Neutral Citation No: [2026] NICoroner 8 ***Judgment: approved by the court for handing down (subject to editorial corrections)****	***Ref:*** **ROO12948** ***ICOS No:*** ***Delivered:*** **16/01/2026**

IN THE CORONER'S COURT IN NORTHERN IRELAND

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

RULING OF THE CORONER ON AN APPLICATION BY DARYL PAUL FOR THE INQUEST TO SIT WITHOUT A JURY

ROONEY J

EX TEMPORE

Introduction

[1] Prior to the previous listing of this inquest, the next of kin ("NOK") made an application that, pursuant to section 18 of the Coroners Act (NI) 1959 ("the 1959 Act"), the inquest should be heard with a jury.

[2] The application was founded on two alternative grounds, namely:

(a) Pursuant to section 18(1)(e) that, "if it appears to the coroner, either before he proceeds to hold an inquest or in the course of an inquest begun without a jury, that there is reason to suspect that … (a) the death occurred in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public or any section of the public." If this condition is satisfied, then it is mandatory for the coroner to conduct the inquest with a jury.

(b) Alternatively, pursuant to section 18(2), "if in any case other than those referred to in subsection (1) it appears to the coroner, either before or in the course of an inquest begun without a jury, that it is desirable to summon a jury, he may proceed to cause a jury to be summoned in accordance with the said subsection."

[3] Coroner McCrisken, in a detailed ruling *Re Donohoe* [2022] NICoroner 9, decided to hold an inquest with a jury in the exercise of his discretion under section 18(2) of the 1959 Act. In reaching his decision, after careful consideration of the

NOK submissions and the relevant authorities, he dismissed the application that there was a mandatory requirement under section 18(1)(e) of the 1959 Act, for him to hold the inquest with a jury.

[4] Coroner McCrisken's decision to exercise his discretion was taken after a careful balancing of the relevant factors which are summarised in paras [41]-[45] of his decision:

> "***Conclusion regarding section 18(2)***
>
> [41] In terms of the second limb of the NoK argument in favour of holding this inquest with a jury, that it is desirable to do so, I have taken great assistance from the decision of Stephens J in *Jordan's Application*.
>
> [42] It seems to me that there are a number of factors in this inquest which may – at least potentially – have a tendency to adversely affect the ability of the jury to be objective and impartial. They are:
>
> (1) The controversial nature of the inquest involving the death of a young Catholic boy, last seen in an area known to be predominantly Protestant/Loyalist.
>
> (2) The requirement for unanimous verdicts.
>
> (3) The statutory anonymity of jurors (with the attendant difficulty of challenging for cause).
>
> (4) The absence of effective safeguards against a perverse verdict.
>
> (5) The persistent commentary relating to the death of Noah Donohoe, particularly, on social media.
>
> (6) The persistent high profile campaign for "Justice" and "A new, proper investigation" with flags, posters, protests and media interviews which imply that the present PSNI investigation is deficient.
>
> (7) The lack of any "Fade Factor" as described by authorities in relation to prejudice under the Contempt of Court Act 1980, if the inquest goes ahead as planned on 28 November 2022.

[43] According to Stephens J, in order to exercise my discretion properly, I should conduct a balancing exercise and ask myself if "it is desirable to summon" a jury. Those factors, suggested by Stephens J, that I should consider include:

(a) Complexity of the case – this inquest could be described as particularly complex with voluminous amounts of material, CCTV footage and expert reports.

(b) The number of documents – see above.

(c) The number of witnesses – there are at least 60 witness statements and/or reports, although it can reasonably be expected that a number of statements can be received under Rule 17.

(d) The length of the inquest – the NoK submit that this inquest will likely take 6 weeks, although that will depend on the number of witnesses who will need to be called to give oral evidence.

(e) The need to involve the community in the legal process – there is a longstanding acceptance of the utility of community involvement in the administration of justice.

(f) Impartiality- see my concerns at [42] above.

