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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No:

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IN THE CORONERS COURT FOR NORTHERN IRELAND

**IN THE MATTER OF THE RELEASE OF THE BODIES OF
DENISE GOSSETT, SABRINA GOSSETT, ROMAN GOSSETT
AND MORGANA GOSSETT**

Before: CORONER JOSEPH MCCRISKEN

Introduction

[1] At 07:18hrs on 27 February 2018, the Northern Ireland Fire and Rescue Service reported that a fire was in progress at a house on Molly Road, Derrylin, County Fermanagh. When fire appliances arrived the fire was well established and the roof of the property had collapsed. A man present outside the property informed police that four people were inside. He named them as Denise Gossett, her children Roman and Sabrina, and baby Morgana Gossett, Sabrina's daughter. The man found outside the property was the partner of Denise Gossett and not related to any of the other deceased. He has been charged with four counts of murder and is presently remanded in custody.

Background

[2] Identification Commissions have been held and the identities of all four deceased have been confirmed as above. Denise Gossett had three other children, Yasmina (15 years old), Roman (10 years old) and Samantha (age unknown but believed to be in her 20's). Yasmina and Roman lived with their mother from birth up until May 2016 when they were taken into foster care in Scotland. I was informed that Samantha has been living with her maternal grandparents since her birth and has not had any direct contact with any of her half siblings or her mother. I was told that the only contact between Samantha and her mother was possibly via Facebook. Although Yasmina and Roman were both aware that they had an older sister they have never met Samantha and, as things stand presently, they do not want to meet with her. Samantha travelled to Northern Ireland following the deaths and as well as speaking

to the media has attended a memorial service in a local church. Yasmina and Roman have not spoken publicly.

[3] There is no agreement about funeral plans between Yasmina and Samantha. I asked both Yasmina and Samantha to outline to me in writing the reasons for wanting to have the remains released to them. I received written reasons from each and have considered these. I will not outline these reasons in detail here but in summary; Yasmina wants to have all the remains cremated and then buried in Scotland. I have been told that funding is in place for the funerals and that Yasmina, with the assistance of her foster mother and legal guardian Iris, has selected a headstone, floral tributes and is in the process of selecting music and poems for the service. Samantha told me that she wishes to have all the remains cremated in Belfast after a simple non-religious ceremony. Funding is awaited pending my decision. Samantha also believes that 'for moral reasons' the remains should not be released to Yasmina. Samantha says she will undertake to distribute the ashes to family members who wish to have them.

The Law

[4] It is often said that at common law there is no proprietary interest in a deceased person's body. That can be traced back as far as Blackstone's Commentaries and was stated very emphatically in *Williams v Williams* (1882) LR 20 ChD 659.

[5] Even if, at common law, there is no property in the body of a deceased person it is accepted that various people have rights and duties in relation to it. First, the deceased's personal representatives, the executors of the will or the administrators of the estate when the deceased dies intestate, have the right to determine the mode and place of disposal of the body, even where other members of the family object. According to *Jervis on Coroners* (13th Edition) the personal representative's claims to the body oust other claimants, although in some cases statute might entitle, as in this case, the coroner, or possibly in other cases a hospital or a local authority, to make claims on the deceased's body. In Northern Ireland when a death has been reported to a coroner, in accordance with sections 9, 24 and 25 of the Coroners Act (Northern Ireland) 1959, the body cannot be buried or cremated or removed from Northern Ireland without the authority of the coroner. In the overwhelming majority of circumstances there is no issue in releasing a body to the next of kin for burial. In recent times only one similar circumstance to the instant case has occurred. The coroner refused to release the body until the family members reached agreement and an agreement on the mode of burial was eventually reached.

[6] The leading case on this issue appears to be the English case of *Borrows v HM Coroner for Preston* [2008] EWHC 1387 (QB). In that case Cranston J held that where personal representatives have not been appointed, the person with the best right to the grant of administration takes precedence. Where two or more persons rank equally, then the dispute will be decided on a practical basis: *Jervis on Coroners* paragraph 9-09.

[7] The court in *Borrows* decided that the person with the best right to the grant of administration, and hence to the deceased's body, is set out in Rule 22 of the Non-Contentious Probate Rules 1987 (SI 1987 No. 2024) ("the 1987 Rules"). Although this rule does not apply in Northern Ireland it is useful to examine it here for the purposes of discussion:

"Rule 22.1:

Order of priority for grant in case of intestacy

Where the deceased died on or after 1 January 1926, wholly intestate, the person or persons having a beneficial interest in the estate shall be entitled to a grant of administration in the following classes in order of priority, namely -

- (a) the surviving husband or wife;
- (b) the children of the deceased and the issue of any deceased child who died before the deceased;
- (c) the father and mother of the deceased;
- (d) brothers and sisters of the whole blood and the issue of any deceased brother or sister of the whole blood who died before the deceased;
- (e) brothers and sisters of the half blood and the issue of any deceased brother or sister of the half-blood who died before the deceased;
- (f) grandparents;
- (g) uncles and aunts of the whole blood and the issue of any deceased uncle or aunt of the whole blood who died before the deceased;
- (h) uncles and aunts of the half blood and the issue of any deceased uncle or aunt of the half-blood who died before the deceased."

