

Rulings Following the Pre-Inquest Review Held on the 2nd June 2016

In these rulings:

- *IP/s shall mean Interested Person/s.*
- *The CJA shall mean the Coroners and Justice Act 2009.*

Jury

- 1) By their written and oral submissions, Counsel on behalf of both Hermitage and the Insurers seek to persuade me to hold the Inquest with a jury. For their part, Counsel for Mrs Perepilichnyya and Counsel for the Chief Constable of Surrey seek to persuade me that it would not be appropriate to do so and that there is no reason for me to do so. I have taken account of all those submissions.
- 2) By Section 7(1) of the CJA an inquest into a death **must** (my emphasis) be held without a jury unless subsections 7(2) or 7(3) apply.
- 3) It is accepted that the conditions set out in Section 7(2) CJA do not apply in this inquest. The application is therefore made under Section 7(3) CJA, which provides the coroner with a discretion to hold an inquest with a jury where he/she thinks there is 'sufficient reason' for doing so.
- 4) In summary, there are three grounds upon which Counsel seek to persuade me that there is 'sufficient reason' to summon a jury:
 - a. To ensure that the inquest is independent.
 - b. To take proper account of Section 8(3)(d) of the Coroners Act 1988, namely where it appears to a coroner that the death occurred in

Inquest Touching the Death of Alexander PEREPILICHNYI

Mr Richard Travers H.M. Senior Coroner for Surrey

circumstances the continuance or possible recurrence of which is prejudicial to the health and safety of the public or any section of the public. Hermitage placed reliance in this context on the decision of the Divisional Court in *R (Paul and others) v Deputy Coroner of the Queen's Household* [2008] QB 172.

c. To assuage widespread public concern about the death of Mr Perepilichnyy.

5) I am also invited to consider the recent judgment from the Divisional Court in *R (Fullick) v HM Senior Coroner for Inner North London* [2015] EWHC 2522, in particular the need to consider 'all relevant factors' and the specific matters set out at [42] therein.

6) I will address each of these issues in turn.

Independence

7) I reject the submission that it is necessary to summon a jury in order for the inquest to be independent or to be perceived to be so. It is important to recognise that a coroner is an independent judicial officer, whose inquiry is inquisitorial without the burden of competing parties, and whose sole task in answering the four statutory questions is to uncover the truth about what happened. As such, he / she not only brings a significant degree of independence to an inquest, but can be seen to do so.

8) Further, and importantly, such evidence as there is which might suggest that third parties had a motive to bring about his death, tends to suggest that any such third party came from outside the British Isles. It follows therefore that

Inquest Touching the Death of Alexander PEREPILICHNYI

Mr Richard Travers H.M. Senior Coroner for Surrey

there is nothing to suggest that any arm of the British State was involved. I note, in this regard, [60] of the recent judgment in *Shafi v East London Senior Coroner* [2016] 1 WLR 640.

Section 8(3)(d) of the Coroners Act 1988

- 9) I do not accept that the provisions of the Coroners Act 1988 have any application to this Inquest. Since 25th July 2013, inquests have been held under the new regime created by the Coroners and Justice Act 2009.
- 10) In any event, even if the consideration of prejudice to the health and safety of the public or any section of the public were to be relevant to the exercise of my discretion to sit with a jury, I do not consider that there is sufficient evidence to support such a proposition. If Mr Perepilichnyy had been murdered as a result of his alleged association with Hermitage Capital Management – which is not presently clear from the evidence before me – it is difficult to see how such a murder could be indicative of a wider threat to the general public as a whole or even to a section of the general public. I am therefore not persuaded by this ground to summon a jury.
- 11) In light of the guidance in *Paul*, which was endorsed in *Fullick*, I do accept that attention can and should be given to issues and or circumstances that resemble the statutory grounds for summoning a jury. However, these are the grounds as set out in CJA Section 7(2) and not those set out under the old law. Having reviewed the circumstances of Mr Perepilichnyy's death and the provisions of CJA Section 7(2), I do not find that there is any such resemblance.

Public concern

Inquest Touching the Death of Alexander PEREPILICHNYY

Mr Richard Travers H.M. Senior Coroner for Surrey

12) I do accept that the assuaging of genuine public concern can, in some circumstances, be 'sufficient reason' for a coroner to hold an inquest with a jury.

13) However, it seems to me that such inquests are unlikely to be commonplace and it will be a matter of degree as to whether the necessary level of public concern has been reached such that not only does it require assuaging, but that the proper means of doing so is for a jury to be summoned.

14) I recognise that there has been some element of public concern over Mr Perepilichnyy's death. However, it is important to remember that, at this stage, there is no direct evidence that his death was brought about by a third party. Further, as I have stated, there is no evidence to suggest that the British state was complicit in Mr Perepilichnyy's death.

15) For these reasons I am not persuaded that the degree of public concern surrounding Mr Perepilichnyy's death is such that a jury is required.

Other matters

16) I have also considered whether this is an inquest where uncertainties in the medical evidence are such that a jury should be summoned. Whilst I recognise that there is a lot of toxicological evidence in this inquest, much of which is very complicated, the medical evidence is not. The reality is that there is no cogent medical evidence that positively identifies the cause of Mr Perepilichnyy's death. The best medical diagnosis currently available remains a diagnosis of exclusion, namely Sudden Adult Death Syndrome (SADS). A jury is not therefore warranted for this reason.

Inquest Touching the Death of Alexander PEREPILICHNYI

Mr Richard Travers H.M. Senior Coroner for Surrey

17) Finally, I have given some weight to the fact that Mr Perepilichnyy's widow, Mrs Perepilichnyya, on behalf of herself and of the couple's children, is very anxious that the inquest should not be held with a jury.

Conclusion

18) In light of all the matters set out above, I have concluded that it would not be appropriate to hold this inquest with a jury and, consequently, no jury will be summoned.

Request for Further Evidence

19) I am asked to make further requests for evidence from the Government in relation to any material it might hold to suggest that there was contact between Mr Perepilichnyy and the British Intelligence Services. This would encompass whether, at the time of his death or prior thereto, Mr Perepilichnyy was acting as a British 'spy'.

20) I have already made requests for evidence to the Secretary of State for the Home Department and the Secretary of State for Foreign and Commonwealth Affairs, which have included, inter alia, any material held by the Security Service and the Secret Intelligence Service respectively, pertaining to:

- a. Threats to the personal safety or life of Mr Perepilichnyy in the period 1 January 2012 to 10 November 2012.
- b. Third party involvement in the death of Mr Perepilichnyy on 10 November 2012.

Inquest Touching the Death of Alexander PEREPILICHNYI

Mr Richard Travers H.M. Senior Coroner for Surrey

- c. Contact between Mr Perepilichnyy and five individuals whom, it has been said by Hermitage Capital Management, could have been associated with his death.

21) Whilst any material appertaining to the issues identified in the questions in the paragraph above would be relevant to the inquest, evidence as to whether Mr Perepilichnyy was or had been acting as a British would not in itself assist me in answering the question 'how did he come by his death'.

22) Consequently, in light of the requests for evidence that I have already made, and the summary 'gist' that I have seen arising therefrom, I do not consider the further requests for evidence, which I am asked to make to be relevant to my investigation and, as such, they will not be made.

R. Travers
HM Senior Coroner for the County of Surrey

7th June 2016