

**Sir Geoffrey Vos, Chancellor of the High Court**

**IN THE MATTER OF IAN STEWART-BRADY DECEASED  
AND THE SENIOR COURTS ACT 1981  
AND THE PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984**

**B E T W E E N**

**(1) Oldham Metropolitan Borough Council  
(2) Tameside Metropolitan Borough Council**

**Claimants**

**and**

**(1) Robin Makin  
(2) [X]  
(3) Sefton Metropolitan Borough Council**

**Defendants**

**NOTE**

This summary is provided to assist 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 available on at [www.bailii.org](http://www.bailii.org)

Hearing dates: 9<sup>th</sup> and 10<sup>th</sup> October 2017

This claim is for orders to be given in respect of the disposal of the body of Ian Stewart-Brady, formerly Ian Brady, one of the Moors murderers, and for orders that the body should be lawfully and decently disposed of without further delay.

He died on 15<sup>th</sup> May 2017. His will appointed Mr Robin Makin, a solicitor as his executor. An executor is primarily entitled to dispose of the remains.

The claimants are concerned that five months on Mr Makin has failed to make proper arrangements for the disposal.

Mr Makin submitted there was a strong interest in maintaining the confidentiality of these proceedings. This would have cut across the strong public interest in open justice. Only a small part of the hearing was in private, and only small sections of this judgment have been

redacted. An un-redacted judgment will be published at a later date on my direction. I agreed X's request to remain anonymous until 7 days after the removal of the remains from its custody, and that no references should be made in the course of the hearing or reported in relation to the current whereabouts of the remains, or in relation to any intended proposals for the disposal of the deceased's body. I did so because there are fears of public unrest or disorder.

I am satisfied also that it is both necessary and expedient for the matter to be taken out of Mr Makin's hands if the deceased's body is to be disposed of quickly, lawfully and decently. Even after a hearing that has lasted for 1½ days, the parties have not been able to agree precisely how the deceased's body should be disposed of.

Section 116 of the Senior Courts Act 1981 and the court's inherent jurisdiction over estates allows it in this case to give directions as to who should dispose of the deceased body, and as to how it should be disposed of.

Taking into account all the competing positions, the overwhelming factor in this case is the public interest. The deceased's wishes are relevant, but they do not outweigh the need to avoid justified public indignation and actual unrest. It was not doubted that Mr Makin could be trusted.

The claimants were right to seek to ensure that there is a lawful and decent disposal of the deceased's body without causing justified public indignation or unrest. Mr Makin has not been justified in being so secretive about how he was intending to dispose of the deceased's body. Had he discussed the matter openly with the claimants and with Sefton Borough Council and given clear undertakings that he was not intending to scatter the deceased's ashes in their areas, these proceedings might have been avoided. Even now, he has refused to say what he intends to do with the ashes if he is allowed custody of them.

Mr Makin cannot, therefore, be entrusted with the ashes for disposal. Even if I were to limit him to private ground, against his wishes, that ground might be somewhere where public access was possible.

Although he said he only intended to tell one other (unidentified) person how he would dispose of the ashes there remains the possibility that his plans would be discovered, and there could be public disorder if a member of the public sought to stop Mr Makin doing what he wanted to do with the ashes.

It is unfortunate that Sefton Council is no longer able to arrange their disposal, but instead an officer of Tameside Metropolitan Borough Council has said that she will do so, and I am satisfied that that this is the best proposal available.

I decline to permit the playing of the fifth movement of the Symphony Fantastique at the cremation as Mr Makin requested. As the composer's programme notes describe, the theme and subject of the piece means legitimate offence would be caused to the families of the deceased's victims once it became known it had been played.

It was not suggested by Mr Makin that the deceased had requested any other music to be played or any other ceremony to be performed, and in those circumstances, I propose to direct that there be no music and no ceremony.