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IN THE CORONER'S COURT IN NORTHERN IRELAND

IN THE MATTER OF AN INQUEST TOUCHING UPON THE DEATH OF NOAH DONOHOE

RULING ON AN APPLICATION BY THE NEXT OF KIN TO DISCHARGE A JUROR

ROONEY J (*Sitting as Presiding Coroner*)

Introduction

[1] The next of kin ("NOK") have brought an application to discharge a juror, whom I will refer to as Juror A. In summary, the NOK submit that Juror A has not adhered to his oath as a juror and has repeatedly breached the unequivocal directions and warnings that, as the coroner, I have given to the jury. This includes engaging in personal research, seeking to introduce results of his research into jury deliberations during jury retirement, and refusing to engage in deliberations or explore views of the evidence rather than his own. The NOK submit that Juror A has attempted to use information obtained from personal research on matters of no or tangential relevance to inform the jury's answers to the questionnaire, and therefore, to influence a verdict and/or the jury's ability to reach a verdict. It is argued that Juror A's behaviour, which has correctly been brought to my attention by the nine other jurors, is not only grounds for dismissal but arguably amounts to contempt of court.

[2] On the basis of the facts which will be considered in detail below, the NOK submits that any purported assurance advanced by Juror A that he would in future act in accordance with his oath cannot remedy the irregularities that plainly remain. Indeed, the NOK submits that Juror A, when questioned, has responded with uncertainty as to whether he could in future remain faithful to his oath. The NOK further submits that it is impossible to see how any measures could be implemented by the court to ensure Juror A's compliance with his oath. Consequently, referring to the decision of the English Court of Appeal in *R v Gynane* [2020] EWCA Crim 1348 and [40], there is an "evident need" to discharge Juror A.

[3] Ms Campbell KC, senior counsel on behalf of the NOK, at the commencement of her oral submissions emphasised that jurors are fully entitled to disagree on the assessment of the evidence and to hold fast to their views. However, Ms Campbell maintains that jurors are not entitled to refuse to deliberate on the evidence or refuse to consider any views other than their own. Fundamentally, jurors are not entitled to carry out research independent of the evidence and to bring the results of that research into the jury room and present it to the other jurors. Such actions on the behalf of a juror constitutes a flagrant breach of the juror's oath.

[4] Mr Lunny KC, senior counsel on behalf of the PSNI, and Mr Skelt KC, senior counsel on behalf of Daryl Paul, submit that the application to discharge should be refused. After six months of evidence and protracted deliberations, it appears that the jury, to include Juror A, had reached a unanimous decision on eight of the ten questions, but remain divided on two questions. It must be emphasised that, consistent with the principle that jury deliberations must remain secret, the two questions on which the jury are divided are not known by the court or the parties. Counsel submit that, having considered the chronology of the relevant events on the 2 July 2026 and the context in which concerns relating to Juror A arose, there is no justification for discharging Juror A. Juror A has confirmed that he can remain faithful to his oath. However, if the court decides that Juror A should be discharged because of the concerns that have been raised, then there is the risk of potential contamination of or influence on the other jurors, necessitating the discharge of the whole jury.

[5] I remain most grateful to counsel for their succinct and thought-provoking oral arguments and written submissions, which are considered at length below. I agree that the starting point is to set out the relevant chronology and to analyse the contextual nature of the concerns raised in relation to Juror A.

The chronology of events and contextual nature of the concerns relating to Juror A

[6] The inquest opened on 19 January 2026. After almost six months of evidence, the jury commenced their deliberations on Tuesday 30 June 2026. The jurors would have been aware that 3 July was the likely deadline in respect of the deliberations, since at least one juror was going on vacation on this date. The jury sat until 4:30pm on Tuesday 30 June and 4pm on Wednesday 1 July. The jury commenced their deliberations at 09:46hrs on Thursday 2 July.

[7] At approximately 12:00hrs on 2 July, the following note was received from Juror A:

> "If a unanimous decision is reached by the jury and one member of the jury has reluctantly agreed but still has reservations, is it possible to seek guidance from the court?"

[8] At the same time, a note from the foreperson of the jury stated as follows:

> "The whole jury would welcome an intervention by the coroner to assist with addressing this issue raised by Juror A."

[9] Following a discussion with all counsel, I made the decision to give the jury a further direction on the standard of proof that was required to reach a verdict on the questions detailed in Form 22. The following is taken from the transcript at 13:24hrs:

> "MR CORONER: Yes, thank you, members of the jury. So, you've raised some queries and, in response to those queries, let me emphasise the following. In an inquest, the standard of proof is the balance of probabilities. As I said to you in my charge, and I'll just quote from the charge, in order to reach a conclusion on any issue you have to be satisfied that, based on the evidence, it is correct on the balance of probabilities; in other words, that it is more likely to be correct than not. If you can't be satisfied of something on the balance of probabilities, then it should not form part of your finding.
>
> So, this is different from a criminal trial. In a criminal trial, the standard of proof is beyond reasonable doubt, ie you would have to be sure or firmly convinced of a fact. That is not the situation in an inquest. As I've said, the standard of proof is on the balance of probabilities. The test of probably or more likely to be correct than not could mean that you're a 100% sure; it could mean that you are 99% sure; it could also mean that you are 51% sure. In fact, it would have to be that you were at least 51% satisfied that the findings you have reached are correct on the evidence, all right.
>
> So, I must emphasise to you that, in reaching your decision, none of you should feel unduly pressurised. And, also, I would remind you that you're under no pressure of time, so I hope that helps you with the queries that you've raised."

[10] Further difficulties then manifested themselves, when at approximately 14:06hrs, the following note was received from nine jurors (excluding Juror A):

> "We, the undernoted members of the jury, are at an impass (sic) on providing conclusion to the answers of the questionnaire due to one juror refusing to discuss

evidence and explore any point of view other than their own formed."

[11] As emphasised by Ms Campbell, it is clear from the said notes that the jury remained very conscious of repeated directions made by me that any discussions within the jury room must stay within the jury room.

