

OPUS2

Fishmongers' Hall Inquests

Day 29

May 26, 2021

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Wednesday, 26 May 2021

(9.45 am)

(In the absence of the jury)

Ruling

JUDGE LUCRAFT: This ruling and the submissions to which

I shall refer are covered by the order I made yesterday under section 4(2) of the Contempt of Court Act 1981.

There should be no reporting of those submissions or this ruling until the jury have returned their conclusions.

On Monday, 12 April 2021, the Inquests into the deaths of Saskia Jones and Jack Merritt started here in the Guildhall in the City of London. On Friday, 21 May, the evidence concluded. In the course of the last six weeks sitting with the jury, I have heard evidence from no fewer than 84 witnesses called to give evidence, as well as hearing a number of statements read. The breadth of the Inquest has been extensive, and properly so. I am grateful to all of the witnesses who have attended to give evidence. I am also grateful to all counsel who have probed the evidence through their questions. The presentation of material has been done in an expert way by all involved.

At the conclusion of the evidence last week, Counsel to the Inquests, Jonathan Hough QC, and Aaron Moss,

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provided written submissions to assist me in my approach to the legal issues and the directions to the jury. The written submissions are extensive, comprehensive, and of the highest quality. Each interested person has responded. I am grateful to all for their detailed written responses.

In the course of the hearings yesterday, I heard oral submissions from Counsel to the Inquests and interested persons. There is a very large degree of acceptance of the submissions of Counsel to the Inquests.

Article 2. The first question for me to resolve is whether or not the procedural obligation under Article 2 of the European Convention on Human Rights is engaged in these two Inquests. In the event, all interested persons either support or accept the submission made by Mr Hough that the procedural obligation is engaged, and I agree with that view. In the circumstances, I do not propose to give extensive reasons setting out why that is the case. The relevant case law is set out very carefully in the submissions of Counsel to the Inquests, which has been provided to the media, and I agree with the approach that is taken from those legal principles.

Secondly, a proposed questionnaire for the jury was circulated that sets out five questions for the jury to

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consider. Question 1 deals with the determination of unlawful killing in respect of Saskia Jones and Jack Merritt; question 2, the basic facts of the attack, and the deaths of Saskia and Jack, and then questions 3–5, the management of Khan in the community, the sharing of information and guidance regarding Khan, and the organisation of and security measures for the event at Fishmongers' Hall.

As a result of the written submissions and further revisions of the draft questionnaire there is, again, in large part consensus on this approach. I have considered those areas where there remain issues as to the content of the questions and the notes that accompany them. In my judgment, the final version of the document which was presented by Mr Hough in submissions after the lunchtime adjournment yesterday, and has since been circulated to interested persons in clean copy, properly sets out the relevant questions for the jury to consider, and also provides them with the consideration and issues they should have as their focus in dealing with those questions.

Given the extent of the consensus reached between interested persons, it is not my present intention to produce a written ruling either on the issue of Article 2 engagement or on the form and content of the

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questionnaire for the jury.

However, I would be prepared to consider a request that I do prepare such a ruling if any interested persons wished to make such a request, identifying the issue or issues which the ruling would need to address. As I said yesterday, I shall give all interested persons until 10.00 am tomorrow to make such a request.

Thank you.

Mr Hough, I'm going to rise in a minute's time and once we know that all the jury are here, I will have them into court and make a start on my summing-up. It's, I think, likely to take me all of today and probably a little bit of tomorrow to summarise the evidence that the jury have listened to over the last six weeks. I've mentioned to Mr Pitchers and to Mr Armstrong that my summary will start, really, with telling the story that we've heard through witnesses dealing with the attack. That will -- I'm not going to show any documents or any images or any photographs, but it will involve me summarising the medical evidence, and I am just mentioning that now because, very properly, when we dealt with such material, you gave, what one might call just a public warning of that, but it will be a very brief summary, but particularly important in my view that those people who did very good first aid hear

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1 a summary of the evidence given by Dr Fegan—Earl, and 1
 2 then by Professor Deakin, so that will form part of it . 2
 3 My aim also is to take the jury through the evidence 3
 4 in the sequence in which they've heard it. Again, the 4
 5 reasons are fairly obvious, but they — as we've all 5
 6 noted — have been fairly avid notetakers, and if I was 6
 7 suddenly to put it all in a rather different format it 7
 8 might rather be confusing for them rather than I hope 8
 9 taking it in the sequence we listened to the evidence, 9
 10 a more helpful way of doing so. 10
 11 MR HOUGH: Yes, sir. I should also mention that Mr Moss and 11
 12 I will not be in court this morning, although one or 12
 13 both of us will be in court for the remaining parts of 13
 14 the summing—up. We intend no discourtesy to you or to 14
 15 the bereaved families or to anyone in court, but you 15
 16 will understand, sir, that we have an important 16
 17 professional commitment that keeps us elsewhere in this 17
 18 building this morning. 18
 19 JUDGE LUCRAFT: Yes. 19
 20 MR HOUGH: Any matters which require our attention can, of 20
 21 course, be dealt with over the lunchtime adjournment, 21
 22 but I thought I would make that point clear so that 22
 23 nobody finds it odd that we're not sitting on the stage. 23
 24 JUDGE LUCRAFT: No, well you have had the misfortune, as has 24
 25 Mr Moss, of listening to me speak before, but I know 25

1 others won't take it as being that reason. 1
 2 (9.54 am) 2
 3 (End of ruling) 3
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A

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