



André J.A.Rebello OBE
Senior Coroner for the
Liverpool and Wirral Coroner Area

Mr John William Allman
27 Crocken Tor Road
Okehampton
Devon
EX20 1TE

7th September 2018

Dear Mr Allman

**Re: ALLMAN v SENIOR CORONER FOR LIVERPOOL & WIRRAL AND
OTHERS CO/3230/2018**

I enclose judicial review acknowledgement of service along with supporting documentation.

Yours faithfully

André Rebello OBE
Senior Coroner

Judicial Review Acknowledgment of Service

Name and address of person to be served

name
John William Allman
address
27 Crocken Tor Road Okehampton Devon EX20 1TE

In the High Court of Justice Administrative Court	
Claim No.	CO/3230/2018
Claimant(s) <i>(including ref.)</i>	John William Allman
Defendant(s)	HM Senior Coroner for Liverpool and Wirral
Interested Parties	(1) Tom Evans (2) Kate James

SECTION A

Tick the appropriate box

- | | | |
|---|-------------------------------------|-----------------------------------|
| 1. I intend to contest all of the claim | <input type="checkbox"/> | } complete sections B, C, D and F |
| 2. I intend to contest part of the claim | <input type="checkbox"/> | |
| 3. I do not intend to contest the claim | <input type="checkbox"/> | complete section F |
| 4. The defendant (interested party) is a court or tribunal and intends to make a submission. | <input checked="" type="checkbox"/> | complete sections B, C and F |
| 5. The defendant (interested party) is a court or tribunal and does not intend to make a submission. | <input type="checkbox"/> | complete sections B and F |
| 6. The applicant has indicated that this is a claim to which the Aarhus Convention applies. | <input type="checkbox"/> | complete sections E and F |

Note: If the application seeks to judicially review the decision of a court or tribunal, the court or tribunal need only provide the Administrative Court with as much evidence as it can about the decision to help the Administrative Court perform its judicial function.

SECTION B

Insert the name and address of any person you consider should be added as an interested party.

name
address
Telephone no.
Fax no.
E-mail address

name
address
Telephone no.
Fax no.
E-mail address

SECTION C

Summary of grounds for contesting the claim. If you are contesting only part of the claim, set out which part before you give your grounds for contesting it. If you are a court or tribunal filing a submission, please indicate that this is the case.

Please see separate document entitled "Section C of the Acknowledgment of Service".

SECTION D

Give details of any directions you will be asking the court to make, or tick the box to indicate that a separate application notice is attached.

If you are seeking a direction that this matter be heard at an Administrative Court venue other than that at which this claim was issued, you should complete, lodge and serve on all other parties Form N464 with this acknowledgment of service.

SECTION E

Response to the claimant's contention that the claim is an Aarhus claim

Do you deny that the claim is an Aarhus Convention claim?

☐ Yes ☐ No

If Yes, please set out your grounds for denial in the box below.

SECTION F

**delete as appropriate*

*(I believe)(The defendant believes) that the facts stated in this form are true.

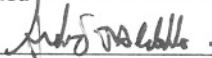
*I am duly authorised by the defendant to sign this statement.

(if signing on behalf of firm or company, court or tribunal)

Position or office held

(To be signed by you or by your solicitor or litigation friend)

Signed



Date

6th September 2018

Give an address to which notices about this case can be sent to you

name
HM Senior Coroner for Liverpool and Wirral

address
HM Coroner's Court
Gerard Majella Courthouse
Boundary Street
Liverpool
L5 2QD

Telephone no.
0151 223 0141

Fax no.
0151 207 4522

E-mail address
andre.rebello@liverpool.gov.uk

If you have instructed counsel, please give their name address and contact details below.

name
Alison Hewitt

address
5, Essex Court,
Temple
London
EC4Y 9AH

Telephone no.
0207 410 2000

Fax no.

E-mail address
hewitt@5essexcourt.co.uk

Completed forms, together with a copy, should be lodged with the Administrative Court Office (court address, over the page), at which this claim was issued within 21 days of service of the claim upon you, and further copies should be served on the Claimant(s), any other Defendant(s) and any interested parties within 7 days of lodgement with the Court.

Administrative Court addresses

- Administrative Court in **London**

Administrative Court Office, Room C315, Royal Courts of Justice, Strand, London, WC2A 2LL.

- Administrative Court in **Birmingham**

Administrative Court Office, Birmingham Civil Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS.

- Administrative Court in **Wales**

Administrative Court Office, Cardiff Civil Justice Centre, 2 Park Street, Cardiff, CF10 1ET.

- Administrative Court in **Leeds**

Administrative Court Office, Leeds Combined Court Centre, 1 Oxford Row, Leeds, LS1 3BG.

- Administrative Court in **Manchester**

Administrative Court Office, Manchester Civil Justice Centre, 1 Bridge Street West, Manchester, M3 3FX.