[12] Difficulties clearly remained and at approximately 15:30hrs I took the unusual step of issuing a *Watson* direction which, taken from the transcript, stated as follows:

> "MR CORONER: I'm going to give you another direction, all right and this is perfectly permissible under the law. So, the direction is this. Each of you has taken an oath or an affirmation to return a true conclusion according to the evidence. No one must be false to that oath or that affirmation, but you have a duty not only as individuals but collectively.
>
> That is the strength of the jury system. Each of you takes into the jury box with you your individual experience and wisdom. Your task is to pool that experience and wisdom. You do that by giving your views and listening to the views of others. There must necessarily be discussion, argument and give and take within the scope of your oath. That is the way in which agreement is reached. If some of you cannot reach agreement, well, then, you must say so.
>
> Now let me go back to what I said before lunch and that is you know that you have to reach a unanimous decision. Some of you may have reservations and that's perfectly reasonable and permissible but, remember, as I said previously, that the relevant standard of proof is on the balance of probabilities, more likely to be correct than not. So, if you're more than 50% sure, 51% sure, that would be sufficient, all right. So, in respect of all the questions that you have to deal with, remember the standard of proof, on the balance of probabilities more likely to be correct than not. So, if you're more than 51% sure, or more than 50%, or 50.5% sure, that would be sufficient.
>
> All right, so can I just ask you to reflect on that back in the room, and I know you've been working extremely hard for these last two and a half days, and I imagine - well, take whatever breaks that you need, but just go back and reflect upon what I've said. Not only the direction, you

> can't ask me a question, unless it's just to do with something to do with deliberations, obviously.
>
> THE FOREPERSON OF THE JURY: Could we have what you've just stated in writing, please?"

[13] It is significant that the jury requested a copy of the *Watson* direction which was then provided to them.

[14] With the closure of Laganside Courthouse at 18:00hrs, everyone was obliged to decamp to the Royal Courts of Justice ("RCJ").

[15] At 19:30hrs approximately, another note was received from the jury which stated as follows:

> "Can we have question 10 rephrased to aide the deliberations? (ie in simpler terms)."

[16] The following response was sent to the jury:

> "This is what question 10 means:
>
> From the evidence you have heard are there any other factors which have impacted on your ability to reach conclusions on the circumstances of the death?"

[17] Forty-five minutes later, at approximately 20:15hrs, the following note was received and signed (by noting each juror number) by the nine jurors (excluding Juror A):

> "I have major concerns about the ability of Juror A to fulfil their duties as a juror in this inquest."

[18] Ms Campbell highlights the fact that the above notes in question, although signed (by noting juror numbers) by all nine jurors, are scripted by separate jurors as evidenced by the different handwriting.

[19] In response to the note dated 20:15hrs, the jury was asked the specific question, "Why do you have major concerns about the ability of Juror A to fulfil their duty as a juror to the inquest?" At approximately 21:20hrs, the following note was received from the jury:

> "(1) He has demonstrated on multiple occasions he doesn't understand the questions being asked;
>
> (2) He does <u>not</u> engage in deliberation;

(3) Throughout this inquest he has complained of insomnia;

(4) Persistently cites theories that were not presented in Court; including how the ancient Egyptians built the pyramids in relation to the experts' evidence;

(5) Thinks the biggest failure in this case was related to the DfI to protect the eels in the PDS culvert because of the tideflex valves' installation;

(6) Thinks the bobsled from the Tokyo Olympics (2021) influenced Noah to travel down the culvert;

(7) Has expressed a belief of Noah trying to subliminally communicate with him – TODAY;

(8) Believes Noah's nose bleed was a sign of cancer and that this is relevant;

(9) Has expressed fear in putting forward conclusions for fear of it "coming back to him";

(10) He has indicated that he can no longer engage because of fatigue."

[20] Ms Campbell advances several submissions in relation to each of the *major concerns* specified by the nine members of the jury. For example, she emphasises that para (2) of the note which provides that, "He does not engage in deliberation" clearly relates to Juror A and the expressed concern plainly reflects back to the note received at 14:06hrs which states that "one juror (is) refusing to discuss evidence and (to) explore any point of view other than their own formed." Therefore, it is submitted that the problem with Juror A not engaging has persisted for over seven hours.

[21] Particular focus is then placed by Ms Campbell on para (4) of the note which provides "persistently cites theories that were not presented in court." Ms Campbell highlights five theories which can be discerned from paragraphs (4)-(8) of the said note. These theories form the basis of the NOK's application to discharge Juror A and are analysed at length below.

[22] At approximately 21:40hrs, Juror A forwarded the following note:

> "Am I correct in assuming that the evidence from the anonymous caller was summarised as inadmissible as evidence in the summary because the caller could not be prevailed upon to give evidence?"

[23] Ms Campbell submits that this note from Juror A clearly demonstrates one of the jury's concerns, namely that Juror A does not understand various issues and questions. As emphasised by the NOK, at no stage in my charge did I state that the evidence from the anonymous caller was inadmissible. A further note from Juror A confirms his continued misunderstanding when he stated, "Sorry, I meant to say that the anonymous caller's evidence was inadmissible in court because it was only hearsay."

[24] Following the concerns raised by the jury in their detailed note at 21:20hrs, I met with Juror A in my Chambers at 21:44hrs. CSNI counsel and solicitor were present at this meeting. From the shorthand note of the meeting, according to the NOK, the following concerns can be discerned:

(a) Juror A revealed that he had not eaten all day, since he had made a "solemn promise" that he would not eat at court due to fears stemming in part from allergies and risks from "manufacturers [bringing in] bread bacteria in soil" to which he had no immunity;

(b) Juror A accepted that on at least one occasion he had not understood the question asked, for example, the difference between probable and possible, presumably regarding the standard of proof. At the meeting, Juror A also said that, during deliberations, the jury foreperson indicated that a majority decision would suffice. Juror A said that when he informed the members of the jury that a unanimous decision was required, he was met with aggression and foul language. The NOK remain sceptical about this assertion, particularly since the jury was consistently told by the court that a unanimous decision was required and the notes from the jury clearly indicate that there was an impasse in achieving unanimity on two questions.

(c) Juror A accepted that, at times, he did decline to engage in deliberations, particularly where he saw a conflict of interest with the guidelines he claims were given to the jury by the court. The NOK state that this is a clear admission that he would not engage in deliberations, if he decided not to do so. Juror A also stated that he was asked obscure questions which he perceived as "brow beating" and he found it very difficult to engage with people who he says were ridiculing his lifestyle.

