. There is also, additionally, the real possibility that, besides questions of murder, Mr Duggan may have undergone a sustained psychological attack which might have made him act out of character or made him so terrified that he became careless of his surroundings. This will impact, sir, on my later submissions.

Thirdly, this is a very significant Inquest which raises issues which extend beyond simply the circumstances of Mr Duggan's death. You will have seen, sir, the statements of Jon Benjamin and of Lord Justice Elias. These raise the possibility of young Jewish people facing threat danger in the form of the La Rouche organisation, which is a fascist and anti-Semitic organisation. This Inquest, and the issues raised, therefore touch the entire wider Jewish community.

Turning to the letter, I do not believe that we will be able to deal with all of the issues raised conclusively today. However, dealing first with the participation of the La Rouche organisation - the organisation originally sought Properly Interested Person status through its then solicitors, Lewis Silken, but we have been advised recently that Lewis Silken no longer act for La Rouche and it appears that the La Rouche organisation is not represented here today. We are mindful that the allegations that we are likely to make, or we will be making, will bring the La Rouche organisation, or individuals from within that organisation, within the Coroners' Rules 22(d) or 22(h).

AW Do I not therefore have an obligation to advise La Rouche or the organisation of the fact that its conduct may be criticised in this Inquest?

NS It would be improper not to.

AW I feel I should do. I feel that the allegations that I have so far read bring the organisation squarely within Rule 22(d). I should therefore advise them of the fact that their conduct may be criticised. If the organisation is represented, I will assume that all individuals accused of any wrong doing will also be represented by the organisation. I will therefore warn La Rouche and allow him or the organisation to prepare for the participation in good time. La Rouche will have to be notified and it will then be up to the organisation as to whether it takes any part in these proceedings

NS I will come on to the documents in full later, but I feel, in light of that decision sir, that we should forewarn you that some documents that you would want to see, and that we would want you to see, we have some concerns over in relation to disclosure. There are some documents which it is likely that, should they be given to the La Rouche organisation as a Properly Interested Party, may lead to the safety of some individuals being placed at risk. We would therefore seek to protect these individuals through whatever means might be appropriate.

AW If such documents are material then there are legal provisions by which we can protect and assist such individuals and their evidence. However, if I have documents which the La Rouche organisation, you say, cannot see, could La Rouche not then seek to overturn the decision and the outcome of this Inquest? There is a real danger that, if I withhold any documentation from a Properly Interested Party, that Properly Interested Party may seek to overturn the decision of this Inquest. I understand that this would again lead to further delay and I

would feel sure that the family would not want to have to go through a further appeal against the findings of this Inquest.

NS We would only seek to invoke this protection in exceptional circumstances.

AW I am very familiar with the provisions required so there is no problem with this. In my view, a person holding information is under a duty to disclose evidence to the Coroner. I should therefore ask the family to list and serve the material on the list on the Coroner. At this stage, you can then highlight the difficulties and the potential documents and witnesses who will require special consideration. You can then argue why particular documents require protection. If the La Rouche organisation decides that it wants to participate, we will have a further Pre-Inquest Review to discuss disclosure and, if necessary, you can make an application for an ex parte hearing to put your views to me.

NS That's ideal sir. Moving on to the issue of the Jury, we say that this matter falls within s.8 (3)(d) of the Coroners' Act. We submit that you can be satisfied that there is a risk of recurrence and a section of the public which remains at risk of this incident or similar incidents recurring. La Rouche is an active organisation on an international basis. It is possible that you may, sir, in the future, take the view that La Rouche's activities warrant the empanelment of a Jury.

AW I cannot give you, without seeing all of the material at this stage, any indication on this.

NS Moving on to the question of funding sir. I would like to remind you of the decision in *Humberstone* sir. This was a High Court decision in which the Coroners' view was said to be very significant in the decision by the LSC as to whether to grant funding for the representation of a family at an Inquest.

AW If La Rouche is represented, it is my view that it would be impossible for the family to participate effectively in the Inquest without Legal Services Commission funding. Additionally, the issues are extremely complex. Therefore, to enable the family effectively to participate in the Inquest, it is my view that exceptional funding under the Legal Services Commission Funding Code is necessary. Can I assist any further?

NS Well the position, sir, even if La Rouche is not represented.

AW It seems that they must be Properly Interested Parties even if they are not represented so it would seem essential to me that the family be funded. If you have any further difficulties in achieving this funding, please do revert to me on this.

NS I am grateful. Moving on to the question of overseas witnesses. It will be clear to the Coroner that there is a large amount of relevant evidence which will be required to be gathered from witnesses overseas. The categories of witness for example, will include the drivers of the vehicles involved in the crash; the people with Jeremiah Duggan before his death, both from France and Germany; the members of the La Rouche organisation with whom he had contact and over whose conduct we have concerns. These include Ortrum Cramer, Neils Meyer. And also the German police investigations and reports. I am alive to the fact that you cannot compel any of these individuals to attend and that you have a great deal of experience in this area. We should ask that you take the approach adopted in the Princess of Wales's Inquest in which international letters of request were written seeking assistance. We would say that we could possibly invite the authorities of the other jurisdictions to carry out the interviews with those witnesses.

AW It appears, from the facts before me, that it is possible to say that a criminal offence may have been committed. So it would seem logical to me that we require the police to investigate. Therefore, in my view,

the first step must be a police investigation. I do not believe that this would be premature, so the course of action that we should pursue is that the material which the family holds is to be disclosed to the police with a view to their conducting an investigation. Through the work of the police, we can then achieve a great deal of evidence. Letters of request could then be filled in later. Therefore, I propose to ask for a police investigation into these matters and it would be helpful if the material of the family could be delivered to the police. If you could pass it to us and we could then pass it on?

NS Sir, Mrs Duggan has already had dealings with Commander Foy of Barnet Police who is familiar with this matter and has discussed with Mrs Duggan the possibility of police involvement.

AW I know him well. I do not see any other possible way forward.

NS If we could then talk about timing of the hearings and timetable. Obviously this will be dependent on the attendance of others at the hearing but, can we fix a date now or should we leave it open?

AW This court sits with juries periodically. We will need to fix a date but we cannot do so at this stage because we have insufficient material to make a judgement as to the amount of time that will be needed. It will also depend on the swiftness of the police investigation. We need the benefit of the police report. This could take anywhere between 6-9 months in my experience. Investigations of road traffic collision usually take 6 months but here there are significant matters attached to this which mean that it may take longer. So, we will not list it today. We need to hear from the police with the timetable as to when they feel they will be able to report. We will have a 2nd Pre-Inquest Review after the disclosure and a meeting with the Metropolitan Police. We will ask the investigating officer to attend this meeting. Can we ask for disclosure of the family's documentation within 14 days? This will then be passed with a letter to the police to trigger the investigation. We can

then perhaps meet again in 28 days. The court sits on Tuesdays, Wednesdays and Thursdays.

NS Sir, I am grateful. It is unlikely, however, that I will be attending as I am instructed only on this Pre-Inquest Review. My colleague in Chambers, Mr Jeremy Hyam has great familiarity with this case and will be representing the family from here on in. Sir, Mrs Duggan has it on good authority that the German authorities are anxious to close the criminal file that they currently have open on this matter. They have indicated that they will do so soon. May I ask that a letter is written to the police in Germany requesting that the investigation remain open and that any material relevant to the investigation is preserved and not destroyed?

AW Yes, I will raise this issue.

NS Thank you sir.