



Courts and Tribunals Judiciary

JUDGMENT SUMMARY

BETWEEN:-

(1) BEN LEESON

(2) WILLIAM ANTHONY LEESON

- and -

DONALD MCPHERSON

[2024] EWHC 2277 (Ch): The Honourable Mr Justice Richard Smith

6 September 2024

1. Paula Leeson (**Paula**) was a much loved mother, daughter and sister. On 6 June 2017, Paula tragically died in the swimming pool of the Danish holiday cottage where she was staying with her husband, Donald McPherson (**Don**). Don was subsequently charged with Paula's murder. At his criminal trial, the Judge directed the jury to return a verdict of not guilty following Don's successful submission of no case to answer.
2. Paula's son, Ben Leeson (**Ben**), and father, William Leeson (**Willy**), later commenced these civil proceedings against Don. Ben and Willy claim that (i) Don unlawfully killed Paula such that he had lost any rights he might otherwise have enjoyed to benefit from Paula's estate or her share of jointly held assets (**Forfeiture Claim**) (ii) Don should be removed as a trustee of certain life insurance policies written in trust by Paula and replaced by Ben and Willy (**Trusts Claim**) and (iii) Paula's will, purportedly executed on 21 July 2014, was invalid because Don forged the signature of one of the witnesses such that Paula died intestate. Finally, they say that Ben should be appointed as personal representative of Paula's estate (**Probate Claim**).
3. The trial of Ben and Willy's claim took place between 15 April and 7 May 2024. The Court heard from 18 witnesses of fact and 4 expert witnesses. Don did not attend trial and was not represented. Having found that Don deliberately absented himself, the Court decided that the trial should proceed in his absence.

4. Having heard all the evidence, the Court has decided that Don deliberately and unlawfully killed Paula by compressing her neck in an arm lock, rendering her unconscious, and causing her body to enter the pool to ensure her drowning and death. Distilling the essential elements underlying that finding:-
- There is no dispute that Paula died by drowning. The critical question was how she came to enter the water and why she was unable to extricate herself;
 - On the evidence, various mechanisms of death can be excluded, including natural disease (such as heart attack or stroke) or intoxication through alcohol or drugs, in either case rendering her more vulnerable to drowning;
 - Manual or ligature strangulation or forcible restraint under water can also both be excluded on the evidence;
 - For Paula to have died by drowning, she must have been unconscious when she entered the water. A simple faint and fall into the water is extremely unlikely. If that had occurred, Paula would simply have stood up in the pool;
 - Nor would Paula have voluntarily entered the pool area in the first place. The conditions were unpleasantly hot and humid. Notably, Paula was also averse to being in or near to water;
 - As to the reason for her loss of consciousness, the nature and distribution of Paula's injuries, including to the head, are not consistent with a fall causing loss of consciousness;
 - Even ignoring Paula's improbable voluntary presence in the pool area, it is also improbable that she would have fallen, hit her head, lost consciousness and ended her fall in the pool;
 - In this regard, the poolside was 2.1 metres wide at its widest point, the tile surface non-slip and there were no fall, slip or trip hazards adjacent to the water;
 - Paula's neck tissue injuries were significant and of concern, including to the examining Danish pathologists at her post mortem;
 - Those neck tissues injuries are not consistent with a fall, resuscitation efforts or rescue attempt;
 - The probable reason for Paula's neck injuries was compression from an armlock, itself capable of causing loss of consciousness;
 - Paula's other injuries, particularly to the head, were also significant and of concern, the (fact and expert) pathologists agreeing that a potential mechanism was third party violence;

