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**INQUEST TOUCHING UPON THE DEATH OF
RAYMOND McCORD JUNIOR**

DECISION ON “TROUBLES RELATED” ISSUE

26 September 2024

FOWLER J

Introduction

1. I previously made a decision on 2 February 2024 not to continue with the inquest into the death of Raymond McCord Junior. Thereafter, the proceedings were adjourned until after 1 May 2024, which was the cut-off point imposed by the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (hereafter referred to as “the Legacy Act”). It had been my intention to close the inquest shortly thereafter.
2. However, since then I have been asked by the Next of Kin (NoK) to consider whether the investigation in this inquest falls within the definition of a Troubles related death, as provided by the Legacy Act, because if it does not, it can continue.
3. I invited the Properly Interested Persons (PIPs) to provide me with written submissions on this issue. I received those in May and June 2024. I then heard further oral submissions on the final day of term before the summer recess.
4. A short time later, on 4 July 2024, during the summer recess, a new Labour government was elected in Westminster. The new government has indicated that

it would re-visit the Legacy Act. Therefore, on 19 July 2024, I asked the CSNI to write to the PIPs to ask whether they wished to make any further submissions in light of this indication. The Police Service of Northern Ireland (PSNI) provided its additional written submissions on 2 September 2024 and the NoK provided their additional written submissions on 3 September 2024. The Police Ombudsman for Northern Ireland (PONI) opted not to provide any further submissions beyond those they had previously supplied.

5. I am grateful to all counsel for providing their helpful written and oral submissions on this issue. After carefully considering the arguments made, I have decided that this inquest concerns a Troubles related death as defined by section 16c of the Coroners Act (Northern Ireland) 1959, therefore I cannot progress it and am required to close the proceedings.
6. I will start by briefly summarising the position of each PIP, although I have considered all their respective submissions in full.

Original submissions

NoK

7. The crux of the NoK's submission is that, on the basis of what is currently known at this stage in these proceedings, I should conclude that this cannot be considered a Troubles related inquest (this is a term I shall use as shorthand for an inquest which falls within the catchment of section 16A and 16C of the 1959 Act). In particular, the NoK relied on statements made by an Assisting Offender during an interview with police that the death of Raymond McCord Junior was concerned with issues in and around an illegal drugs deal, and could not therefore be said to be related to the Troubles. The document containing those statements was disclosed to the NoK during an earlier judicial review taken by them against the PSNI. The NoK argued that I am required to make, what they described as, a

“finding of fact” in relation to whether the circumstances in and around the death satisfy the definition of a Troubles related death, as set out in the 1959 Act (amended by the Legacy Act).

PONI

8. The PONI adopted a neutral position on the NoK’s request, but submitted that the decision on whether this inquest involved a Troubles related death did not require a factual decision by me. Rather, their submissions argued that I should decide whether the scope of the inquest caused the inquest to fall within the statutory definition of a Troubles related death.

PSNI

9. The PSNI submitted that the definition of a Troubles related death was deliberately broad, with reference to section 1 of the Legacy Act, and that whichever way one views the material currently available in this inquest, the death of Raymond McCord Junior satisfies that test. The PSNI submissions also refer to the fact that the NoK previously argued in other judicial review proceedings that this inquest was directly impacted by the Legacy Act and the restrictions it imposed (i.e. they are contradicting the position they adopted in other proceedings). They also referred to the Applicant’s request for work to continue in the inquest up until the 1 May 2024 cut-off point and the NoK’s challenge to the decision declining that request.

Additional submissions

PSNI

10. The PSNI’s latest written submissions repeats its earlier position, that it considers this to be a Troubles related inquest which must now be closed in accordance with section 16A of the Coroners Act (Northern Ireland) 1959. The PSNI acknowledges

that the law may change, but that any new statutory law will be applied as and when it is commenced, and the Court is required to apply the law as it currently stands.