[8] Cranston J, at para [28], said that where there is no executor or administrator, coroners should simply apply the order of priority set out in rule 22 of the 1987 Rules to decide who has the right to claim the body of a deceased person. However, if someone lower in that order of priority, or not there at all, advances a claim, coroners should consider it.

[9] Cranston J went on to say that in those cases where a compromise is not possible, coroners need to make a decision. They should do this by asking themselves

two questions; first, are there any special circumstances which weigh in favour of varying the order of priority set out in rule 22. Consistent with the jurisprudence of the European Court of Human Rights, special circumstances include the wishes of the deceased person, if there is clear evidence of those wishes. If there are special circumstances and these weigh in favour of varying the order of priority in rule 22, a second question should then be asked which is whether it is necessary or expedient to vary the order of priority.

[10] Before I move on to apply the relevant law to the facts of this case it is worth noting that in Northern Ireland we have our own non-contentious probate rules contained within Order 97 of the Rules of the Supreme Court (Northern Ireland) 1980 ('Order 97'). Order 97 rule 20 allows for a similar order except that rule 20(1)(iv) says;

“Brothers and sisters of the deceased (whether of the whole or half-blood) ...”

Our rules, therefore, are slightly different to those applicable in England and considered by the Court in *Borrows*. Order 97 rule 20(4) provides that;

“Where there are conflicting claims for a grant among members of a class entitled to administration, the nearer in kin to the deceased of that class shall be preferred to the remote ...”

Conclusions

[11] Before I conclude and give my decision, I want to make it clear that I am making a decision because the next of kin, undoubtedly at a time of immense grief and with a difficult family background, are unable to reach an agreement. There is a lack of legal authority in this area in Northern Ireland and I hope that the next of kin appreciate that it is with great reluctance that coroners interfere in matters such as this.

[12] I have considered the *Borrows* case, above, and, although it is not directly binding on me, in the absence of any local authority, I intend to follow the test applied by Cranston J and apply the order of priority as set out by Order 97 to each deceased person. Although Samantha has indicated concerns regarding Yasmina's age, the law allows minors to inherit subject to control by a legal guardian. I have been informed that Iris, Yasmina's foster mother, has been assisting her with funeral preparations.

[13] I will deal with the situation in relation to the remains of Denise Gossett firstly. I have been told that Wayne Gossett, Denise's estranged husband has been contacted and does not wish to be involved in the funeral planning for either Denise, his children or his grandchild. Order 97 rule 20 indicates that children of the deceased are next in terms of priority and as Yasmina and Samantha are both children of Denise they rank equally. The law does not provide any guidance as to what I should do in the event of a tie but *Jervis on Coroners* indicates that I should look at the situation practically.

[14] I have been informed that Yasmina lived with her mother from birth until May 2016, a period of almost 14 years. I was told that they lived together as a family unit in Scotland and only separated when Yasmina was taken into care. I was told that even then there was contact and Denise made it known to Yasmina that she could come and reside with the family in Ireland. In contrast Samantha had not actually seen her mother for a number of years. I was not informed that they had any close relationship or had even spoken directly. For this reason I consider that the remains of Denise Gossett will be released to Yasmina Gossett. I am confident that, notwithstanding her young age, Yasmina, with the assistance of her foster mother and legal guardian, can arrange the funeral and burial of her family.

[15] Roman and Sabrina were the full siblings of Yasmina. They were the half siblings of Samantha. Applying the *Borrows* test based upon the English legislation Yasmina would take priority. The result is the same applying the order of priority under Order 97 since the nearer relative is to be preferred. The remains of Sabrina and Roman will, therefore, be released to Yasmina also. Morgana was Yasmina's full niece and the half niece of Samantha. Therefore, Morgana's body will also be released to Yasmina.

[16] I have considered the impact of article 8 of the European Convention on Human Rights and, although I do not have any information on the wishes of the deceased, I am confident that Yasmina is more likely to know what type of funeral arrangements they would have wanted than Samantha. Accordingly, I do not consider there to be any "special circumstances" to alter the order of priority as set out by Order 97.

[17] This decision will be emailed to Samantha and Yasmina on Friday 6 April 2018 and the remains will not be released before 12:00hrs on Thursday 12 April 2018 to allow time for all those involved to consider my decision.