[44] I do have some concerns regarding the potential for a perverse verdict in this inquest and all the outworkings of such an occurrence in terms of public confidence and resources. During the oral hearing on 11 October 2022, I specifically asked Ms Campbell KC if Ms Fiona Donohoe was fully aware of those factors highlighted by Stephens J in *Jordan's Application* which, even in a general sense regarding inquests in Northern Ireland, might affect the ability of a jury to act impartially. Ms Campbell confirmed that Ms Fiona Donohoe was fully aware and still wanted this inquest to proceed with a jury.

[45] In reaching my conclusion on this issue, I have taken into account –

(1) the very strongly held view of the next of kin that a jury should be summoned,

(2) the widespread public concern about the circumstances in which the death occurred,

(3) the uncertainty surrounding the circumstances of the death,

(4) the precautions that can be taken to ensure that the jury comes to the case without bias or preconception and

(5) the assistance that can be given to the jury to follow the evidence. Having regard to these matters, notwithstanding my reservations and concerns I do not conclude that there is a "real risk" of a perverse conclusion or bias as per Stephens J in *Jordan's Application*. Therefore, on balance, I conclude that it is "desirable" to have a jury sworn in this inquest and I will exercise my discretion pursuant to section 18(2) of the 1959 Act."

[5] Counsel on behalf of Daryl Paul ("DP"), now submit that since Coroner McCrisken's decision, there have been substantial developments in the inquest that strongly militate against empanelling a jury. In effect, counsel for DP argues that material has been created and exists which gives rise to a substantial risk of prejudice to DP (and indeed other interested parties) in the event that a jury is empanelled to reach a verdict in this inquest. It is submitted that the material demonstrates that DP had been wrongly identified as a person responsible for the death of Noah Donohoe and that DP's denials of any such link are dismissed as dishonest.

[6] The relevant material which consists of social media commentary about Noah's death includes, it is submitted, seriously prejudicial posts by the NOK herself. DP argues that the social media posts by the NOK has attracted a considerable number of views and comments. Such prejudicial posting is intensified, it is argued, following a review of the material and discussions by a considerable number of social media users.

[7] For the purpose of this ex tempore ruling, it is not necessary for me to detail each and every social media post as highlighted by Mr Skelt KC in his comprehensive oral submission, save to state that it clear to me that many of the social media postings are plainly prejudicial.

[8] The court notes that DP's application is supported by counsel on behalf of the PSNI and C4. Ms Murnaghan KC, on behalf of the DfI, supports the approach adopted by the NOK, namely that the inquest should be conducted by the coroner with a jury.

[9] Comprehensive submissions were filed on behalf of the NOK by Ms Campbell KC and Mr Magowan BL, in response to DP's application and, in essence, argue for the following:

(i) The decision of Coroner McCrisken to sit with a jury was and remains correct and should be maintained.

(ii) Further, and in any event, developments in the evidence since the decision of Coroner McCrisken made clear that this inquest is one in which it is mandatory for a jury to be empanelled, pursuant to section 18(1)(e) of the 1959 Act.

[10] I should emphasise that I have carefully considered the NOK's written and oral submissions for the purpose of this ex tempore ruling. I do not intend to analyse each and every argument. In essence, the NOK submit that there is no logical basis upon which I should depart from the decision of Coroner McCrisken. It is argued that there is no evidence that the scale or nature of the social media commentary has increased or otherwise changed since the coroner's ruling. It is not denied that some of the social media commentary is prejudicial. However, even in high profile media cases and inquests, with careful management and warnings provided by the court, jurors can be trusted to abide by their oath, to put prejudicial issues out of their minds and to reach a verdict on the evidence.