(d) Juror A agreed that he had complained of insomnia during the inquest but apparently resolved it by requesting "a particular piece of footage."

(e) Juror A agreed that he had cited a theory about how the pyramids were built in relation to the experts' evidence and a possibility of an inert objective being moved by capillary action. Juror A accepted that he put forward the theory that Noah's body could have been moved in a similar way. This theory did not form part of the evidence, although Juror A did claim he had personal experience of capillary movement having "come to grief" (presumably by slipping) on a millimetre of water.

(f) Juror A stated that he did look up the definition of capillary action and came across a definition of "capillary" as a blood vessel. Juror A then recalled the evidence that Noah was considering a career in medicine and there was reference in the evidence to Noah having a nosebleed that could not be stopped. Juror A theorised that Noah, with a knowledge of cancer, could have become concerned about having cancer. Juror A stated that this "opened up a can of worms." Despite the absence of any evidence in relation to this theory in the evidence, Juror A stated that he probably did refer to this theory in deliberations notwithstanding that he knew they were "not meant to be looking at suicide."

(g) Juror A indicated that he "discovered a responsibility on the DfI to secure migration of fish and eels into [the] ocean [where] they migrate and lay eggs." He stated that by fitting Tideflex valves, "any eels could not get back in" with "possible consequences of where fish and eels [are] known to thrive." It is submitted by the NOK that whilst fish and eel passage through the culvert was mentioned in passing in the evidence, Juror A's "discovery" about the migration of fish and eels to the ocean where they lay eggs is another example of further independent research on his part.

(h) Pausing at this point, Mr Lunny KC, senior counsel on behalf of the PSNI, emphasises that Juror A went further and stated that since there were no life forms because of hydrogen sulphide leaking into the culvert, Noah could have possibly succumbed to hydrogen sulphide and then drowned. This was plainly another theory, but as Juror A stated, it was based on the evidence. No PIP seeks to take issue with Juror A in respect of this latter theory.

(i) Juror A accepted that he did indicate to the other jurors that the operation of a bobsled may have been relevant to Noah's head injury. Juror A stated that he had previously watched footage of a journalist on a bobsled who had difficulty keeping his head up and as he went down the course, the journalist's head was subject to frequent impacts. Juror A admitted to advancing a theory that if Noah was in a lying position, through capillary action he may have been shunted down causing impact with his head, which might explain the bruising. Although not raised by any witness during the course of the hearing, including the expert witnesses, Juror A suggested that this bobsled footage should be shown to his fellow jurors for their

consideration in reaching their verdicts. Juror A candidly admitted that this theory was not based on the evidence.

(j) Juror A accepted that he had suggested that Noah had been trying to subliminally communicate with him, although he explained this by stating it was simply a "turn of phrase." He further explained at the end of this consultation it was "almost as if Noah gave me a subliminal message." This theory and the remaining theories will be considered in more detail below.

Decision

[25] The note sent to the court from nine members of the jury at 21:20hrs on 2 July 2026, identified 10 *major concerns* which they considered impacted on the ability of Juror A to fulfil his role as juror to the inquest.

[26] The major concerns as detailed by the jury have been set out above at para [19] above. At first sight and adopting an initial and literal interpretation of the 10 major concerns raised by the jury, it is arguable that a reasonable and straightforward conclusion must be that Juror A must be discharged. However, in my view, it would be manifestly wrong to jump to such a conclusion in the absence of a balanced and proportionate assessment of Juror A's explanations and his continued assertion that he can remain faithful to his oath.

[27] The NOK submit, that for the reasons highlighted above, any reasonable analysis of the major concerns raised by the jury, inevitably leads to the conclusion that Juror A was in flagrant breach of his oath and he must be discharged. The NOK state that many, if not all, of the major concerns raised translate into juror irregularities which are interlinked. In essence, the irregularities which include conducting his own research, reliance on evidence that was not before the court and engaging in speculation which conflicted with the evidence, took place despite clear warnings and directions given by the court.

[28] Having highlighted the major concerns identified by the jury, the NOK discerned five theories presented by Juror A which did not form part of the evidence, and which could not have emanated from Juror A's own experience and knowledge. The first theory is "how the ancient Egyptians built the pyramids in relation to the expert's evidence." The second theory is that Juror A "thinks the biggest failure in this case was related to the DfI to protect the eels in the PDS culvert because of the Tideflex valves installation." The third theory is that Juror A "thinks the bobsled from the Tokyo Olympics (2021) influenced Noah to travel down the culvert". The fourth theory is that Juror A "has expressed a belief of Noah trying to subliminally communicate with him – TODAY." The fifth theory is that Juror A "believes Noah's nosebleed was a sign of cancer and that this is relevant." I will consider these theories below.

[29] It is significant that Juror A did not deny making these statements. The NOK maintain that Juror A, whilst accepting the concerns raised by the nine jurors, sought to contextualise the concerns and issues raised in discussions with the coroner in an attempt to dismiss their significance or minimise their impact. I will deal with each of the theories in turn.

Theory relating to the ancient Egyptians and methods used to build the pyramids

[30] Juror A states that one of the experts in his evidence referred to capillary action and that he looked up the definition of these words. Mr Lunny KC submits that there is clear authority that looking up the meaning of a word does not constitute research. In *R v Karakaya* [2009] EWCA Crim 346 at para [20], Judge LJ stated as follows:

> "In the present context we would distinguish, for example, between research into publications and literature which might provide detailed information on the very subject under consideration by the jury, and a juror checking the correct meaning of a word by using a dictionary. Lord Lane CJ nevertheless asserted the essential principle that it was 'well-established that no fresh evidence can be given to the jury after they have retired.'"

[31] In my judgement, if Juror A did not understand the meaning of capillary action in the context of the evidence that was given by the expert, he should have sought clarification from the court. The jury had been previously directed that if they did not understand aspects of the evidence, then a note seeking such clarification could be forwarded to the court. Whether Juror A conducted his own research in relation to the definition of capillary action or effect (as alleged by the NOK) or whether he simply looked the words up in the dictionary (as alleged by the PSNI), although plainly relevant, such determination does not resolve the problem. Rather, the critical issue is the extent to which Juror A used and adopted the various definitions of "capillary" in the development of his theories and hypotheses.