- Although not fatal in themselves, the extent and distribution of those other injuries are consistent with the use of force or violence, including an attempt to overwhelm or subdue her;
- Beyond the pathology evidence, it is no exaggeration to say that lies and dishonesty pervade every aspect of Don's life;
- Don lies to anyone if it might serve his interests, including to the authorities to get off more lightly for his role in a fraud against Commerzbank;
- Don lied repeatedly to this Court, including in his Defence and witness statement;
- Don's lies are accompanied by concealment and secrecy, including even about his own family life and identity (past and present);
- Consistent with Don's dissembling, he lied to the Danish police about Paula being ill to give the (false) impression that she was liable to a faint and/ or might have used the pool area toilet and that her death there was accidental;
- Don also lied to the Danish police about Paula being unable to swim. He did so again to convey the (false) impression that her death was accidental;
- Don also failed to tell the Danish police that he had been up and about with Paula on 6 June 2017, including outside the cottage taking photos of them both after 1pm. Don knew that this was inconsistent with his story that he and Paula were both ill and dozing in bed;
- The photos themselves make that point even more graphically, both looking happy and well together, 40 minutes before Don called the ambulance;
- Paula's Fitbit watch is a consumer, not hospital grade, device such that care is required relying on individual heart rate measurements. Nevertheless, the device showed largely uninterrupted, reliable heart rate readings from 00:01 to 13:10 on 6 June 2017 at different confidence levels, reflecting different movement and/ or optical reading conditions throughout the day, the device behaving as expected and functioning properly until 19:14. As such, the trends in Paula's heart rate shown by the device, considered with her known movements, are instructive;
- Paula's Fitbit watch showed her heart rate rising from around 80bpm at 12.40 to an average of around 120bpm or so (at Confidence levels 1 and 2). The heart rate trends and confidence levels indicated are consistent with Paula having taken 133 steps between 12:58 and 13:08 when she was outside the cottage;
- They took the photographs outside at 13:06 and 13:07, with Paula making a short call to her niece, Charlotte, at 13:09;

- The Fitbit analysis shows Paula's heart rate decline between 13:07 and 13:11 to just below 100bpm at a higher Confidence level of between 2 and 3, consistent with Paula having taken a further 91 steps between 13:08 and 13:13, her likely return to the cottage and, initially at least, her more rested state;
- Paula's heart rate rose sharply between 13:11 and 13:14 to over 130bpm, with a Confidence level of 2 indicated, before declining swiftly from 13:14 to 13:17 at a Confidence level of 1, suggesting greater movement and/ or reduced optical reading quality, followed by a sudden loss of reliable heart rate measurements;
- That sharp rise in heart rate was consistent with the use of force to Paula, including the application of an arm lock to her neck and force to her body and the sharp decline consistent with her unconsciousness and drowning;
- Whether the unexpected loss of reliable heart rate measurements at 13:17 reflects the cessation of pulse at that point or loss of measurement capability from, for example, violent movement or immersion in water, is unclear. Either way, the data strongly suggests that she suffered a sudden, catastrophic event then;
- That event could not have been an accident. Don had just been outside with Paula and it is clear from the photographs that he was active and alert. If Paula had suffered an accident, Don was present and could have provided immediate assistance;
- In this regard, Don lied to the Danish police about being asleep, his shoulder pain and feeling groggy from the pain relief supposedly recently taken. He did so to give a (false) impression of explicable delay in the discovery of Paula's body and difficulty in assisting her;
- To the same end, Don also lied to the Danish police about leaving the cottage to summon the neighbours to help rescue Paula;
- Don waited until 13:46, when he knew that Paula had already drowned, to call the ambulance;
- Don later repeated to GMP and this Court many of his lies to Danish police;
- Consistent with his tendency to conceal, Don later selectively deleted the Denmark photographs from Paula's iPhone, knowing that these would show his accounts to the Danish police to be false;
- Don also selectively deleted SMS and MMS messages and call logs from Paula's iPhone for the critical period around her death (and all e-mails before 15 June 2017). He did so to shut down possible lines of enquiry about the manner of Paula's death;

- Don did the same, for the same reason, and for the same critical period, with respect to his own SMS and e-mail messages on his iPhone;
- Likewise, Don failed to provide the GMP with access to his laptop on the (false) basis that he could not remember his password. He did so to conceal matters which might cast doubt on his story;
- Don's motive for unlawfully killing Paula is clear – money;
- Don lied, including to Paula, about being wealthy and an owner of property in New Zealand;
- Don was neither, but money was very important to him, including to the extent of his willingness to commit a massive fraud on his former employer for which he served prison time;
- Paula was hard working and frugal. Don was 'flash' with his money and pursued expensive interests, including power boating, sailing and flying;
- Before the Danish holiday, Don's financial position became increasingly difficult as his overdraft and loan and credit card debt increased and his own buy-to-let property portfolio reduced to nothing;
- Paula was alive to Don's less frugal ways, she controlled the joint account and there had been a re-organisation of the household finances, including the funding of the refurbishment of their jointly owned property at St. Mary's Road;
- Despite these matters, Don explored yet more adventurous and expensive pursuits such as yachting, MIG29 flights and HALO jumps;
- Don told Aqua and Mr Ennis-Cole shortly before Paula's death that he expected to come into money soon;
- Don allowed his own £1m Vitality life insurance policy to lapse but continued to pay annual life insurance premiums exceeding £5,000 for policies that, unknown to Paula, had been written on their joint lives;
- Those policies were procured by Don before they were even married, with £2.5m of cover written in 2013. He sought joint insurance against his adviser's recommendation to give him control of the policies and keep their existence hidden from Paula;
- Nor did Don take up the critical illness recommendation, his sole concern being the financial consequences of death;