[11] On behalf of DP's application, a report was prepared by Professor Curran, Professor of Cyber Security at Ulster University. Professor Curran refers to the proportion of the population with social media access, to include platforms such as Facebook, Instagram, X (formerly Twitter) and TikTok. For the purpose of this ruling, it is not necessary to consider the report in-depth. However, I am unable to accept Professor Curran's conclusions at para [25] of his report in which he refers to possible impact on potential jurors. Ms Campbell's criticism of Professor Curran's conclusion is, in my view, warranted and justified.

[12] Having considered all the competing arguments, the critical issue, in my opinion, is whether despite the many complex issues in this inquest, to include the potential of jury bias, the proceedings can be carefully managed and supervised so as to ensure impartiality and independence of the jury and to guard against a perverse verdict. It seems to me that the relevant issues are succinctly as stated by the Court of Appeal in *Jordan's Application* [2014] NICA 76 at paras [82] and [83], which provide as follows:

"[82] Section 18(2) of the 1959 Act confers on the Coroner a wide discretion to summon a jury if it appears to him that it is desirable to do so. The Oxford English Dictionary defines desirable as "worth having … advisable". This captures the polycentric character of the Coroner's decision-making in such matters which will include considerations of public interest, the value of the public participating in the administration of justice particularly in the vexed historical context of Northern Ireland, the complexity of the issues, the probable length of the hearing, the amount of documentation involved and the nature of the investigation to be determined. By implication it recognises also the wide experience of coroners in dealing with juries, such experience often being much wider than other members of the judiciary.

[83] The participation of the public in trials by jury constitutes a long recognised asset in the administration of justice. In McParland's Application (2008) NIQB 1 Kerr LCJ said at paragraph 46:

> 'In the United Kingdom we have not adopted the practice of in-depth inquiry into the views and attitudes of potential jurors that has been deemed in other jurisdictions to be an essential concomitant of a fair trial procedure. But it is not suggested that the absence of such inquiry has produced an unfair system of trial. Ultimately, a measure of trust must be reposed in the conscientiousness and sense of civic duty of those who serve on juries in this jurisdiction. Happily in the vast majority of cases, that trust has not been betrayed.'

[84] On the other hand, it would be idle to ignore the problems both of jury intimidation and perverse verdicts in Northern Ireland. Mr Macdonald correctly adverted to this strain coursing through the presence of scheduled criminal cases in Northern Ireland following the Diplock report of 1972, the consultation paper of August 2006, the Justice and Security (Northern Ireland) Act 2007 and the Attorney General's guidelines on jury checks. As the court in McParland indicated at [37]:

> 'The existence of the risks identified by the juries' sub-group of juror intimidation, of

> partisan juries and of perverse jury verdicts has not been seriously disputed by most commentators, although there has been acute disagreement about the measures needed to deal with those risks.'

That risk, albeit reduced, exists to the present time.

[85] It is a risk which all coroners must address in the context of Section 18(2). The test of apparent bias to be applied is that set out by Lord Hope in Porter v Magill at (103):

> 'The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.'

[86] Hence, a Coroner, in exercising his discretion under Section 18(2) must, having considered the facts of the case, ask himself if there is a real possibility that a jury will be biased. It is only by carrying out such a two stage exercise that he can be assured that the inquest process will be capable of conducting an objective and impartial investigation into the death as required by Article 2 of the Convention. In the instant case, the Coroner clearly recognised that there was a real risk of a perverse verdict. Moreover he did take steps to address that risk as outlined in paragraphs [72] to [74] above.

[87] However, having taken those steps, it is imperative that the Coroner then stand back and ask himself whether or not he considers that those steps have removed such a risk to a fanciful or remote level. Reduction of the risk per se is insufficient unless it achieves this level of reduction. Absent this exercise, it cannot be desirable to summon a jury in circumstances where a real risk of jury bias remains."

[13] Having carried out the two-stage exercise, I am firmly of the opinion that, as this stage, the inquest process is capable of being conducted on an objective and impartial basis. I recognise that there is a potential risk of prejudice. However, taking all the steps to address that risk, at this stage, I am of the opinion that the risks can be removed or reduced to a fanciful or remote level.