Neutral Citation No: [2026] NICoroner 13 ***Judgment: approved by the court for handing down (subject to editorial corrections)****	***Ref:*** **ROO13078** ***ICOS No:*** ***Delivered:*** **18/06/2026**

IN THE CORONER'S COURT IN NORTHERN IRELAND

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

APPLICATION ON BEHALF OF THE NEXT OF KIN TO ADDRESS THE JURY AS TO THE FACTS AT THE CONCLUSION OF THE EVIDENCE

ROONEY J (*Sitting as Presiding Coroner*)

Introduction

[1] The next of kin ("NOK") seeks permission to address the jury at the conclusion of the evidence as to the facts in brief closing submissions.

[2] The application is opposed by the Properly Interested Persons ("PIPs") to include the Department for Infrastructure ("DfI"), PSNI and Daryl Paul.

[3] Rule 20 of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 ("1963 Rules") states:

> "No person shall be allowed to address the coroner or the jury as to the facts unless the coroner shall so permit."

[4] Plainly, pursuant to rule 20 of the 1963 Rules, it remains within the discretion of the coroner as to whether any party should be allowed to address the coroner or the jury as to the facts at the conclusion of the evidence.

[5] As will be considered below, such a discretion is not included in the Coroners (Inquest) Rules 2013 ("2013 Rules"), which applies to England & Wales. Rule 27 of the 2013 Rules specifically states as follows:

> "No person may address the coroner or the jury as to the facts of who the deceased was and how, when and where the deceased came by his or her death."

[6] In England & Wales, Rule 27 of the 2013 Rules replaced rule 40 of the Coroners Rules 1984 ("the 1984 Rules") which also provided that "no person shall be allowed to address the coroner or the jury as to the facts."

[7] In *R (Hair) v Staffordshire (South) Coroner* [2010] EWHC 2580 (Admin), the court declined to find rule 40 of the 1984 Rules was incompatible with article 2 ECHR, maintaining that the rule does not prevent an effective investigation. The court held that:

> "No particular form of procedure is required, however, so long as there is an effective investigation, in which the family of the deceased person is involved. Addressing the coroner or jury as to facts is not, in my judgment, an essential pre-requisite of an effective investigation."

[8] The court reasoned that the adequacy of the coronial process and investigation depended on the evidence presented and the coroner's summing up, rather than on submissions of the parties as to the facts.

[9] The inclusion of the coroner's discretion in rule 20 of the 1963 Rules, which is notably absent in the 2013 Rules applicable to England & Wales, was highlighted by the Court of Appeal in *Re Ketcher and Mitchell* [2020] NICA 31, when in its consideration of the application of litigation privilege to certain documents in article 2 compliant inquests, the Court of Appeal noted:

> "[34] We agree with the learned trial judge that the absence of litigation privilege could not be said to have prevented the participation of the appellants to the appropriate extent for the purposes of Article 2. They were free to obtain such expert advice as they chose and like any other properly interested person were not in a position to assert privilege in respect of the outcome. They could, however, still suggest lines of inquiry to the coroner, question witnesses, make submissions to the coroner as to the questions which should be left to the jury and, *unlike their counterparts in England and Wales, make submissions to the jury on the issues to be decided*." [emphasis added]

The competing submissions

[10] I have read and carefully considered the NOK's submissions dated 22 May 2026, the submissions of the DfI dated 1 June 2026 and the PSNI's submissions dated 11 June 2026.

[11] In summary, the NOK makes a general submission that, given the complex factual matrix of this inquest, the number of issues that are likely to be under consideration by the jury when reaching its verdict, the manner in which the evidence had been presented over many months and the number of PIPs to the proceedings, it would greatly assist the jury if the PIPs were permitted to make time limited closing submissions.

[12] The NOK highlights that over the long period of time since the inquest commenced in January 2026, the jury has heard voluminous factual evidence contained within the oral evidence of over 70 witnesses, including complex expert evidence from across a range of disciplines. Due to timetabling difficulties, it is argued that the evidence has often been presented in a disjointed and/or non-chronological manner. For example, evidence relating to the police investigation has been interposed within evidence from witnesses on behalf of the DfI. Some witnesses have been recalled. Expert witnesses who commenced giving evidence together, have concluded their evidence weeks apart.