[32] On his own admission, Juror A admitted he did refer to the methods which ancient Egyptians built pyramids in the context of the expert's evidence. When asked to explain its relevance, Juror A stated that he mentioned the "possibility of capillary action" and its effect on an inert object. He stated that when building the pyramids, the Egyptians were able to move objects via capillary action. Its relevance, according to Juror A, is that Noah could have been moved in the same way. Turning to his claimed experience of "capillary action", Juror A stated that he "came to grief, on a millimetre of water." It is assumed that Juror A was referring to capillary action in the form of slipping.

[33] It is likely, in my judgement, that this theory, which was introduced to the jury, derived primarily from his research and plainly was not based on the evidence.

Theory that Noah may have had cancer

[34] Juror A also admitted that, when looking up the definition of 'capillary', he saw a reference to blood capillaries. Research would have identified that blood capillaries are small blood vessels. Juror A then recalled the evidence that Noah was considering a career in medicine and there was reference in the evidence to Noah having a nosebleed that could not be stopped. Juror A stated that uncontrolled bleeding from orifices could be an early sign of cancer and postulated that Noah, with a knowledge of cancer, could have become concerned about having cancer. Juror A stated that this "opened up a can of worms."

[35] There is no evidence that Noah had cancer. There is no evidence that Noah believed or was concerned that he had cancer. Rather, this theory was introduced by Juror A, and it is likely to have emanated initially from checking the definition of "capillary action" and then developed following further research by Juror A. In a further meeting at 23.45hrs, Juror A stated that the theory "unexpectedly came up [in the] context of capillaries." He stated that he "looked up [the] definition of capillaries and then thought about blood." The juror admitted to bringing the theory up in the course of jury deliberations, notwithstanding that he knew that the jury were "not meant to be looking at suicide."

[36] Mr Lunny, on behalf of the PSNI, submits that, on his interpretation of the note of the meeting, Juror A was not advancing a theory that Noah had or was concerned that he might have cancer, but rather Juror A was bringing his personal experience and knowledge into the jury room. In this regard, Mr Lunny referred to Juror A's reference to having worked in an organisation of potential relevance to the issue he was raising. The nature of his employment is not known. For the reasons given, I reject this interpretation of the notes. Furthermore, I reject the suggestion that speculation of this nature is likely to have occurred in the jury room "given the bizarre behaviour engaged in by Noah at or about the time of his disappearance and death and the absence of any coherent explanation for same, in spite of the huge volume of evidence that has been heard." The jury were directed by me to answer the questions and reach a verdict on the evidence presented in court. On many occasions they were warned not to engage in speculation or to theorise as to what led to and caused the death of Noah Donohoe. Plainly, Juror A has blatantly ignored the warnings and directions, has introduced theories and engaged in speculation.

Theory relating to the failure of the DfI to protect the eels in the PDS

[37] Juror A stated he "discovered a responsibility on DfI to secure migration of fish and eels into the ocean, they migrate, lay eggs, the fitting of Tideflex valve block silt any eels could not get back in …" This clearly implies, in my view, that he had conducted his own research. Even if this information was not the product of his

research but rather formed part of his own knowledge, the information was not based on the substantive evidence of the experts during the course of the inquest. I do accept that the issue of fish and eels did arise in evidence. However, it was not part of the evidence that DfI did not instal tideflex valves (and consequently a security screen) due to concerns about fish and eels transiting the culvert. In fact, the evidence demonstrated that DfI had not given consideration to installation of tideflex valves prior to the events of June 2020. The fact that the jury have highlighted this theory as one of the major concerns as to the ability of Juror A to fulfil his role as a juror to the inquest, confirms in my mind that, firstly, the jury were aware that the theory was not presented in court and secondly, that it has not influenced or contaminated the jurors. The real concern, in my judgment, is the inevitability that Juror A has allowed these theories and speculation to influence his own decision making and participation in the decision-making process.

Theory that the bobsled from the Tokyo Olympics influenced Noah's travel down the culvert

[38] Whether Juror A's reference to the bobsled from the Tokyo Olympics is based on his own personal knowledge or research is not the crucial issue. The significance is rather the extent to which Juror A has tried to adapt and explain the relevance of the information. Juror A referred to the evidence which indicated that Noah had no signs of concussion but had sustained bruising to his head. In an attempt to explain the bruising, Juror A theorised that if Noah was in a lying position and "shunted down through capillary action" he may have impacted his head. Juror A stated that he had observed footage of a journalist on a skeleton (bobsled) who sustained frequent impacts to his head as he travelled (presumably) face down and head first along a track. Juror A stated that his request to obtain the relevant footage met with derision from the other jurors. In fairness to Juror A, he accepted during discussions that his supposition was not based on evidence, but simply a theory. The fact that the theory was met with derision by the other members of the jury confirms, in my judgement, that the jury were unlikely to have taken it into consideration in their deliberations.

[39] The same conclusion must be reached in relation to Juror A's theory that Noah may have had cancer. Juror A stated that this was not a feature of the deliberations because "it didn't go down well, so didn't mention it again." Whereas the statement confirms that the jury clearly ignored this theory, the fact remains that Juror A was responsible for originating the theory which had the potential to influence the jury and cause them to reach a verdict otherwise than on the evidence (see *R v McDonnell* [2010] EWCA Crim 2352 at [29]-[33]).

Subliminal messages from Noah

[40] It is clear that in the relevant note, the nine jurors identified Juror A's belief that Noah was trying to subliminally "communicate with him – TODAY" formed part of the "major concerns" as to his ability to fulfil his duties as a juror. It is

relevant that Juror A accepted that he "probably did say that." It is also concerning that the alleged subliminal contact must have taken place during the course of the deliberations. When questioned, Juror A appears to have downplayed the significance of his comment, suggesting that "subliminal" was a "turn of phrase" and it was "almost as if Noah gave me a subliminal message." Whatever explanation is given by Juror A that Noah did not actually try to make subliminal contact, the fact remains that he made the comment to the remaining nine jurors and did not seek at any time to explain or correct what he meant by this comment. Confirmation from Juror A that he had been subject to ridicule is hardly surprising and confirms, in my judgement, that the alleged subliminal message (in whatever context) was ignored by the remaining jurors.