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

No. CO/3230/2018

BETWEEN:

R (ON THE APPLICATION OF JOHN WILLIAM ALLMAN)

Claimant

- and -

HM SENIOR CORONER FOR LIVERPOOL AND WIRRAL

Defendant

- and -

TOM EVANS AND KATE JAMES

Interested Parties

SECTION C OF THE ACKNOWLEDGMENT OF SERVICE

Introduction

1. This document is filed on behalf of HM Senior Coroner for Liverpool and Wirral ("the Coroner").
2. This claim relates to Alfie Evans Deceased ("the Deceased") who died on the 28th April 2018 in Alder Hey Children's Hospital at the age of 23 months and whose death was reported to the Coroner. The Claimant seeks a "finding of fact" that the Coroner has reason to suspect that the Deceased died whilst in state custody and/or of unknown cause, a declaration that the Coroner's decision not to conduct an investigation into the death was unlawful, and a mandatory order requiring the Coroner to conduct an investigation.
3. For the reasons set out below, the Coroner submits that the Claimant has no standing to bring this claim and that the claim is entirely without

merit. Nevertheless, the Coroner responds to the claim as a “court or tribunal” and, as such, he seeks to adopt a position similar to that described by Brooke LJ in *R (Davies) v HM Deputy Coroner for Birmingham (No.2)* [2004] 1 WLR 2739 at [49] so far as costs are concerned.

Relevant Statutory Provision

4. Section 1 of the Coroners and Justice Act 2009 sets out the circumstances in which a coroner is under a duty to investigate a death. It provides :

(1) A senior coroner who is made aware that the body of a deceased person is within that coroner’s area must as soon as practicable conduct an investigation into the person’s death if subsection (2) applies.

(2) This subsection applies if the coroner has reason to suspect that —

(a) the deceased died a violent or unnatural death,

(b) the cause of death is unknown, or

(c) the deceased died while in custody or otherwise in state detention.

.....

The Background Facts

5. The Claimant first made contact with the Coroner on the 4th May 2018 and a number of emails were exchanged, as follows :

- (i) On the 4th May 2018 the Claimant wrote stating, “I would like to receive information about the inquest into the widely reported death of Alfie Evans”,
- (ii) On the 8th May 2018 the Coroner responded, saying “Thank you for your enquiry. Please could you explain what your connection and interest is to the matter to which you refer”,
- (iii) Later on the 8th May the Claimant replied as follows :

"Dear Mr. Rebello,

I had written to you saying, "I would like to receive information about the inquest into the widely reported death of Alfie Evans." You replied today, asking, "Please could you explain what your connection and interest is [sic] to the matter to which you refer." I am writing now to answer your query. I would still like, please, *your* answer to *my* query, if you wouldn't mind.

You will be relieved to learn that I shall not become a statutory "interested person" for the purposes of section 47 of The Coroners and Justice Act 2009. I dare say you have quite enough of *those* to deal with already!

My primary interest and connection are my common humanity with Alfie, as expressed in John Donne's famous poem, "For whom the bell tolls". Indeed, that interest in, and connection with the death of any member of the public, on the part of every other member of the public, seems to me to be the rationale for Her Majesty appointing coroners in the first place.

I am the father of five, and the grandfather of eight. I have been a parliamentary candidate several times, and have taken a great deal of interest in pro-life issues that have been touched upon in the various court cases about this particular unfortunate child. I have studied law at university, and have worked as a paralegal. I have read many judgments and law reports over the years, not only in this case, but in other cases, ever since I was a teenager. (I was 65 yesterday.) I have been a party to several legal proceedings myself. I have attended many high profile court hearings as a spectator. I have been a witness at a coroner's inquest myself, although I have no evidence to give in Alfie's inquest. I have even, on one previous occasion, applied for permission to apply for judicial review of a decision by a fellow coroner of yours. However, that case and this are not connected in any obvious way.

I publish a blog, and a great deal more, in which I often comment upon controversial court cases and other topical issues. So, you could also describe me as a "journalist" of sorts.

The extent to which I have been able to comment on the particular case of Alfie Evans, as informedly as I'd like to, has been severely limited, due to the lateness of the publication of handed-down judgments, and the paucity of detailed information in the public domain, in part due to a perceived duty of medical confidentiality that no longer applies, now that the patient is deceased. In particular, **the cause of Alfie Evans death** is something that I wanted to find out for myself, as soon as I heard that Alfie had died, having been following the news stories and court cases about him for several weeks by then. However, my searches of the internet have not revealed to me any information as to the cause of Alfie's death considered most likely by the physician who certified death. Nor did I find any mention of any post mortem examination of his mortal remains. Nor news of the time and place of his impending coroner's inquest.

Alfie Evans' **cause of death** remains **unknown**, at least as far as the general public is aware. There will, therefore, presumably, have to be an inquest. Unlike the numerous court hearings during Alfie's lifetime, that inquest will not need to rely solely upon speculative medical opinions given when Alfie was still alive, as to how and when he was likely to die, the less robust factual basis of all the court hearings before his death. It will, instead, be able to access the results of a post mortem examination that will go to evidence as to reveal how and when Alfie actually did die. Unlike the earlier medical evidence, no duty of confidentiality owed to Alfie during his short life will impede the publication of the evidence used in your coroner's court, to inform the jury's verdict. What was once seen merely through a glass darkly, will at last become fully known, so-to-speak.

(A side effect of Alfie's post mortem might be to render less mysterious the mystery illness of which, it was predicted, he would die eventually, regardless of whether that turns out to have been the cause of death or not.)