[13] The NOK assert that the jury, in its deliberations, will be required to consider, inter alia, the following. Firstly, the PSNI investigation into a high-risk missing person to include the application of police procedures and policies and whether there were failings or missed opportunities in that investigation. This will also involve an assessment as to the adequacy of the police investigation into Noah's death and the extent to which it enables a jury to reach findings in relation to Noah's disappearance and death. Secondly, the role of the DfI and, in particular, its responsibility in the identification of the appropriate grille at the Premier Drive Stream ("PDS") culvert inlet, including the foreseeability of the risk of serious injury or death. Thirdly, the jury must consider and assess the evidence of the toxicologists, pathologists, psychiatrists and psychologists and the conclusions that can reasonably be based on their evidence and opinions.

[14] The NOK further submit that the jury will doubtless be offered the opportunity to include narrative findings based on the evidence and, given the considerable uncertainty about many of the circumstances relating to Noah's disappearance and death, it will be important that they should identify those facts on which they are agreed.

[15] It is inevitable, according to the NOK, that the jury's task will require an in-depth recollection of and an understanding of the evidence in this factually complicated inquest. For this reason, it is submitted that the jury is likely to derive considerable benefit from the PIPs as to how the evidence fits into the issues detailed in the questions for the jury.

[16] The next of kin concludes by stating that "without direct submissions, the jury is dependent solely on the coroner's charge which, respectfully, is unlikely to be able to fully reflect the full nuance of each party's position."

[17] The NOK also draws the court's attention to the fact that on least four previous occasions, namely the inquests into the death of *Martin McCaughey and Dessie Grew; Pearce Jordan; Collette Hemsworth and James McDonnell,* the coroners have permitted the PIPs to address the jury as to the facts. On the other hand, as submitted by the PSNI, in the recent *Inquest into the Death of Hugh Gerard Coney*, the coroner, having considered some of the above cases, refused to permit closing oral submissions to the jury.

[18] The PSNI and DfI submit that permitting oral closing submissions to the jury increases the likelihood of a challenge to any verdict ultimately reached by the jury. For example, in *McCaughey and Grew* in which the coroner permitted oral closings, the content of the closing submissions became the basis for a challenge to the jury's verdict in the subsequent judicial review of *Re Sally Gribben's Application* [2012] NIQB 81.

[19] The PSNI and DfI further argue that there would be an obvious lack of fairness and imbalance if only one PIP addressed the jury in a closing speech. It is submitted that the coroner should be reluctant to direct other PIPs to make closing submissions to the jury to remedy the imbalance, particularly when no other PIP is seeking permission to do so. A PIP should not be "forced" to make oral submissions against their will in an attempt to prevent or remedy the obvious imbalance.

Decision

[20] Having carefully considered the competing submissions, for the reasons given below, I am not inclined to exercise my discretion in this inquest to allow any PIP to address the jury in closing submissions as to the facts.

[21] Firstly, the classic exposition of the nature of an inquest was set out by Lord Lane CJ in *R v South London Coroner, ex parte Thompson* (1982) 126 SJ 625:

> "… it should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a criminal trial where the prosecutor accuses and the accused defends, the judge holding the balance or the ring, whichever metaphor one chooses to use."

[22] This statement has been cited with approval in several cases, including the Supreme Court in *R (Maughan) v HM Senior Coroner for Oxfordshire (Rev) 1* [2021] AC 454 at paras [101] and [141].

[23] This inquest is not a trial conducted between interested parties who have conflicting cases to advance. It is an inquisitorial investigation. There are no litigants. There are simply witnesses who have, or may have, knowledge of some of the matters on investigation. It is true that the parties may have an interest in protecting their reputations and answering allegations made against them. But they have no "case" in the adversarial sense. Similarly, there is no "case" against any witnesses. There may be damaging factual evidence which disparages the witness or an interested party, and which may require the witness or a witness on behalf of an interested party to refute during the course of their evidence. However, the witness is not answering a case against himself or the interested party in the adversarial sense. The witness is simply giving evidence in circumstances in which he has a personal interest in being believed or to explain the actions of an interested party(see *Sir Richard Scott v C* (1995) 111 LQR 596 at 598-599).