[41] Leaving aside for the moment the concerns regarding the potential influence of the suggested subliminal communication from the deceased on the jury and its verdict, Juror A's behaviour in this regard cannot be tolerated on the basis that it gravely undermines confidence in the fairness of the hearing and the verdict of the inquest. The common law requires that the coroner protects the fairness of the hearing. In *Sander v UK* [2001] 31 EHRR 44, the court stated:

> "22. The court recalls that it is of fundamental importance in a democratic society that the courts inspire confidence in the public above all, as far as criminal proceedings are concerned, in the accused. To that end it has constantly stressed that a tribunal, including a jury, must be impartial from a subjective as well as an objective point of view."

[42] The applicant in *Sander*, complained that he was not tried by an impartial tribunal, contrary to article 6(1) of the Convention, which provides:

> "In the determination ... of any criminal charge against him, everyone is entitled to a fair ... hearing ... by an ... impartial tribunal ..."

[43] The NOK submit that, although the comments in *Sander* were made in the context of criminal prosecutions and acknowledging that article 6(1) ECHR does not apply to inquests, the general principles of impartiality and public confidence in the courts and its decisions must also apply to an inquest. A juror who acts arbitrarily and on factors which are not related to the evidence but instead based on alleged subliminal messages from the deceased, would significantly undermine public confidence in the verdict and the fairness of the hearing. In my view, there is considerable substance in this argument.

Whether Juror A failed to understand the questions he was required to answer?

[44] The note from nine jurors state that Juror A demonstrated on multiple occasions that he did not understand the questions being asked. When Juror A was asked to respond to this concern, he accepted one example, namely the difference between 'probable and possible.' Juror A then appeared to suggest that he did understand the difference after I had clarified it. In this regard, it is assumed Juror A was referring to my direction to the jury at 13:24hrs (see para [7] above). No criticism can be levelled at Juror A for requesting such clarification.

[45] The NOK claim that when asked questions during the meetings, Juror A did not answer them directly but rather diverted attention to other matters, such as friction between him and other jurors. In the second meeting with coroner's counsel and Juror A in my chambers at 23:45hrs, when he was asked on six occasions whether his theories and the additional information obtained had an influence on answering the questions and reaching a verdict, the NOK submit that Juror A failed to satisfactorily address this crucial question. To some extent, there is substance in this argument. However, as considered above, Juror A when pressed, did accept as hypothetical his theories emanating from the skeleton bobsled and whether Noah believed he had cancer. Although it is my view that none of Juror A's theories or speculation contaminated or influenced the other jury members, I am not convinced that Juror A, if he was to remain on the jury, has the capacity to ignore them notwithstanding the absence of any evidence in his consideration of the two remaining questions.

Necessity for the questions to be considered and the verdict reached on the evidence

[46] The failure of a juror to decide a case on the evidence before a court not only breaches their oath, but undermines both open justice and natural justice, both of which are bedrocks of the administration of justice and the rule of law. This requirement was emphasised by the Court of Appeal in *R v Karakaya (Adem)* [2005] EWCA Crim 346 at paras [24]-[26]. Judge LJ stated as follows:

> "24. … If material is obtained or used by the jury privately, whether before or after retirement, two linked principles, bedrocks of the administration of criminal justice, and indeed the rule of law, are contravened. The first is open justice, that the defendant in particular, but the public too, is entitled to know of the evidential material considered by the decision-making body; so indeed should everyone with a responsibility for the outcome of the trial, including counsel and the judge and, in an appropriate case, the Court of Appeal, Criminal Division. This leads to the second principle, the entitlement of both the prosecution and the defence to a fair opportunity to address all the material considered by

> the jury when reaching its verdict. Such an opportunity is essential to our concept of a fair trial. These principles are too basic to require elaboration. Occasionally, however, we need to remind ourselves of them.
>
> 25. On analysis, these are the principles which govern the first direction which the judge gives to the jury at the beginning of every trial. The jury of course bring their own experience and knowledge of the world with them into court, and far from directing them to ignore everything that life has taught them, the judge encourages the jury to use and share their knowledge and understanding with their colleagues as they examine the evidence and reach informed judgments on it. He also, and most significantly for the purposes of this appeal, gives a clear and unequivocal warning to the jury that they should not discuss the case with anyone outside their own number nor allow anyone who is not a member of the jury to talk to them about the case. Again, the reason is simple. The case is to be decided on the evidence produced before the jury in court after they have heard counsel's arguments and the judge's directions. …
>
> 26. Just as a juror should not speak about a case to anyone other than another juror, for precisely the same reason of principle, he or she should not conduct private research for information which may have a bearing on the trial. The internet has many benefits, and we do not mean to diminish its value. Of course, not every site is always right. Some sites seek to persuade. The contents of some are inconsistent with the assertions made in another. The internet cannot discuss the case. It can, however, provide material which may influence a juror's views. If used for research purposes during the trial it can just as easily influence the juror's mind as a discussion with a friend or neighbour. And if so, the verdict is no more a true verdict according to the evidence than a verdict in which one or more members of the jury have taken account of something said to them out of court."

[47] Although the dicta of Judge LJ were made in the context of a criminal case, they are no less pertinent to the present case. The fundamental principles of open justice and natural justice also apply to an inquest. Where a juror takes into account material resulting from research, the danger is that they are considering material which could influence their judgement and the outcome of the case. Such materials are plainly not evidence. In respect of an inquest, none of the interested parties, nor

indeed the coroner will be able to deal with the materials in question or to call evidence or direct arguments to demonstrate that the materials, and theories based on the materials, may be wrong.

[48] As emphasised by Mr Lunny KC and Mr Skelt KC, as stated in *R v Karakaya*, "a jury, of course, bring their own experience and knowledge of the world with them into court, and far from directing them to ignore everything that life has taught them, the judge encourages the jury to use and share their knowledge and understanding with their colleagues as they examine the evidence and reach informed judgments on it." However, the jury cannot take into account material within their own knowledge which has not been part of the evidence in the trial or the inquest. In *R v Karakaya*, Judge LJ gave the example of *R v Fricker* to illustrate the point:

> "23. In *R v Fricker*, The Times, July 13, 1999, where the defendant was charged with attempting to handle stolen tyres, a juror, with highly specialised knowledge of tyre manufacturing asked after retirement, and was allowed by the judge, to take this knowledge into account. The appeal was allowed on the basis that the juror in question was not allowed to introduce entirely new evidence when neither party had been provided with an opportunity to examine it. The jury should therefore have been discharged."