- Don selected multiple life insurers, necessitating higher premiums, but no medicals, again enabling him to keep Paula in the dark;
- Finally, Don lied about the need for this insurance, the suggested pretext being debts, including mortgage liabilities, of nearly £3m, despite their actual liabilities never exceeding £1m and the mortgages concerned not requiring such cover in any event;
- The writing of the further joint life insurance in 2016 (by Royal London and Aegon) for a further £488,900 of cover followed a similar pattern, albeit Paula did know about the Royal London policy, taken out ostensibly for the re-mortgage of their matrimonial home;
- As Don knew, the two policies written by LV and Scottish Widows on Paula's life in 2016 for a further £800,000 in total were intended to benefit Ben. Despite this, Don caused himself to be interposed as trustee in 2017, including by forging Lynn Dale's signature;
- Don did so to ensure control over payment of the policy proceeds, with Paula not understanding the implications of his actions;
- Don's calls to the various joint life insurers from 2015 until shortly before Paula's death, often on some administrative pretext, were an obvious attempt to make sure that the insurance proceeds would be paid direct to him upon Paula's death rather than to her estate;
- Don also obtained travel insurance well in excess of his and Paula's needs. Having initially declined a multi-trip policy, he took one out only days later, with significantly greater cover for repatriation costs. He also paid for an upgrade to his Lloyd's account he could ill afford, albeit with the associated benefit of yet further travel insurance;
- When Paula died, Don took far too long to inform the Leeson family but, when he finally did, he gave Neville three different accounts of what had occurred, none consistent with what he had told the Danish police;
- Paula had not been dead for 24 hours before Don transferred thousands of pounds from the Lloyd's joint account and engaged in a series of further banking and payment transactions to reduce his own liabilities;
- Don lied to the Danish police, Neville and the GMP about what he knew of Paula's injuries. He was also anxious about what others might learn from the related medical investigations, even 'tapping' insurers for information;
- Don kept the Leeson family in the dark about the multiple joint life policies he had procured and against which he made claims following Paula's death; and

- Don attempted to use his position as trustee to benefit from the LV and Scottish Widows policy proceeds. He did so on the (false) pretext that these were intended to pay off mortgage liabilities. However, Don knew that they were intended for Ben alone.
5. Accordingly, as improbable as it may seem in the abstract for a husband to kill his wife, standing back and considering in the round the effects of the implications of the facts found in this case, the Court had no hesitation in concluding that Don unlawfully killed Paula in Denmark. With his financial fortunes waning by 2017, but his wanderlust growing more intense, Don decided that now was the time to cash in on the life insurance policies he had started to procure on Paula's life before they were even married and to which she was oblivious. With that design, he chose and booked a holiday he could ill afford at a cottage in a remote part of Denmark, knowing that there would be no other witness to his brutal actions. The photographs of them standing together on the last day of their holiday, both smiling, Don knowing that he was about to kill Paula, Paula oblivious to his homicidal intentions, are particularly chilling.
 6. In light of these findings, the **Forfeiture Claim** succeeds. Likewise, for the reasons stated in the judgment, Don is manifestly unsuitable to act as a trustee of the LV and Scottish Widows life insurance policies and will be removed and replaced by Ben. The **Trusts Claim** also succeeds. The Court also found that Don had forged the signature of one of the witnesses to Paula's 2014 will. That will being invalid, Paula died intestate. Don having disqualified himself by his homicidal actions, Ben will be appointed as personal representative of Paula's estate. The **Probate Claim** also succeeds.
 7. I cannot begin to comprehend the pain and heartache that the Leasons have experienced as a result of Paula's death, particularly in the appalling circumstances of her unlawful killing at the hands of Don. I thank them for the enormous dignity they have shown during these proceedings.

Important note for press and public: this summary forms no part of the court's decision. It is provided so as to assist the press and the public to understand what the court decided. The full judgment of the Court is the only authoritative document.

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<https://caselaw.nationalarchives.gov.uk>.