NoK

11. The NoK's more recent submission repeats the gravamen of their earlier submissions, namely that this is not a Troubles related inquest and, in any event, that the Coroner should review all materials for potential relevance before making any determination on whether it is a Troubles related inquest. They are concerned about the passage of time.

12. The NoK accept the law must be applied as it currently stands, but add that the context of this case is that the new Labour government has said it will review the Legacy Act. They express a view on the most likely outcome of that review. However, we do not yet know what the outcome of that review will be.

13. In addition, the NoK submit that:

- any further work done on this inquest can be utilised in due course, in whatever forum the matter is taken forward.
- the argument about diverting resources away from other inquests which had a prospect of concluding before 1 May 2024 no longer applies.
- the passage of further time has an adverse effect on the prospects of a meaningful investigation. (There is some force in that argument).

Discussion

Should the Court determine the Troubles related inquest question at this stage?

14. The first question I must consider is whether I should make a determination at this stage on whether this is a Troubles related inquest or postpone that decision.
15. There are two points to consider here. The first is whether I should wait to see the outcome of any review of the current state of the law in and around legacy inquests.
16. The Legacy Act may be reviewed and repealed or revised in part in due course. It would be speculation on my part as to what any reform of the law might look like. Further, I am required to apply the law as it currently stands.
17. If it is clear to me that this is a Troubles related inquest, I am prohibited by statute from progressing it. It will be for the legislature to decide whether the current statutory law should be changed and, if so, how. Any new statute introduced in due course will be applied as and when it is commenced. As I have already stated, it is not for me to speculate about what that may be.
18. The second point concerns the NoK's general submission that I ought to consider all material (potential disclosure) before making what they describe as a factual determination on whether this is a Troubles related inquest. That may be appropriate in some inquests where the answer to this query is not already clear and requires further exploration. However, in this inquest, I am entirely satisfied that I can reach a decision on that issue based on the information available to me and the PIPs at this stage.
19. The NoK also submit that if any further work is done on reviewing disclosure during the currency of the inquest, use can be made of it in whatever forum takes forward the investigation into this death. That may well be the case. However, if it is clear to me that this is a Troubles related inquest, statute prohibits me from progressing it, meaning such work cannot continue, in this forum at least, unless and until there is a change in the law. I am required to respect the sovereignty of

Parliament and must apply statute as it was intended to be applied until such time as it is repealed or otherwise revised.

20. The NoK submits that the argument about the diversion of resources away from other inquests in the run up to 1 May 2024 no longer applies. I agree. However, that is not the issue they have raised. That was part of the rationale for stopping in February 2024 as opposed to continuing to 1 May 2024. The issue more recently raised by the NoK is whether this is a Troubles related inquest caught by the provisions of the Legacy Act which amended the Coroners Act (Northern Ireland) 1959.

Troubles Related Inquest

21. I will start my discussion on this issue by referring to the key statutory provisions. The order in which I am approaching them is as follows:

- Section 16A of the Coroners Act NI 1959
This prohibits me from continuing with an inquest into a death which results directly from the Troubles

- Section 16C of the 1959 Act
This provides a definition of what amounts to a death resulting directly from the Troubles; and in turn refers me to section 1 of the Legacy Act

- Section 1(1) and section 1(2) of the Legacy Act
These provisions define the Troubles as conduct related to NI affairs within a specified period of time

- Section 1(6) of the Legacy Act
This provision defines what comes within the catchment of NI Affairs

22. The Coroners Act (Northern Ireland) 1959 was amended by the Legacy Act. In particular, it added section 16A, section 16B and section 16C to the 1959 Act. We are only concerned with section 16A and section 16C; section 16B relates to starting new inquests, which is not in issue here.

23. Section 16A prohibits Coroners from continuing with some inquests, notwithstanding that they have already started. The provision is set out in full below (with emphasis added in bold and underlining):

“16A Death resulting directly from the Troubles: closure of existing inquest

*(1) This section applies to an inquest into a **death** that **resulted directly from the Troubles** that was initiated before 1 May 2024 unless, on that day, the only part of the inquest that remains to be carried out is the coroner or any jury making or giving the final determination, verdict or findings, or something subsequent to that.*

(2) On and after that day, a coroner must not progress the conduct of the inquest.