[49] Both *R v Karakaya* and *R v Fricker* were cited with approval in *R v Weir and Cromie* [2013] NICA 3 at [19]. In that case, the specialist knowledge related to a feature of the case which, when properly considered, was not in issue, and therefore the irregularity did not undermine the conviction. The specialist knowledge was known by the prosecution and the defence who were afforded the opportunity to make submissions and to call additional evidence. However, as submitted by the next of kin, the knowledge of the juror was materially different in the present case, where Juror A has sought to use and engage in his own research and speculation, not arising from the evidence in the inquest, in his consideration of the jury questions for the purposes of the verdict.

[50] I agree with the NOK's submission that there is a clear distinction between a juror who relies on knowledge resulting from his background, specialism and interests on the one hand and a juror who undertakes independent research to obtain additional knowledge, introducing knowledge from this research into deliberations with other jurors and then, as claimed by the jurors in this inquest, "refusing to discuss the evidence and explore any point of view other than their own formed." The jury was fully aware that Juror A's actions were in contravention of my warnings and directions to the jury and notified me accordingly.

Jury irregularities

[51] In the Chief Coroner's Guidance for Coroners on the Bench (2025) at Chapter 11, paragraph 74, the following is stated:

> "**Jury irregularities**
>
> 74. A jury irregularity is anything that may prevent one or more jurors from remaining faithful to their oath. Irregularities can take many forms: some may clearly appear to be contempt by a juror, for example, searching for material about the inquest on the internet; others may appear to be an attempt by a third party to intimidate or suborn a juror; on other occasions it may not be clear whether it may be a contempt or an attempt at intimidation. The coroner may also be made aware of friction between individual jurors."

[52] The Chief Coroner's Guidance is for coroners in England & Wales. However, the Bench Book provides useful and relevant general guidelines for coroners in this jurisdiction. In many respects, in relation to the coroner's discretion to discharge a juror, the guidelines are reflective of the Crown Court Compendium. The Chief Coroner's Guidance at para 75, states that the "primary concern of a coroner should be the impact [of the jury irregularity] on the inquest". Plainly, a juror is guilty of misconduct and contempt of court should they conduct private research for material that might have a bearing on the inquest and the questions to be decided by the jurors.

[53] It is clear from some of the comments made by Juror A at both meetings that there was friction between Juror A and some of the remaining jurors. At no stage during the course of the deliberations over the three days did Juror A send a note indicating that he had been subjected to any aggression, foul language or ridicule. The remainder of the jury were not given the opportunity to respond to the alleged complaints. Neither Mr Lunny nor Mr Skelt submit that there should be an investigation into Juror A's alleged complaints, or even taking his complaints at their height, do they submit that the jury should be discharged for the alleged conduct.

[54] During the first meeting, Juror A was asked why did he not raise with the court any concern that he had, to include a difficulty engaging with people who (as he claimed) were ridiculing his lifestyle. Juror A's response was that he tried "to keep [it] under a lid." As stated above, Juror A admitted that when he referred to theories in relation to the skeleton (bobsled) and whether Noah had cancer, (which he now accepts as hypothetical and speculative) he specifically stated that it "didn't go down well, so [he] didn't mention it again."

[55] The NOK submit that any friction in the inquest has not arisen because of differing but legitimately held views about the evidence presented at the inquest. Rather, the friction has arisen because of Juror A's actions in carrying out his own independent research in contravention of his oath and the coroner's directions. It is submitted that Juror A has sought to introduce his "beliefs" based on that independent research into the jury deliberations whilst "refusing to discuss the evidence [heard in court] and explore any point of view other than his own formed." Accordingly, the jury's reaction is unsurprising and has caused them to raise well-founded concerns about Juror A's ability to fulfil his duties as a juror.

[56] Although no submission has been made by any of the parties, in the absence of any complaint made by Juror A and the analysis above, I am not persuaded that the alleged incidents of friction and ridicule come close to requiring the discharge of the whole jury.

Submissions on behalf of PSNI and Daryl Paul

[57] The PSNI submit that in the court's consideration of the application to discharge Juror A, it is essential for the court to have regard to:

(i) the unusual events of 2/3 July 2026;

(ii) the inquest jury as a whole; and

(iii) the alleged conduct in relation to Juror A.

[58] In short, it submitted that the background circumstances, in the context in which this application is brought, are most unusual for a number of reasons as set out below.

[59] First, the jury had been deliberating from approximately 10:00hrs on 2 July until almost 13:00hrs on 3 July. That is an exceptionally unusual length of time for any jury to spend in court on any single day. It is submitted that cases such as *Re Bradley and Anor's Application* [1995] NI 192, would suggest that this fact alone might have been sufficient to render any verdict reached unsafe had a verdict been reached that night.

[60] Second, and related to the above, there was a clear sense of the pressure of time. There was a general awareness that 2 July 2026 was the last day on which the jury could deliberate because of the holiday commitment of one juror (commencing at some point on 3 July) and the holiday commitment of another juror (commencing at some point on 4 July). That this pressure of time was felt by the jurors is apparent from, inter alia, the timing of the raising of issues in respect of Juror A and the behaviour of a number of the jurors in open court. The PSNI submit that cases such as *R v Goodwin* [2024] EWCA Crim 1383, would suggest that this fact alone might

have been sufficient to render any verdict reached unsafe had a verdict been reached that night.

[61] Thirdly, according to the PSNI, it was apparent that several of the issues reported in respect of Juror A were of some vintage. However, it is submitted that the issues were only reported at a late hour in their final day of deliberations and only at a point (after 20:00 hrs) when Juror A was refusing to agree with the nine remaining jurors answers to two questions. The PSNI submit that this particular context is important because it suggests that there was a real risk that the other jurors had an improper motive in seeking to have Juror A discharged and may have been attempting to 'spin' or weaponise relatively innocuous comments made by Juror A because (a) he disagreed with them; (b) because he was resolute in his disagreement; and (c) because the jury were under great pressure of time.

[62] Fourth, at several months removed, the court and the parties are asked to address an application to discharge Juror A in the absence of any audio recording or full transcript of Juror A's conversations with the coroner. Without intending any disrespect to the CSNI lawyer who made the shorthand note of the conversations with Juror A, it is submitted that the note is incomplete and potentially inaccurate.