It is likely that Alfie's cause of death will quite likely be discovered, when the post mortem examination is carried out of Alfie's mortal remains, to have been natural causes. But I am aware of rumours and conspiracy theories too, that instead postulate accidental death (e.g. death that was an unintended side effect of over-zealous analgesia intended to keep Alfie comfortable), and even (I am sorry to have to remind you) *homicide*. A

toxicology report may reveal to what extent, if any, medication given to Alfie before he died may have shortened his life. It could therefore exonerate fully those unfortunate health professionals whom, somewhat irresponsibly, until your inquest reveals the truth and silences the wagging tongues, various conspiracy theorists are wont recklessly to accuse of homicide.

Since shortly after Alfie's death, I have rightly kept my silence about this case, even though it raises profoundly important issues of great interest to the general public. Meanwhile, the public waits for more accurate and definitive information than it ever had during Alfie's short life, obtainable from your forthcoming inquest into Alfie's death. Alfie's death remains a death of unknown (or, at least, *unpublicised*) cause, as far as the public is concerned. There is much to be discussed, arising from this case. There may be a perceived need for fresh legislation, for example. However, the desirable, calm, informed debate about the issues that Alfie's case raises, which was impossible whilst Alfie was still alive, will remain impossible, until the inquest jury delivers its verdict. The longer the delay before the inquest, the greater the risk of a repetition of such unpleasant scenes as were witnessed during Alfie's life, and which, happily, appear to have subsided now, as former demonstrators now, along with others like myself, await patiently the inquest verdict to come.

P.S. I am away from home temporarily at the time of writing, so please use email to keep in touch with me, at least for the time being.

P.P.S. In the unlikely even [sic] that you were not aware of the death of Alfie Evans, and still are waiting for a member of the public to report this to you formally, please construe this email as a report of his death, if you can, or tell me what more you need from me, in order for *me* to report a death to *you*, which the mass media have already reported to the world at large",

- (iv) The Coroner's response, on the same day, was :

"Dear Mr Allman,

Alfie Evans died from a natural cause of death and there was no duty for a coroner to investigate under the Coroner and Justice Act 2009 or under any other legislation",

- (v) Later that afternoon the Claimant wrote to the Coroner again stating,

"Dear Mr Rebello,

When I wrote to you earlier today, I genuinely did not know the cause of Alfie Evans' death. I was surprised to learn that you already knew that. How could I have learnt this, without writing to you, please? Obvious choices of web search string did not bring this to light. It was as though the information was not yet known, or was not in the public domain.

Please could you advise me of which particular "natural cause of death" Alfie Evans died, and how this is known? Before his death, there was much talk of an unknown illness. Presumably, more is now known.

I had understood, perhaps incorrectly, that section 1 of the 2009 Act required an inquest whenever the cause of death was "unknown". I had construed that the cause of Alfie's death was "unknown" for the purposes of section 1, even though it might remain to be this covered that the cause, whatever it was, was likely to have been a natural one. Though natural, the cause of death would remain unknown, I reasoned, if all that was known about it was that it had involved an illness that was itself unknown.

I am very keen to write about Alfie's case, calmly and informedly, now that he is dead. It seems that my hopes of doing so in the light of a coroner's jury's verdict have alas been dashed. However, information that you almost certainly hold, may serve just as well, to make my future contribution to the discussion properly informed, as so much of the discussion before Alfie's death unfortunately wasn't.

Would you please indicate the cost to me, of my obtaining from you, a copy of the death certificate (with subject data redacted of any person still living, of course), documenting the putative cause of death as certified by the certifying physician? And, also, please, the cost of a copy of the post

mortem examination report (similarly redacted), documenting the (by then) *known* cause of Alfie's death, as discovered by the pathologist? This information is, I am sure you will appreciate, helpful to the media and the public, (a) for discovering to what extent the pessimistic predictions and prognoses made when Alfie was still alive, turned out to have been right all along, and (b) for the refutation of conspiracy theories, speculation, rumour and gossip surrounding Alfie, even now",

(vi) The Coroner replied, stating :

"Dear Mr Allman,

I cannot add to my earlier email. There was no coroner's investigation. Most deaths are not reported to coroners, and for these the only information in the public domain is the information in the Register of Deaths at the local Register Office or through GRO",

(vii) The Claimant's immediate response was :

"I wish to report this death to the coroner myself, as a death with an "unknown" cause, and hereby do so. It is a death of which I have learnt myself, on the BBC news, but about which nothing has been reported, as regards what the cause of the death was, apart from by yourself, to me, today. You have told me that there was a natural cause of death, but have told subsequently also told me that you "cannot" tell me what that natural cause of death was, and have never investigated the death. That is most unsatisfactory",

(viii) In reply, the Coroner wrote :

"Dear Mr Allman,

Following preliminary inquiries, the court has determined that this death does not require a coroner's investigation. Your communication does not provide any new information beyond the detailed material to which the court have had access.

The death is registered as a death from natural causes.

As there is no coroner's investigation it would be inappropriate for the court to share with you private family information. The registered death is however in the public domain as anyone can apply for a death certificate",

- (ix) The Claimant then sent the Coroner an email which stated,

"Please may I have a copy of the order or decision of the coroner's court which you mentioned, to the effect that the death of Alfie Evans does not require an investigation on the part of the court (etc)? I may wish to seek judicial review of that. You may wish to provide any statement of reasons for that decision.