(3) As soon as practicable on or after that day, the coroner responsible for the inquest must close the inquest (including by discharging any jury that has been summoned).

(4) The provision in section 14(1) requiring a coroner to conduct an inquest is subject to this section.”

24. Section 16A prohibits coroners from progressing the conduct of any inquest which involves a “*death that resulted directly from the Troubles ...*”

25. Section 16C is an “*interpretation*” section for the new provisions introduced into the 1959 Act by the Legacy Act, including a definition of what amounts to a “*death that resulted directly from the Troubles*”. Section 16C is set out in full below (with emphasis added in bold and underlining):

“16C Interpretation

(1) This section applies for the purposes of sections 16A and 16B and this section.

(2) A death “resulted directly from the Troubles” if –

(a) the death was wholly caused by physical injuries or physical illness, or a combination of both, that resulted directly from an act of violence or force, and

(b) the act of violence or force was conduct forming part of the Troubles.

(3) “Conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act).

(4) An inquest is “initiated” –

(a) by a coroner deciding to hold the inquest, or

(b) by a direction under section 14 being given for the conduct of the inquest.”

26. Section 16C(2) states that a “death results directly from the Troubles” if “the act of violence ... was conduct forming part of the Troubles”.

27. The first question is therefore whether the death in this inquest was caused by physical injuries resulting from an act of violence. Clearly that was the case in respect of the death of Raymond McCord Junior.

28. This leaves me with the key issue in this exercise, which is whether the act or acts of violence which caused his death were “conduct forming part of the Troubles”.

29. That causes me to refer to section 16C(3), which provides the definition of what amounts to “conduct forming part of the Troubles”. It states that it is the same as the definition set out in section 1 of the Legacy Act.

30. I therefore move away from the revised version of the 1959 Act to section 1 of the Legacy Act. It is set out below in full (with emphasis added in bold and underlining):

“1 Meaning of “the Troubles” and other key expressions

(1) In this Act ***“the Troubles”*** means the events and ***conduct*** that ***related to Northern Ireland affairs*** and occurred during the period –

(a) beginning with ***1 January 1966***, and

(b) ending with ***10 April 1998***.

(2) That ***includes*** any event or ***conduct*** during that period which was ***connected with*** –

(a) ***preventing***,

(b) ***investigating, or***

(c) ***otherwise dealing with the consequences of***

any other event or conduct relating to Northern Ireland affairs.

(3) Accordingly, in this Act an event or ***conduct “forming part of the Troubles”*** is ***an event or conduct that falls within subsection (1) (including any of a kind described in subsection (2))***.

(4) In this Act ***“other harmful conduct forming part of the Troubles”*** means any conduct forming part of the Troubles which caused a person to suffer physical or mental harm of any kind (excluding death).

(5) For the purposes of this Act –

(a) an offence is ***“Troubles-related”*** if –

(i) it is an offence under the law of Northern Ireland, England and Wales or Scotland, and

(ii) the conduct which constitutes the offence was to any extent conduct forming part of the Troubles;

(b) a Troubles-related offence is ***“serious”*** if the offence –

(i) is murder, manslaughter or culpable homicide,

(ii) is another offence that was committed by causing the death of a person, or

(iii) was committed by causing a person to suffer serious physical or mental harm;

(c) a Troubles-related offence is “connected” if the offence –

(i) relates to, or is otherwise connected with, a serious Troubles-related offence (whether it and the serious offence were committed by the same person or different persons), but

(ii) is not itself a serious Troubles-related offence;

and for this purpose, one offence is to be regarded as connected with another offence, in particular, if both offences formed part of the same event.