[63] Fifth, the PSNI claim that when I spoke to Juror A on the second occasion and Juror A indicated that he could abide by his oath, I expressed the view that I did not need to discharge Juror A and proposed proceeding to take a verdict from the jury, including Juror A.

[64] Pausing for the moment, it is necessary to make some observations in respect of the submissions made by the PSNI. Firstly, it is not correct that the jury only raised their concerns in respect of Juror A after 20:00hrs on 2 July. Reference to the chronology at para [10] above, reveals that at 14:06hrs, the members of the jury (excluding Juror A) sent me a note that there was "an impasse on providing conclusion to the answers in the questionnaire due to one juror refusing to discuss evidence and explore any point of view other than their own formed."

[65] Secondly, whilst I accept that the shorthand note of both meetings with Juror A does not contain a verbatim account, I reject the assertion made that the notes are inaccurate or even potentially inaccurate. In a submission made by counsel for the coroner dated 7 September 2026, the following is stated:

> "For the avoidance of any doubt, counsel for the coroner is content with the accuracy of the notes of the meetings, there was no part of any meeting that was not minuted by the coroner's legal advisers. The PIPs therefore have a faithful note of the entirety of the meetings with Juror A."

[66] Thirdly, I accept that following a second meeting with Juror A and a further consultation with counsel, there was an initial suggestion made that deliberations

should continue to see if a verdict could be reached. In any event, within a short time of the suggestion, it is quite clear from the note of the consultation at 00:10hrs that I had changed my mind, stating the following:

> "The decision has not been made with regard to [the juror] and I am going to adjourn [the inquest]."

As accepted by Mr Lunny, there is no question of res judicata and the decision to adjourn was made a short time later.

[67] Fourthly, there is simply no basis for the suggestion made by the PSNI that there was a real risk that the other jurors had an improper motive in seeking to have Juror A discharged and/or the motive was precipitated due to the pressure of time. It is significant that the content of the concerns raised by the nine jurors have not been denied by Juror A. As considered in detail in this ruling, Juror A has accepted that he did put forward the said theories, that he did express a belief that Noah was trying to subliminally communicate with him, that he did say that Noah may have been concerned that he had cancer and that he did not on occasions engage in deliberations.

[68] For the sake of completeness, I whole heartedly agree with the submissions made by the PSNI and, indeed Daryl Paul, relying on the words of Judge LJ in *Karakaya*, namely that a jury is entitled to bring their own experience and knowledge of the world into court and a judge should encourage the jury to use and share their knowledge and understanding with their colleagues "as they examine the evidence and reach informed judgments on it" (para [25]). I also agree with the submission that the jury are not entirely correct when they state that Juror A "does not engage in deliberation." Clearly, one would have thought that he must have engaged in deliberation if there was unanimous agreement in respect of eight of the 10 questions.

[69] However, the fact that Juror A has told me that he is prepared to abide (again) by his oath is not the end of the matter. This indication cannot be taken at face value in light of the major concerns raised by the jury and the fact that he has already breached his oath.

[70] I accept that there is nothing wrong with a juror failing to understand a question or an issue. What would be wrong would be for a juror to fail to understand the question and then do nothing about it. It seems that Juror A did not understand the difference between probable and possible and sought clarification from the court. No criticism can arise from this request. Indeed, the whole jury sent a note at approximately 19:00hrs on 2 July asking for question 10 rephrased, thereby suggesting that at least some members of the jury were struggling to understand that question. However, I reject the statement made by Juror A that the other members of the jury did not appreciate or misunderstood the requirement for a unanimous rather than a majority verdict. At least two notes from the jury did indicate that they

were required to reach a unanimous verdict. For example, at approximately 12:00hrs on 2 July 2026, the jury sent a note stating as follows:

> "If a *unanimous decision* is reached by the jury and one member of the jury has reluctantly agreed but still has reservations, is it possible to seek guidance from the court?"

[71] Mr Skelt, senior counsel on behalf of Daryl Paul, in conjunction with the PSNI, also opposes the application to discharge Juror A.

[72] Mr Skelt makes the following submissions. Firstly, the law mandates unanimity before an inquest jury can return a decision on an issue. At the time when the jury was empanelled in January, there was a real risk that they would not agree on every issue. It is submitted that this risk was accepted as a necessary aspect of a jury hearing the case and it was a risk that the coroner and the next of kin acknowledged and were willing to take.

[73] Secondly, after six months of evidence and protracted deliberations, it appears that the jury have reached decisions on most of the questions but remain divided on two questions. It is submitted that this is unsurprising in this case where, despite extensive evidence, there is little concrete or clear evidence as to what happened to Noah.

[74] Thirdly, it is submitted that the jury have sat for six months and they are now deep into their deliberations. Juror A has dedicated his time to hearing the evidence and has never previously been a source of any concern or complaint. It is submitted that the note from the jury came under exceptional circumstances where great pressure was on the jury to come to a verdict on all the questions. Since the immediate pressure has now lifted, the coroner should be extremely reluctant to discharge a jury at this very late stage.

[75] Fourthly, Mr Skelt gives a warning that a coroner cannot simply discharge the juror who is in the minority as a means of achieving a unanimous result in respect of the remaining two questions. The suggestion appears to be that a coroner must not be seen to manipulate the discharge of a juror in order to ensure an overall verdict.

[76] Fifthly, Mr Skelt submits that there is no basis to suggest that Juror A has refused to discuss evidence or explore the views of others. The fact that the jury have agreed unanimous positions in relation to at least eight questions, must mean that Juror A had been taking part in the discussions and the decisions.

[77] Mr Skelt also submits Juror A's responses to the coroner are clear indications that he is abiding by his oath and will continue to do so. Also, the responses from Juror A gives serious consideration as to the conduct of other members of the jury in relation to Juror A, to include a suggestion of bullying. He states that Juror A

maintains that he was subject to aggression and foul language which would amount to improper conduct on the part of the jurors concerned. Finally, it is submitted that it cannot be correct to discharge a juror who maintains that he is abiding by his oath and disagreeing with other jurors who, it is alleged, are actively engaged in improper conduct and ignoring their oath.