If you know, please state whether there has been a post mortem",

- (x) On the 9th May 2018 the Coroner wrote to Mr Allman in the following terms :

"Dear Mr Allman,

If there had been a coroner's investigation, I would not have been of the opinion that you have sufficient interest in this matter to provide you with disclosure on the information you have provided. You are therefore not a properly interested person for this matter.

In any event there was not a coroner's investigation as a medical certificate as to cause of death was issued under s22 Births and Deaths Act 1953 of which I was satisfied was a death from natural causes. Accordingly the duty under s1 Coroner and justice Act 2009 to investigate did not arise.

Duty to investigate

1 Duty to investigate certain deaths

(1) A senior coroner who is made aware that the body of a deceased person is within that coroner's area must as soon as practicable conduct an investigation into the person's death if subsection (2) applies.

(2) This subsection applies if the coroner has reason to suspect that—

- (a) the deceased died a violent or unnatural death,*
- (b) the cause of death is unknown, or*
- (c) the deceased died while in custody or otherwise in state detention.*

There is much information in the public domain particularly in the judgments of the Family Division *Alder Hey NHS Trust -v- Evans* [2018] EWHC 308 (Fam) 20th February 2018 and the Court of Appeal *Thomas Evans -v- Alder Hey Trust*[2018] EWCA 984 (Civ) – 25th April 2018. The judgments sets out the history and background far more eloquently than I could. The information in the judgments though germane and relevant to the issues before the senior courts is incomplete so far as the detailed care and testing carried out by the clinical team.

As part of my preliminary enquiries into by what means Alfie came by his death I am satisfied that his death is from a diagnosed incurable natural cause. This enables his death to be registered without a coroner's investigation. The matter has been dealt with under the form 100A procedure. Whereby I have indicated that the Registrar of Deaths need not refer the matter to me under regulation 41 Births and Deaths Regulations 1987; and, that the informant can register Alfie's fact and cause of death using information provided on the Medical Certificate as to the cause of death issued under s22 Births and Deaths Act 1953. These ministerial or administrative duties of the coroner are not carried out in open court however the public record of the death is in the Death Register.

Open justice is a very important part of our rule of law but citizens and their families have rights to confidentiality and privacy – our medical records and our relationship with our doctors is private. These matters only enter the public domain in the coroner's court when there is a duty to investigate which proceeds to inquest.

I have decided that you are not a properly interested person, however I do not know if you are a bona fide journalist or just a concerned member of the public but in any event hopefully I have explained the form 100A procedure which is one outcome from a coroner's preliminary investigation.

I do not intend to debate these issues or other matters you have raised. As a coroner, I have my duties and it would be inappropriate for me to explain more to you",

(xi) Later that day Mr Allman responded as follows :

"Dear Mr Rebello,

You have told me, "As part of my preliminary enquiries into by what means Alfie came by his death I am satisfied that his death is from a diagnosed incurable natural cause."

Please tell me the *name* of that disease. If you cannot do this, then, *prima facie*, "the cause of death is unknown". [CJA s1(1)(b)]

I had already accessed the judgments you mentioned in your previous email, which give what you call the "background". It is *because* of that background information, not *despite* it, that I desire to discover, as you should too, what eventually did happen, causing the death of Alfie Evans. The evidence before the courts during Alfie's lifetime amounted to mere expert *predictions* concerning the timing and manner of his eventual death. No coroner who had been informed that Alfie had died, ought reasonably to assume, as you appear to have assumed and to be inviting *me* to assume too, that Alfie's death was merely the fulfilment of those expert predictions made to other courts whilst Alfie was still alive. Alfie's death has provided an opportunity (hopefully) to prove those earlier predictions right, and to exonerate those accused on the internet of killing Alfie. But, if you allow Alfie's body to be destroyed in a few days time, by cremation, or by burial for that matter, without a post mortem first, then you will be complicit in the destruction of the best physical evidence that could establish, after the event, the actual cause of Alfie's death, as opposed to the predicted cause of his eventual death, predicted beforehand, for the enlightenment of the senior courts that were involved before Alfie died. You will undermine public confidence in your office, and a whole lot more.

There is no hurry, for an application to be made for judicial review, of your decision, which I consider to be wrong in law, for reasons I shall draft carefully and in good time, not to hold an inquest. However, and with a heavy heart, I think you can see that I shall need to make an emergency application to prevent the destruction of the evidence, by the performance of a funeral, not preceded by a post mortem, that would destroy the evidence. That is, unless you come to your senses at once, and intervene in order to order a post mortem examination yourself. I would prefer that, to having to make an emergency application to the courts myself, because you are still conniving at the destruction of the most important evidence needed for the inquest I hope in due course to force you to hold, by judicially reviewing your unreasonable decision that no inquest was needed.

It will be inevitable, if you resist the logic of this appeal for common sense on your part, that, once our correspondence is made public, conspiracy theories will condense around you, in your new role as the arch-villain, who could have prevented the Alfie Evans cover-up. By encouraging you to reconsider a decision that could merely have been hasty, rather than sinister as some will claim, I am doing you a favour. I am your friend, even if you are inclined to think of me as a thorn in your side at the moment.

