



Neutral Citation Number: [2020] EWHC 1612 (Admin)

Case No: CO/2380/2019

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/06/20

Before :

LORD JUSTICE HICKINBOTTOM

and

MR JUSTICE GARNHAM

**IN THE MATTER OF THE INQUEST INTO THE DEATH OF
RENEE RUSHBROOKE**

SYLVIA RUSHBROOKE

Applicant

-and-

HM CORONER FOR WEST LONDON

Respondent

None of the parties either appearing or being represented

Hearing date: 23 June 2020

Approved Judgment

Lord Justice Hickinbottom:

1. This is an application by Ms Sylvia Rushbrooke (“the Applicant”), the daughter of Renee Rushbrooke (“Mrs Rushbrooke”), for an order quashing the determination and findings of an inquest held on 27 October 2016 into the death of her mother, and directing a fresh investigation and inquest be held.
2. The application is made under section 13 of the Coroners Act 1988 which, under the heading “Order to hold investigation”, provides (so far as relevant to this application):
 - “(1) This section applies where, on an application by or under the authority of the Attorney General, the High Court is satisfied as respects a coroner (“the coroner concerned”) either—

...
 - (b) where an inquest or an investigation has been held by him, that (whether by reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, the discovery of new facts or evidence or otherwise) it is necessary or desirable in the interests of justice that an investigation (or as the case may be, another investigation) should be held.
 - (2) The High Court may—
 - (a) order an investigation under Part 1 of the Coroners and Justice Act 2009 to be held into the death either—
 - (i) by the coroner concerned; or
 - (ii) by a senior coroner, area coroner or assistant coroner in the same coroner area;
 - (b) ...
 - (c) where an inquest has been held, quash any inquisition on, or determination or finding made at that inquest.”
3. In respect of quashing the findings and determination of an inquest, and ordering a new inquest, section 13 requires this court to answer a single question, namely whether the interests of justice make a further inquest either necessary or desirable (Attorney General v HM Coroner of South Yorkshire (West) [2012] EWHC 3783 (Admin)).
4. The application is brought with the authority of the Attorney General dated 8 May 2019.
5. Mrs Rushbrooke was born on 8 October 1924. By 2016, she was unfortunately suffering from dementia, lacking mental capacity and was the subject of a Deprivation

of Liberty Safeguards Standard Authorisation (“a DoLS order”). The Claimant was her relevant person’s representative under the Mental Capacity Act 2005.

6. Mrs Rushbrooke was resident in Wimbledon Beaumont Care Home. On 20 August 2016, she was examined by an out-of-hours general practitioner, and was found to be suffering from an adverse reaction to Ramipril (a medication which had been prescribed by another doctor) and experiencing breathing difficulties. Still under a DoLS order, she was admitted to Kingston Hospital with a preliminary diagnosis of a lower respiratory tract infection.
7. Prior to that admission, the Claimant had noted that, when walking, her mother’s left leg was incapable of bearing her full weight; and that was reported to the care home. Whilst in hospital, Mrs Rushbrooke developed a swollen left knee, and was X-rayed. She was found to have three separate fractures to her leg. Initially, it was thought that they had been sustained during a controlled fall at the hospital on 31 August; but further investigations showed that the fractures were not new, and they were likely sustained 4-6 weeks before her admission to hospital. However, the care home said that they had no record of any incident in which the fractures could have occurred. The fractures were therefore unexplained; and neither the care home nor the hospital accepted they occurred in their respective premises.
8. Following discovery of the fractures, Mrs Rushbrooke was bedbound in hospital. Her breathing and chest problems worsened. On 13 September, she was treated for aspirated pneumonia. On 10 October, she underwent a CT scan of her head, which evidenced that, at some time in the past, she had had a stroke.
9. Mrs Rushbrooke sadly died on 13 October 2016. The reporting doctor (Dr Pierre Berger) gave, as “Proposed cause of death”, “1a. Aspiration pneumonia. 1b. Stroke. 1l. Atrial fibrillation, dementia.”. No post-mortem was conducted.
10. Because Mrs Rushbrooke had been the subject of a DoLS order at the time of her death, section 1 of the Coroners and Justice Act 2009 required that her death be reported to the coroner, and that he open an investigation and hold an inquest into her death. The inquest was held on 27 October 2016 by HM Senior Coroner for West London, Mr Chinyere Inyama (“the Coroner”). He concluded that Mrs Rushbrooke died of natural causes, the medical cause of death being “1a aspirational pneumonia due to, 1b stroke, on a background of atrial defibrillation and dementia”.
11. The Claimant was unhappy with the inquest. Her complaints lie under two broad and overlapping heads. First, she points to a number of procedural irregularities: the inquest was conducted under the DoLS fact-track procedure but neither she nor other family members were given the required notice of the inquest, they were not invited to make representations with regard to the scope of the inquest, they were not notified that it would be a paper-only inquest, and during the inquest the Claimant was (she submits) persistently interrupted by the Coroner which resulted in her being unable properly to give her evidence. Second, the Claimant complains, with some force, that the investigation and inquiry conducted by the Coroner were insufficient. The Claimant had concerns about “stroke” being a cause of death: she was unaware of her mother having had a stroke, and any stroke she had had was certainly some years previously. The Claimant considered that the Coroner had failed properly to consider this issue, simply dismissing her concerns without giving any reason for doing so.

Nor did the Coroner properly consider how the recent fractures were caused, and whether they caused or contributed to the death in circumstances in which (she submits) the enforced immobility caused by the fractures may have materially exacerbated Mrs Rushbrooke's other medical conditions, including her breathing difficulties. The Coroner thus rejected and declined to hear relevant evidence. At the time of the inquest, and to the Coroner's knowledge, a safeguarding investigation had been commenced; but no consideration was given to adjourning the inquest pending the outcome of that investigation. In all of the circumstances, the investigation and inquest were insufficient, and, she submits, the inquest should be quashed and a fresh investigation ordered.

12. In response to the application, the Respondent frankly accepts that there is a real possibility that, for the reasons given in the claim, a fresh investigation and inquest may give rise to an alternative outcome. I agree.
13. On the basis of the grounds set out in the application, the chief elements of which I have briefly summarised, I consider that in all the circumstances it is clearly necessary and desirable in the interests of justice that a fresh inquest and investigation should take place. Subject to my Lord, I would make an order under section 13 of the 1988 Act, and (i) quash the determination made at the inquest into the death of Renee Rushbrooke on 27 October 2016, and (ii) order a fresh investigation and inquest. The parties have agreed that the Respondent shall pay the Applicant's costs of the application in the sum of £750; and I would so order.

Mr Justice Garnham :

14. I agree.