(6) In this Act –

“conduct” includes an act or an omission;

“Northern Ireland affairs” means –

(a) the constitutional status of Northern Ireland, or

(b) political or sectarian hostility between people in Northern Ireland;

“serious physical or mental harm” means –

(a) paraplegia;

(b) quadriplegia;

(c) severe brain injury or damage;

(d) severe psychiatric damage;

(e) total blindness;

(f) total deafness;

(g) loss of one or more limbs;

(h) severe scarring or disfigurement.

(7) For the purposes of this section it does not matter if an event or conduct occurred in Northern Ireland, in another part of the United Kingdom, or elsewhere.”

31. In broad terms, the structure of section 1 above is as follows:

- Section 1(1) and section 1(2) define the “*Troubles*” by reference to certain dates and conduct related to *Northern Ireland Affairs*;
- Section 1(3) defines “*conduct forming part of the Troubles*”, which is the phrase used in section 16C of the 1959 that we are concerned with, by referring back to section 1(1) and section 1(2) of the Legacy Act;
- Section 1(6) is important because it sets out the two categories of subject matter which can be considered as amounting to “*Northern Ireland affairs*”, which refer to constitutional status or, alternatively, political or sectarian hostility; and
- Section 1(6) defines “*conduct*” as “*including*” (non-exhaustively) “*an act or omission*”.

32. Starting with the above of the s.1 provisions, section 1(1) defines what is meant by the “*Troubles*” for the purposes of the Legacy Act by reference to “*events and conduct related to Northern Ireland Affairs*”. That term, “*Northern Ireland Affairs*” is important in this case.

33. Section 1(1) also deals with the issue of dates. Raymond McCord Junior was killed on 9 November 1997, which falls within the temporal boundaries set in section 1(1), which starts in 1966 and ends with 10 April 1998¹.

34. Section 1(3) defines “*conduct “forming part of the Troubles”*” as “*an event or conduct that falls within [section 1(1)]*”. I am therefore referred to section 1(1), which is

¹ In this inquest, in order to assist me examine the issue of collusion, my early and provisional scope document asked for materials to be provided which deal with a period beyond the temporal parameters set by the Legacy Act, which is 10th April 1998, to 2003. This was done to cast the net wide in order to identify potentially relevant material.

concerned with conduct related to Northern Ireland Affairs, and includes events described in section 1(2).

35. The focus is on conduct that is related to Northern Ireland Affairs (section 1(1)), as that is conduct related to the Troubles (section 16C).

36. Section 1(6) defines "*Northern Ireland affairs*", as:

"(a) the constitutional status of Northern Ireland, or

(b) political or sectarian hostility between people in Northern Ireland;"

37. The use of the words "*related to*" in section 1(1) of the Legacy Act indicates to me the intention of Parliament for the provision to have a broad scope. (Similarly, the examples provided in section 1(2) are defined by using the words "*connected with*", which again indicates an intention for the provision to have a broad scope).

38. I am of the view that the activities of the UVF clearly fall within the catchment of conduct related to *Northern Ireland Affairs*, as defined in section 1(6)(b) above, as "*political or sectarian hostility between people in Northern Ireland.*"

39. It is common ground in the NoK and PSNI's submissions that Raymond McCord Junior was himself in the UVF. The document provided to me along with the NoK's submissions suggests he was sworn into the UVF in May or June 1997, several months before his death. It is also common ground across all PIPs' submissions, and it appears very likely from the available materials (although no final factual conclusions have been reached), that he was killed by others in the UVF and at the behest of one or more UVF members. His death is therefore intrinsically linked with the activities of the UVF. If he had not been in the UVF, he would not have been killed as and when he was.