I do not believe that it makes the slightest difference to the legalities, whether or not I am "a journalist", or whether or not I would be an "interested person" in any inquest. The argument is compelling, against allowing the destruction of the evidence, that might enable the name of Alfie Evans' alleged, "diagnosed incurable" fatal disease to be made public, so that the cause of his death may cease to be unknown, for the purposes of CJA s1(1)(b). I feel that your place in the history books of tomorrow, as a hero or as the villain of a possible cover-up postulated by conspiracy theorists galore, hangs upon your decision, today, as to how to respond to my representations.

I believe that you are, as coroner, a member of the judiciary. However, I could urge you please to take legal advice as to how to reply to this email. I took legal advice myself, yesterday", and

(xii) Finally, the Coroner responded later on the 9th May 2018 by stating,

"Dear Mr Allman,

Thank you. You are not an interested person in this matter. I indicated that I would not debate this matter with you. If you want to know a registered cause of death this is available to the public from the Registration service. I have nothing further to add. I do not intend to respond to you on this matter further".

6. In the above correspondence, therefore, the Coroner explained to the Claimant that, on the basis of the information and evidence provided to him, including a Medical Certificate providing a cause of death, he had concluded that the Deceased's death was a natural causes death, that in those circumstances he had not opened an investigation but had issued a form 100A, that the death had been registered, and that any member of the public may apply for a copy of the death certificate.

Submissions

7. In the circumstances set out above, it is submitted as follows :
 - (i) The Claimant has no proper standing (locus standi) to challenge the Coroner's decision making. The Claimant acknowledges and concedes that, if an investigation were to be held, he would have no entitlement to Interested Person status under section 47 of the Coroners and Justice Act 2009. There is no public coroner's investigation into the Deceased's death and the Claimant cannot have attained rights under Article 10 of the ECHR by that means,
 - (ii) In any event, the claim is without merit for the following reasons :
 - (a) The Claimant's assertion that the cause of death is unknown is incorrect in fact. As the Coroner explained in his email correspondence with the Claimant, he was provided with a medical cause of death upon which basis he issued a form 100A. A copy of that form was not provided to the Claimant because, as a member of

the public, he is not entitled to receive one. A copy is now, however, provided for the Court's information. This document evidences that the Coroner was provided with a cause of death, namely Severe Progressive Congenital Neurodegenerative Disorder (Neurotransmitter Disorder), and that the cause of death was therefore not unknown (as recently recognised by the Deceased's parents in the course of a television appearance).

- (b) The Claimant's assertion that the Deceased died in custody or otherwise in state detention is incorrect in fact and in law. The Deceased was a patient in Alder Hey Children's Hospital when he died. In *R (Ferreira) v HM Senior Coroner for Inner South London* [2017] EWCA Civ 31 the Court of Appeal ruled that a death in the intensive care unit of a hospital was not a death in "state detention" for the purposes of the Coroners and Justice Act 2009. The provision of medical treatment for physical illness does not constitute the deprivation of a person's liberty. The Claimant suggests that the Deceased was in detention because issues concerning his treatment and care were decided by the High Court and Court of Appeal in litigation between the Alder Hey Children's NHS Foundation Trust and the Deceased's parents, as reported at 2018 EWHC 308 (Fam), 2018 EWHC 818 (Fam), 2018 EWCA Civ 805, 2018 EWHC 953 (Fam) and 2018 EWCA 984 Civ. In a short judgment dated 20 March 2018 the Supreme Court made it plain that, as the Deceased was without capacity, the Court's involvement was for the purpose of deciding upon his best interests; it did not result in his being in state detention. Further, the Claimant was informed that this argument was without merit by Garnham J. on 14th May 2018 when he applied for an injunction to halt the Deceased's funeral and burial (a transcript of which hearing is served herewith).

Conclusion

8. By reason of the matters set out above, the Court is asked to consider making an order to :
- (i) refuse permission to proceed with this claim, and

- (ii) record that the claim is totally without merit pursuant to CPR rule 23.12.

Alison Hewitt
6th September 2018

**NOTIFICATION TO THE REGISTRAR BY THE CORONER
that he is not under a duty to investigate the death under Section 1 of
the Coroners and Justice Act 2009**

FORM A - NO POST MORTEM HELD

To be completed by Registrar

Register No.

Entry No.

To the **Liverpool**

Registrar of Births and Deaths

PARTICULARS OF THE DECEASED

Name and Surname **Alfie James EVANS**

Sex **Male**

Age (or Date of Birth) **23 Months**

Date of Death **Twenty-Eighth April 2018**

Place of Death **Alder Hey Children's Hospital, East Prescot Road, Liverpool, Merseyside**

Cause of Death I(a) **Severe progressive congenital neurodegenerative disorder
(neurotransmitter disorder)**

(b)

(c)

II

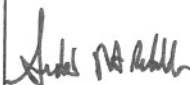
(Where this notification relates to a still-born child, this should be stated)

CORONER'S CERTIFICATE

The circumstances connected with the death of the above person have been reported to me and I do not consider I am under a duty to investigate the death under Section 1 of the Coroners and Justice Act 2009

