



JUDICIARY OF
ENGLAND AND WALES

**R (DUGGAN) v HM ASSISTANT DEPUTY CORONER
FOR THE NORTHERN DISTRICT OF GREATER LONDON**

PRESS SUMMARY

CASE NO: C1/2014/3959

BEFORE THE MASTER OF THE ROLLS (SIR TERENCE ETHERTON); LORD JUSTICE DAVIS; LORD JUSTICE UNDERHILL.

COURT OF APPEAL SUMMARY OF DECISION HANDED DOWN 29.3.17

The inquest. Mark Duggan was shot dead by a police officer on 4 August 2011. An inquest was held between September 2013 and January 2014 before a senior Circuit Judge acting as coroner. The evidence of the officer who shot him, called V53 at the inquest, was that he fired because he believed that Mr Duggan was holding a gun and was about to use it. The coroner directed the jury, in accordance with the criminal law, that if they found that that was V53's honest and genuine belief at the time that he fired then he was acting in lawful self-defence and they should return a verdict of "lawful killing". The jury found that Mr Duggan was not in fact holding a gun, but they returned a verdict of lawful killing: that meant that they accepted that V53 had honestly and genuinely believed that he was.

The High Court challenge. Mr Duggan's family brought proceedings in the High Court to quash the inquest jury's verdict on the basis that the coroner's directions about the law were wrong. On October 14 2014 that challenge was dismissed by a Court consisting of the President of the Queen's Bench Division, Sir Brian Leveson, Mr Justice Burnett and the Chief Coroner, Judge Peter Thornton QC.

The appeal to the Court of Appeal. The family appealed against the High Court decision. The central question raised was whether the inquest should have decided not simply whether V53's belief that Mr Duggan was holding a gun was honest but also whether it was reasonable. The argument was put on two legal bases:

- (1) that a separate finding about reasonableness was necessary in order to comply with the state's duties under article 2 of the European Convention on Human Rights;

- (2) that the relevant definition of self-defence was not the definition in criminal law used by the coroner but the definition for the purpose of a civil claim, which does require that the belief of the person claiming self-defence that he or she was at risk should be not only genuine but reasonable.

The effect of the Da Silva case. The first of those two points was raised also in proceedings in the European Court of Human Rights (“the *Da Silva* case”) in relation to the inquest into the police shooting of Jean Charles de Menezes in the aftermath of the London bombings in July 2005. The appeal in the present case was deferred to await the decision in the *Da Silva* case. In the event the European Court decided that it was not necessary for the purpose of the Convention for an inquest in the case of a police killing to make a separate finding about the reasonableness of the officer’s belief that there was a risk of injury to others: whether the belief was reasonable was relevant, but only as part of the assessment of whether it was genuine. That ruling disposed of point (1) in the appeal in the present case, but the family advanced a modified criticism of the coroner’s ruling, namely that he did not explicitly tell the jury that they should consider the reasonableness of V53’s belief as part of their consideration of whether it was genuine.

The decision of the Court of Appeal. The Court dismisses the appeal. As to the first point, as modified, it holds that there was no need for the coroner to spell out to the jury that, as part of their decision whether V53 honestly believed that Mr Duggan had a gun and was about to use it, they needed to consider whether such a belief was reasonable. That consideration was, as a matter of common sense, an inevitable part of the exercise that they had to carry out. As to the second point, it is established law that the role of an inquest jury, where self-defence is in issue, is to consider whether the killing was in breach of the criminal law. An inquest is not concerned with questions of civil liability.

NOTE: This summary is provided to help in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.bailii.org & <http://www.judiciary.gov.uk/judgments/>.