

[2018] EWHC 2404 (QB)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Courtroom No. 37

The Royal Courts of Justice
Strand
London
WC2A 2LL

11.01am – 11.07am
Monday, 14th May 2018

Before:
THE HONOURABLE MR JUSTICE GARNHAM

B E T W E E N:

MR ALLMAN

and

MR EVANS

The Applicant appeared In Person
The Respondent did not appear and was not represented

JUDGMENT
(Approved)

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MR JUSTICE GARNHAM:

1. Mr John William Allman makes an application this morning before me for an injunction forbidding the burial or cremation of the mortal remains of Alfie Evans, a child of Thomas Evans and Kate James, who died tragically recently.
2. The case of Alfie Evans has received much publicity because applications were made and pursued to the Supreme Court and the European Court of Human Rights by his parents, seeking orders that they be allowed to take Alfie away from the hospital in Liverpool where he was being treated. Those applications by the parents failed because the courts determined that it was not in Alfie's best interests that he should be removed from the hospital.
3. Mr Allman has no direct connection with the facts of that case. He is not a relative of Alfie's. He has no direct involvement in the earlier cases but he contends that he should be entitled to this order preventing Alfie's burial or cremation following a correspondence he has had with the Senior Coroner of Liverpool.
4. In the course of that correspondence, he has argued that the circumstances surrounding Alfie's death mean that an inquest is necessary. In particular, Mr Allman argues that Alfie died whilst in custody or otherwise in state detention. Mr Allman's point is that being the case an inquest, at least arguably, should take place. He says an inquest is essential because it is only if autopsy and toxicology evidence is obtained that it will be possible to reach a concluded and satisfactory understanding of why it was that Alfie died.
5. He makes the point that whilst alive, Alfie was the subject of much medical investigation but that no investigation based upon a living child can be as accurate in diagnosis as one carried out after the child has died, when a post-mortem is possible. Thus, he says that to conduct an inquest of a child who died whilst in custody or state detention is both necessary and mandatory under the Coroners and Justice Act 2009.
6. In my judgement Mr Allman faces two substantial hurdles in advancing this argument. First, he has, in my view, no locus whatsoever to bring these proceedings. The funeral of Alfie Evans is taking place within half an hour of the time I give this *ex tempore* judgment. He does not make the application with the support, or even with the knowledge of Alfie's parents, and I see no possible basis on which it can be said that he has a sufficient interest or sufficient standing to bring this application.
7. Mr Allman interrupts the giving of this judgement to tell me that he has informed the lawyers acting for Mr and Mrs Evans of this application and I accept that that may well be so but the point remains that there has been no response from Alfie's parents. There has certainly been no approval of the application being brought by Mr Allman. The first objection I have indicated seems to be of substance. Mr Allman has no locus to bring this claim.
8. Even if he did, in my judgement, the claim would be hopeless. It proceeds on a misunderstanding of Alfie's circumstances. Mr Allman contends that Alfie was, at the time he died, in custody or otherwise in state detention. He was not.
9. It is right to say that he was being treated in a state hospital. It is right to say that he could not be removed by his parents from that state hospital because the court held that such removal would not be in his best interests. But neither of those facts, whether taken individually or together, constitute, even arguably, detention or custody. On the contrary, Alfie was directed to remain in hospital because the view was taken by the courts, at the highest level in this country and in Europe, that that was in Alfie's best interests.
10. There is absolutely nothing in this application by Mr Allman and it is dismissed. Thank you, Mr Allman.

End of Judgment

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(This transcript has been approved by the judge)