Date **1st May 2018**

Signed



Name **André J A Rebello**

Appointment **Senior Coroner**

Jurisdiction **Liverpool and Wirral Coroner Area**

IN THE QUEEN'S BENCH DIVISION

Case No. – None Allocated -

Courtroom No. 37

The Royal Courts of Justice
Strand
London
WC2A 2LL

10.40am – 11.00am
Monday, 14th May 2018

before

THE HONOURABLE MR JUSTICE GARNHAM

MR ALLMAN

- v -

MR EVANS

MR ALLMAN appeared In PERSON
MR EVANS did not appear and was not represented

WHOLE HEARING

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1 **Case called at 10.40am.**
2 JUSTICE GARNHAM: Yes, Mr Allman?
3 MR ALLMAN: Yes, My Lord.
4 JUSTICE GARNHAM: Come forward.
5 MR ALLMAN: I apologise about my dress, I haven't slept in my own bed for eight nights.
6 When I left home I wasn't expecting to be here today doing this.
7 JUSTICE GARNHAM: It does not matter. Tell me what this is all about Mr Allman.
8 MR ALLMAN: Right.
9 JUSTICE GARNHAM: I have just been given a bundle and I have only flicked through it.
10
11 MR ALLMAN: Sure. My Lord, you will have heard, I expect, about Alfie Evans.
12 JUSTICE GARNHAM: Yes.
13 MR ALLMAN: I wrote two days before my birthday, just roughly, via a web form to the
14 Coroner's office, just saying I would like to be kept informed when the inquest
15 would be.
16 JUSTICE GARNHAM: What interest do you have in this Mr Allman, legal interest?
17 MR ALLMAN: My interest in this is a member of the public. No more than that. Not
18 related to the family but I have followed the case and I have read the judgments of
19 the senior courts with great interest.
20 JUSTICE GARNHAM: Yes.
21 MR ALLMAN: It struck me that a lot of the discussion that was taking place on the
22 internet about this case was ill-informed...
23 JUSTICE GARNHAM: Yes.
24 MR ALLMAN: And that discussion would be a lot better informed if Alfie were to die and
25 there were a post-mortem and then the post-mortem would definitively say what
26 had been wrong with him, rather than undiagnosed condition and relying upon
27 prognosis. So it would be a completely different quality of evidence as to what was
28 wrong with him. Not 'we think this is going to happen in the future'...
29 JUSTICE GARNHAM: Yes.
30 MR ALLMAN: But, 'this has actually happened now let's find out why it happened.'
31 JUSTICE GARNHAM: Yes.
32 MR ALLMAN: So I was interested in this and I was interested in also the legalities of it
33 and when I wrote to the coroner...
34 JUSTICE GARNHAM: Which coroner did you write to?
35 MR ALLMAN: If you go to page...my correspondence with the coroner begins in the

1 bundle, there's the witness statement and have you had time to read that, My Lord?

2 JUSTICE GARNHAM: I have flicked through it, yes.

3 MR ALLMAN: If you look at the...page....I think it would be eight, nine, page nine.

4 JUSTICE GARNHAM: Yes, that is a blog of yours.

5 MR ALLMAN: It's a blog but if you go down to the second page, so page 10 I think now.

6 JUSTICE GARNHAM: Yes.

7 MR ALLMAN: Two of 28 it says at the bottom as well, with a picture on the same page.

8 My initial inquiry simply said I would like to receive about the inquest.

9 JUSTICE GARNHAM: And they said what is your connection?

10 MR ALLMAN: Thank you for your enquiry. So I explained...

11 JUSTICE GARNHAM: So who were you writing you to? Writing to which address,

12 which coroner?

13 MR ALLMAN: I was writing to the coroner's office. The reply came...

14 JUSTICE GARNHAM: Which coroner? Liverpool?

15 MR ALLMAN: Liverpool, yes. The reply came from the Senior Coroner and...but I

16 explained my interest in that, so Mr Rubello [?] is the Senior Coroner.

17 JUSTICE GARNHAM: Yes.

18 MR ALLMAN: He replied, 'Alfie Evans died from a natural cause of death and there was

19 no duty for a coroner to investigate under the Coroners and Justice Act 2009 or

20 under any other legislation.

21 JUSTICE GARNHAM: Yes.

22 MR ALLMAN: That statement, I know is incorrect.

23 JUSTICE GARNHAM: Right.

24 MR ALLMAN: Because there was a court order in the case, issued by I think the High

25 Court, confirmed by the Court of Appeal and again by the Supreme Court and then

26 further proceedings...

27 JUSTICE GARNHAM: Yes, I know about that.

28 MR ALLMAN: And so on and so forth. To try to release Alfie from state custody in

29 effect.

30 JUSTICE GARNHAM: Not at all. As I understand it, he was not in state custody, he was

31 simply being treated in hospital.

32 MR ALLMAN: No, there was a court order in place from the highest court of the British

33 state, the Supreme Court...

34 JUSTICE GARNHAM: Yes.

35 MR ALLMAN: Saying he had to stay in that hospital, his parents could not discharge him.

1
2 JUSTICE GARNHAM: No. That is not state custody though.

3 MR ALLMAN: Well, it's not custody but the Act doesn't speak, I'm abridging, the Act
4 speaks of if there is a death and the deceased dies while in custody...