40. As it is so closely associated with the activities of the UVF, the violence which caused the death of Raymond McCord Junior can reasonably be held, on balance, to relate to the *“political or sectarian hostility between people in Northern Ireland”*.
41. It could also be argued this death was related to the other part of section 1(6). Those involved in the UVF wanted Northern Ireland to remain part of the UK. They were prepared to engage in unlawful activity in order to further that aim. It could therefore be argued that one of the UVF’s core activities, being concerned with maintaining the Union, was related to the constitutional status of Northern Ireland, thereby falling within the first category of Northern Ireland Affairs provided for in section 1(6) of the Legacy Act.
42. The NoK’s submissions rely on information contained in the gist of an interview with an Assisting Offender (AO) in which he spoke about the death of Raymond McCord Junior. At one point in the document the AO appears to link the death to a drug deal during which the deceased was caught bringing drugs into Northern Ireland from Scotland. The NoK submit that another senior member of the UVF was involved with the deal and was concerned by the loss of revenue resulting from the seizure of the drugs. He feared that a superior in the UVF would be informed of the illegal deal by Raymond McCord Junior. The NoK refer to the death, on this view, as being related to *“criminality simpliciter”*, rather than Northern Ireland affairs.
43. However, even if I took only that limited view of the material available to me, which attributes the death to a drugs deal, it was a drugs deal involving two members of the UVF, and the death occurred because of loss of revenue to one or more of them and/or fear that a superior in the UVF would be informed of the deal by Raymond McCord Junior. Even on this narrow view, the death *“related to”* the conduct of a proscribed terrorist organisation whose activities were inherently connected with the statutory definition of Northern Ireland affairs. Accordingly, even on that narrow view of the information available, the death was caused by an act of violence which was conduct forming part of the Troubles.

44. Further, the same (single) document relied upon by the NoK does not solely attribute the death to that drugs deal. It sets out various other reasons why Raymond McCord Junior was or may have been killed by others in the UVF. The document explains that he was to be killed because he was involved in the murder of John Harbinson, a taxi driver from North Belfast who was cuffed and beaten to death by members of Mount Vernon UVF. There was physical evidence connecting Raymond McCord Junior to the murder and he was considered to be a “weak link” by others in the UVF, therefore liable to tell police or others who else was involved with him. If that was the motivation (in whole or in part) for killing Raymond McCord Junior, the fatal violence inflicted upon him would clearly amount to *“conduct forming part of the Troubles.”*
45. The same gist document also explains there was concern within the UVF that Raymond McCord Junior was a police informer, which provided those within the UVF with further reason to kill him. Again, any violence flowing from those concerns would clearly be *“conduct forming part of the Troubles.”*
46. Stated simply, whatever view one takes of the motivation for killing Raymond McCord Junior arising from that document, whether to do with the drugs deal, the murder of John Harbinson, or the suspicion he was a police informant, the violence was carried out to minimise the risk of identifying other UVF members and to allow them to continue with their campaign of violence, which is directly linked to the constitutional status of Northern Ireland and sectarian hostility. The violence perpetrated against Raymond McCord Junior was therefore connected with conduct relating to Northern Ireland affairs.
47. The foregoing is based on the single document identified by the NoK. Going beyond that document, it is clear to me from the materials reviewed for potential relevance so far and from the open source materials, that the death of Raymond McCord Junior was intrinsically linked to the activities of the UVF. The role of the UVF in the Troubles is self-evident and requires no further elaboration. Once

again, this material supports the conclusion that this was clearly a death caused by conduct which formed part of the Troubles.

48. I would add that I am firmly of the view that further exploration of any material as yet unseen within the inquest is highly unlikely to change my opinion on the matters described above. Put simply, I am very unlikely to form the view on reviewing further materials that his death is less associated with the activities of the UVF.

49. Finally, while the above examination, with reference to the relevant statutory provisions, provides answers to the issues arising in respect of whether this is a Troubles related inquest, I make the further observation that this inquest proceeded without objection under the Legacy Inquest Protocol as part of the 5 year Legacy Inquest plan and that the NoK actively argued in the Judicial Review Court that the inquest into the death of Raymond McCord Junior was directly affected by the changes introduced by the Legacy Act.

CONCLUSION

50. For the reasons outlined above, I find that the death of Raymond McCord Junior falls within the catchment of section 16A as defined by section 16C.

51. As a result, I am required by operation of section 16A to close this inquest.