[24] Accordingly, the interested parties do not have a case to advance. The function of an inquest must not be misunderstood. It is not the function of the coroner or the jury to determine, or appear to determine, any question of criminal or civil liability, to apportion guilt or attribute blame. Rather, the inquest is a fact-finding inquiry conducted by a coroner, with or without a jury, to determine certain facts about the deceased, the cause of death, and the circumstances surrounding both the death.

[25] Secondly, aligned to the above, I do not accept the ~~next of kin~~NOK's submissions that, "without direct submissions, the jury is dependent solely on the coroner's charge, which respectfully, is unlikely to be able to fully reflect the full nuance of each party's position". This reflects a misunderstanding of the inquisitorial nature of the fact-finding inquiry, the functions of the coronial investigation and the role of the coroner's summing up to the jury.

[26] The court agrees with the NOK's submission that this inquest has involved an examination of many competing issues arising out of the complicated factual matrices. The jury will have to consider extensive factual evidence from numerous witnesses and complex expert evidence from a range of disciplines. The jury will need to consider evidence in relation to, inter alia, the high-risk missing person's investigation, to include the application of PSNI procedures and policies and whether there were failings or missed opportunities in that investigation. The jury will also have to consider the DfI's policies and decision making regarding the screen at the Premier Drive culvert inlet.

[27] I fully accept and acknowledge that the PIPs will, doubtless in a convincing fashion, approach and interpret the evidence in different ways. However, there is no

requirement on the coroner to consult the interested persons about the proposed summary of the evidence in advance and in many cases this would rarely be done.

[28] However, as I have acknowledged above, this is a complex coronial investigation involving considerable and complex evidence. In order to ensure that the coroner's summary of the facts to the jury is presented fairly and comprehensively, in the exercise of my discretion, I have afforded each PIP the opportunity to address the following issues in written and oral submissions, namely:

(i) the questions the jury will be asked to consider;

(ii) the directions for the jury; and

(iii) the contents of the coroner's charge.

[29] I have already received the written submissions on these issues which are comprehensive. During the course of oral submissions, it will be necessary for the PIPs to refer to the evidence in order to assist in the formulation of the questions the jury will be required to consider. It will also be necessary for the PIPs to refer to the evidence which has been received in order to address the question as to whether that evidence is sufficient to justify a particular conclusion being considered or recorded, applying the "*Galbraith* Plus" approach. The legal submissions will also deal with factual circumstances as to the potential application of article 2 ECHR to the inquest.

[30] In my view, the opportunity provided to the PIPs to provide both written and oral submissions as to the questions to be left to the jury, the content of the charge to the jury and the other issues, is fair and proportionate taking into consideration the complex nature of this inquest. The process adopted, in the exercise of my discretion, is designed to ensure that my summing up to the jury, following valuable input from the PIPs, remains a clear, comprehensive, balanced and fair assessment of the key parts of the evidence.

[31] The purpose of this process has been to ensure, so far as is reasonably practicable, that the summing up does not contain an error of law, or fails to allow the jury to consider a conclusion which ought to have been left to them or records a conclusion which they should not have been invited to consider.

[32] Another safeguard exists. At the end of the summing up, I will invite the jury to retire and ask the PIPs whether any significant matter has been omitted, or whether there is anything they consider should be corrected. Clearly, any corrections, clarifications or additions made to the jury following any submissions, remain at the coroner's discretion.

[33] For the reasons given, in the exercise of my discretion under rule 20 of the 1963 Rules, I refuse the NOK's application to address the jury as to the facts in this particular inquest.

[34] One final matter, in coming to this decision, I am not persuaded by the submissions made by the PSNI and DfI that the application should be refused on the basis that there is a risk that the content of the oral closings could lead to a judicial review challenge to the jury's verdict. Also, if the coroner considers that in the exercise of their discretion to allow a party to make closing submissions to the jury, the fact that other PIPs may, contrary to their wishes, feel obliged to also make closing submissions, this should not be an influencing factor. If a coroner exercises their discretion, the option to make closing submissions as to the facts to the jury, remains with each interested party.