5 JUSTICE GARNHAM: You are referring to which Act?

6 MR ALLMAN: Section 1 of the Coroners and Justice Act 2009.

7 JUSTICE GARNHAM: Yes.

8 MR ALLMAN: I'm hoping you'll be able to...I didn't manage to get a bundle of
9 authority...

10 JUSTICE GARNHAM: I am reasonably familiar with it but I do not have it in front of me.
11

12 MR ALLMAN: It expressly says that there has to be an inquest...

13 JUSTICE GARNHAM: If a person dies in custody?

14 MR ALLMAN: If a person dies in custody or otherwise detained by the state. He was in a
15 public sector hospital and could not be moved there by order of a public authority,
16 namely the Supreme Court.

17 JUSTICE GARNHAM: Right.

18 MR ALLMAN: Even to Italy, of which he was also a citizen.

19 JUSTICE GARNHAM: Yes.

20 MR ALLMAN: Parliament's intention when enacting that wording, 'or otherwise
21 detained', was to avoid nit-picking arguments about what custody was...

22 JUSTICE GARNHAM: It would be useful to have a copy of that, you have not brought a
23 copy of that?

24 MR ALLMAN: Unfortunately, My Lord, I forgot there was no internet here and I forgot to
25 download the Act.

26 JUSTICE GARNHAM: Well, I...

27 MR ALLMAN: I can assure you I have studied the...this is a matter for judicial review in
28 the future. I will be making an application....

29 JUSTICE GARNHAM: Just a moment. Usher, could you telephone my clerk please and
30 ask if she can bring down from my shelves The Coroner's Inquest book I wrote?

31 MR ALLMAN: I have had advice of a barrister who actually works for the Christian Legal
32 Centre, which represents the parents against whom I'm applying for today's
33 injunction. They can't make this application because they have a conflict of
34 interest. I, without their, opposition but without their open approval, I have stepped
35 into the breach. I have no idea whether they will be pleased or disappointed that

1 I've done that but they are...

2 JUSTICE GARNHAM: The funeral is taking place this morning, is it not?

3 MR ALLMAN: Precisely, My Lord.

4 JUDGE GRAHAM: So you are inviting me to issue an injunction in the High Court to

5 stop that funeral?

6 MR ALLMAN: I'm not asking you to issue an injunction that will stop the funeral in the

7 sense of the ceremony that takes place, I believe, in a church in Liverpool. I am

8 asking you to make an order that says, 'unless the parents know something that I

9 don't know and you don't know, and apparently the Christian Legal Centre doesn't

10 know either, at least they haven't told me, and which the coroner may know but

11 which he refused to tell me, unless there has been a post-mortem and a toxicology

12 test to definitively ascertain the cause of death scientifically, then...

13 JUSTICE GARNHAM: What do you want? What is it you are asking me to do?

14 MR ALLMAN: I am asking you to just...the burial or cremation after the funeral service

15 must be delayed, unless the parents are aware that there has been a post-mortem.

16 JUSTICE GARNHAM: Do you know whether it is going to be a burial or a cremation?

17 MR ALLMAN: No.

18 JUSTICE GARNHAM: Because if it is a burial and if there was any merit at all...

19 MR ALLMAN: You could do an exhumation.

20 JUSTICE GARNHAM: Yes.

21 MR ALLMAN: In which case, then you make an order saying that there can be a burial but

22 there cannot be a cremation.

23 JUSTICE GARNHAM: I see.

24 MR ALLMAN: And then we're covering the most dangerous option.

25 JUSTICE GARNHAM: Yes, I see. In legal terms, you have to have what is called

26 standing or *locus* in application on this. What is your standing to interfere the

27 arrangements for the burial or cremation of this child?

28 MR ALLMAN: Funeral. This is the weakest part of my case, I understand that My Lord.

29 JUSTICE GARNHAM: Yes.

30 MR ALLMAN: I will try to explain that. My standing in the forthcoming future judicial

31 review against the coroner to establish that he should not have used the short circuit

32 he did when a death had taken place of somebody detained by the state, which I

33 think is indisputable.

34 **Crosstalk.**

35 MR ALLMAN: My standing in that is very good. Parliament said there has to be an

1 inquest, it is a public process, it is for the benefit of the public, that they may have
2 confidence in the legal system and the recognition of their right to give and receive
3 information.

4 JUSTICE GARNHAM: Are you saying any member of the public could make this
5 application?

6 MR ALLMAN: Any member of the public can make the judicial review application. Any
7 member of the public would be wise to make this application because it would be a
8 pyrrhic victory to establish in a few weeks' time that the coroner shouldn't have
9 used the shortcut that he did because the Act doesn't allow it when the deceased
10 died whilst detained by the state, as the facts will be established. So what I'm
11 saying is, it would be a pyrrhic victory if I didn't succeed today in preventing the
12 destruction of the most important evidence to inform that future inquest that I hope
13 there will be as a result of a future application which, and this correspondence
14 shows, that I have put the coroner on notice, I have invited him...