[78] For the reasons stated, I am unable to accept the submissions advanced on behalf of Daryl Paul. Also, it is axiomatic that in my role as coroner it would be wrong for me to discharge a juror who is in the minority simply as a means of achieving a unanimous decision regarding the two remaining questions. Rather, any decision by me to discharge a juror must be founded on a lawful, proportional and an impartial analysis of the facts and the relevant legal principles and, particularly whether the facts demonstrate juror irregularities and misconduct. In my judgement, there is convincing evidence that Juror A's conduct constitutes irregularities that prevent him from remaining faithful to his oath.

Whether safeguards short of discharge may be effective?

[79] Mr Skelt submits that even if I conclude that Juror A has engaged in speculation and theorising, the scale of the irregularities stops short of and do not justify Juror A's discharge. Further, Mr Skelt submits that if Juror A is discharged, the court must also discharge the remainder of the jury.

[80] Mr Skelt's solution which he urges the court to accept, is to adopt measures which can effectively deal with the concerns and issues raised. The measures include giving firm directions to the entire jury, reminding them how they are to conduct themselves in discussion and their obligation to follow my directions. Secondly, to make it clear to the jury that they should try and reach an agreed position, but they are not mandated to reach agreement. Thirdly, if the jury cannot reach a unanimous decision on the remaining questions after a reasonable period, it will be for me as coroner to decide the legal issues that necessarily arise thereafter.

[81] The NOK submit, and I agree, that there are no safeguards that can be imposed which can remedy the situation that has arisen and which will provide reassurance that there will be no recurrence. In particular, the NOK submit as follows:

(i) Juror A in his answers failed to appreciate the significance of his behaviour and that he has demonstrated a significant departure from his oath;

(ii) Juror A was equivocal about his ability to adhere to his oath, answering only that he could "probably" adhere to it, later saying he "would definitely say so". According to the NOK, this is not reassuring, rather the opposite; and

(iii) A failure to take action against Juror A would tend to suggest to other members of the jury, who raised these concerns, that the coroner's warnings

will not be strictly enforced, and that no consequences result from engaging in such research in coming to decisions not based strictly on the evidence.

Conclusion

[82] In *R v Gynane* [2020] EWCA Crim 1348 at [40], Holroyd LJ stated as follows:

> "A judge only has the power to discharge a juror where there is an evident need to do so. An evident need may arise if a juror displays actual or apparent bias. Jurors bring with them their life experiences. That is one of the strengths of the jury system. Where a particular juror's life experiences are said to have caused him or her to display actual or apparent bias, the test to be applied is that stated in *Porter v Magill*. The trial judge must make a judgment of fact as to whether, in the circumstances of the particular case, that test is met."

[83] The case of *R v Gynane* related to whether the juror displayed actual or apparent bias, which is not the issue in this case. However, it is clear from the authorities, namely *Karakaya* [2005] EWCA Crim 346; *Thompson* [2010] EWCA Crim 1623 and *Marshall* [2007] EWCA Crim 35, an *evident need* will arise if a juror has engaged in their own research, despite warnings given by the court, which may have a bearing on the jury's decisions. If material is obtained or used from private research, whether before or after retirement, two linked principles are violated. The first principle is open justice, whereby the defendant in a criminal case, the interested parties in an inquest and, indeed, the public are entitled to know the evidential material considered by the decision-making body. The second principle is that all parties are entitled to a fair opportunity to address all the material considered by the jury when reaching its verdict. Such an opportunity is essential to the concept of a fair trial. Both principles were founded on the administration of justice and the rule of law.

[84] On the basis of my analysis of the relevant facts and issues considered above, it is my decision that there is an evident need to discharge Juror A. Essentially, by his actions and conduct, Juror A has flagrantly breached his oath. A summary of his irregularities and misconduct, which have been analysed in the previous paragraphs, may be summarised as follows.

[85] First, in contravention of his oath and despite warnings given by me to the jury, Juror A engaged in private and independent research in respect of matters that did not arise in the evidence.

[86] Second, in breach of his oath to try the case solely on the evidence as presented during the course of the inquest, Juror A proposed theories to the

remaining jurors which emanated from his private and independent research and which he evidently deployed in the course of deliberations.

[87] Third, despite frequent warnings not to engage in speculation, Juror A introduced theories which he has accepted were hypothetical.

[88] Fourth, there is a clear distinction between a juror who relies on knowledge resulting from his background, specialism and interests on the one hand and a juror who undertakes independent research to obtain additional knowledge and who introduces knowledge from that research into deliberations with other jurors. Juror A did not have personal knowledge from his background, specialist interests or his life experiences in relation to the theories he introduced to the jury. Juror A's research resulted in hypotheses which had no foundation on the evidence.

[89] Fifth, although a juror is entitled to remain steadfast to their opinion provided it arises from an analysis of the evidence, I am not convinced that Juror A, if he was to remain on the jury, has the capacity to ignore the theories, hypotheses and speculation, notwithstanding the absence of any evidence in his consideration of the remaining questions. For the same reason, despite his assurance to me, I am not persuaded that Juror A will remain faithful to his oath.

[90] Sixth, the remaining members of the jury were fully aware that Juror A's actions were in contravention of my warnings and directions and correctly notified me of their major concerns in relation to his behaviour and the theories presented by him. This confirms, in my judgement, that the jury were not influenced or contaminated by the theories, hypotheses and speculations raised by Juror A. The fact that Juror A states that his theories and speculations gave rise to ridicule from other members adds support to my conclusion that the jury have not been inappropriately influenced by Juror A and that it is right to discharge Juror A, rather than discharge the whole jury (see *R v Boyce* [2026] EWCA Crim 693).

[91] In my judgement, for the reasons given, there are no safeguards that can be imposed which can remedy the situation that has arisen and which will provide reassurance that there will be no recurrence.

[92] Finally, I have had the benefit of speaking to Juror A on two occasions. He acknowledged the concerns raised. He was aware of the suggestion that, for the reasons given, he failed to adhere to the obligations arising from his oath and the requirement to comply with my directions and to decide the questions in Form 22 only on the basis of the evidence. Although it is my decision that Juror A must be discharged, in my opinion Juror A's conduct did not arise from a wilful attempt to ignore the warnings and to deliberately frustrate the inquest, but rather from a naïve and guileless attitude that he was trying to help. There is no doubt that Juror A had been a dedicated member of the jury and extremely attentive throughout the hearing. It is hoped that he will accept that it is his failings which have resulted in his discharge.