15 JUSTICE GARNHAM: Let me just read what you have said to the coroner.

16 MR ALLMAN: Yes, of course.

17 JUSTICE GARNHAM: Have a seat if you want.

18 **Pause.**

19 **Crosstalk.**

20 JUSTICE GARNHAM: I now have a copy of the Act in front of me, thank you.

21 MR ALLMAN: You will see...

22 JUSTICE GARNHAM: Let me...you say I should look at...let me just find it...the
23 Coroners and Justice Act, Section 1.

24 MR ALLMAN: You probably need Section...

25 JUSTICE GARNHAM: The deceased died while in custody or otherwise in state
26 detention.

27 MR ALLMAN: Otherwise in state detention is a very broad...

28 JUSTICE GARNHAM: That is what you were referring to?

29 MR ALLMAN: No equivalent of that...it wasn't technically custody...

30 JUSTICE GARNHAM: Let me just read your letter then.

31 MR ALLMAN: Yes. But in Section 2 you need, or that will be needed for the judicial
32 review because there is a power there to cut short an investigation without an
33 inquest but it doesn't apply after a death in custody or when otherwise detained by
34 the state. So that's the mistake...

35 JUSTICE GARNHAM: This is in Section 2, you say?

1 MR ALLMAN: I think it's Section 2, it might be Section 4. And the coroner uses the
2 form 100A and he explains that in the email so you could go there.
3 Pause.
4 JUSTICE GARNHAM: There are a lot of letters here. What are you referring to
5 Mr Allman? Which one do you want me to...where is the reference to Section 2 or
6 4?
7 MR ALLMAN: Okay...in the...
8 JUSTICE GARNHAM: Give me a page number please.
9 MR ALLMAN: Yes, of course, My Lord. Where he mentions the 101A procedure.
10 JUSTICE GARNHAM: Page?
11 MR ALLMAN: I think it is...101...
12 JUSTICE GARNHAM: Page 13, I have found it.
13 MR ALLMAN: You have. What's the little page number on the bottom of that, My Lord?
14 JUSTICE GARNHAM: 528.
15 MR ALLMAN: 528. Yes. It's right at the bottom of the page. The full 101A procedure,
16 which is one outcome from a coroner's preliminary investigation is a decision not
17 to hold an inquest.
18 JUSTICE GARNHAM: Yes.
19 MR ALLMAN: The Section of the Act which you have, which I don't have in front of me,
20 concern...says that that 101A procedure cannot be used when the deceased died
21 whilst otherwise detained by the state. My argument is that Parliament intended no
22 quibbling as to whether someone was technically in custody or not. If somebody
23 was being prevented from moving and the agent that was doing it was an emanation
24 of the state, that's good enough and the combination of a public sector NHS
25 hospital and the Supreme Court is certainly the state.
26 JUSTICE GARNHAM: That is plainly right, that the Supreme Court is the state. There is
27 no doubt about that but there is no detention and no otherwise...
28 MR ALLMAN: Yes there was, My Lord. There was an order that he couldn't be moved.
29 That is detention...
30 JUSTICE GARNHAM: That is in his interest. That was the court. Just a moment please.
31 That was the court...
32 MR ALLMAN: I'll stand up, My Lord.
33 JUSTICE GARNHAM: Please let me speak.
34 MR ALLMAN: Sorry.
35 JUSTICE GARNHAM: That was the court acting in the position in the stead of the child,

1 saying that it was in the child's best interest not to be moved. That is not detention.
2 That is simply the court standing in the shoes of the child.

3 MR ALLMAN: Well, that may have made the decision of the Supreme Court correct but
4 every tyrant will say, 'we're doing this for you own good', on occasions, 'you're
5 being detained in mental hospital under the benevolent Mental Health Act, you're
6 being detained for your own benefit'...

7 JUSTICE GARNHAM: That is hopeless, Mr Allman. The situation you are comparing it
8 with is where somebody, a tyrant as you put it, directs his or her attention towards
9 somebody who is capable of speaking for themselves. Alfie was not. The question,
10 therefore, was who could make the decision on Alfie's behalf. That was the central
11 issue that went to the Supreme Court and the decision was, it is a matter for the
12 court acting in the best interest of the child.

13 MR ALLMAN: I understand and I'm not impugning the decision of the Supreme Court at
14 all but I am saying the fact that there was this intervention by the Supreme Court
15 saying that Alfie could not be moved means that Alfie was, whether we like it or
16 not, being detained by the state.

17 JUSTICE GARNHAM: Yes, thank you very much.

18 MR ALLMAN: On the plain meaning of the word, My Lord. But that is an argument for
19 the judicial review that I intend to bring.

20 JUSTICE GARNHAM: Thank you.

21 MR ALLMAN: And I would ask you to proceed on the basis that is the arguable because
22 that is the legal opinion that I've had from a very experienced human rights
23 barrister.

24 JUSTICE GARNHAM: Yes, thank you very much. Please have a seat.

25 **Judgment transcribed separately.**

26 JUSTICE GARNHAM: Thank you, Mr Allman.

27 MR ALLMAN: May I apply for a transcript at public expense?

28 JUSTICE GARNHAM: No. You can have a transcript, but it will be at your own expense.
29 This is hopeless Mr Allman, and I am not going to encourage you to pursue it. If
30 you want a transcript, then you will need to apply for one yourself.

31 MR ALLMAN: Thank you, My Lord.

32 JUSTICE GARNHAM: Thank you very much.

33 **End of hearing.**

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