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IN THE CORONER'S COURT IN NORTHERN IRELAND

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

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RULING OF THE CORONER ON AN APPLICATION BY THE NEXT OF KIN FOR THE EXCLUSION OF EVIDENCE OF PROFESSOR SEENA FAZEL

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Introduction

[1] The court is to conduct an inquest touching upon the death of Noah Donohoe ("the deceased"). In a ruling by the previous coroner, Coroner McCrisken, he directed that, in the exercise of his discretion, the inquest proceedings would be heard before a jury.

[2] At the request of Coroner McCrisken, a report was obtained from Professor Seena Fazel dated 1 November 2021. Prior to the instruction of Professor Fazel, the next of kin ("NOK") objected to Professor Fazel on the basis that he was not appropriately qualified to expertly and objectively analyse the psychiatric presentation of a 14-year-old child in this sensitive and difficult case.

[3] The NOK's position remains that Professor Fazel is not an appropriate expert. It is submitted that he is not an Adolescent and Child Psychiatrist, he does not have specialist registration with the General Medical Council in child and adolescent psychiatry, and he does not have a clinical practice as a Consultant Child and Adolescent Psychiatrist. It is contended that Professor Fazel's primary academic interests and research have focused heavily on suicide and, in particular, suicide among the adult male prisoner population. For this reason, it is submitted that Professor Fazel's qualifications, clinical and research experience are in the wrong discipline of psychiatry in relation to an investigation relating to the circumstances surrounding Noah's death.

[4] The NOK states that, prior to receipt of Professor Fazel's report, she was concerned that Professor Fazel's professional pre-occupation with suicide meant that it was likely, if not inevitable, that he would give undue prominence to the issue of suicide, which the NOK maintains is unwarranted based on the evidence. The NOK

observes that those concerns were exacerbated on receipt of Professor Fazel's report in which it is asserted by him that it is "likely" that Noah died by suicide (see para 4.4).

[5] With particular focus on Professor Fazel's report, the NOK maintain that it lacks meaningful and objective psychiatric analysis, it is selective and narrow in its review of the facts and, according to the NOK, advances a conclusion that is ill-founded and lacks sound professional opinion. For this reason, the NOK submits that, in the exercise of the coroner's discretion, the report from Professor Fazel should be excluded from the inquest materials and he should not be permitted to be called as a witness.

[6] In summary, the basis for the application is that:

(i) Properly considered, Professor Fazel's report should not be regarded as admissible expert evidence.

(ii) The inquest has adequate evidence before it which addresses the issues identified by Professor Fazel, ensuring his evidence is not necessary for analysis and consideration.

Expert evidence in inquests

[7] In every inquest, the coroner has a duty to fully, fairly and fearlessly investigate the death of the deceased and to answer the mandatory questions as to who the deceased was, how, when and where he died and in what circumstances. This is an inquisitorial process. It is the coroner's duty to conduct an investigation, rather than to hear and determine issues raised by parties involved in adversarial litigation.

[8] The coroner enjoys a broad discretion as to how the inquest proceedings are to be conducted, to include what evidence should be adduced and which witnesses should be called (see Lecky and Greer, Coroner's Law and Practice in Northern Ireland, 1998 at para 9.01: *McKerr v Armagh Coroner* [1990] 1 WLR 649 HL). As Toulson LJ explained in *R (Mack) v HM Coroner for Birmingham* [2011] EWCA Civ 712 at paras 8 and 9, "… the coroner [has] a wide discretion – or perhaps more appropriately a wide area of judgment – for whom it is expedient to call."

[9] This broad discretion on witnesses applies also to coronial decisions on expert witnesses (see Jervis on Coroners, 15th Edition para 10:29-10:33; *Nguyen v HM Assistant Coroner for Inner West London* [2021] EWHC 3354 (Admin) at paras 75 and 79).

[10] The relevant authorities on a coroner's broad discretion as to the scope and breadth of the investigation were recently reviewed in *R (Gamesys) v Coroner for London Inner South* [2025] EWHC 659 (Admin) at paras [26]–[32]. For the purpose of

this ruling it is not necessary to list the authorities, save to say I have considered them in the context of this application.

The statutory provisions

[11] Sections 17A and 17B of the Coroners Act (Northern Ireland) 1959, as amended by the Coroners and Justice Act 2009, provides as follows:

> "**Section 17A**
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> (1) A coroner who proceeds to hold an inquest may by notice require a person to attend at a time and place stated in the notice and—
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> (a) to give evidence at the inquest,
>
> (b) to produce any documents in the custody or under the control of the person which relate to a matter that is relevant to the inquest, or
>
> (c) to produce for inspection, examination or testing any other thing in the custody or under the control of the person which relates to a matter that is relevant to the inquest.
>
> (2) A coroner who is making any investigation to determine whether or not an inquest is necessary, or who proceeds to hold an inquest, may by notice require a person, within such period as the coroner thinks reasonable—
>
> (a) to provide evidence to the coroner, about any matters specified in the notice, in the form of a written statement,
>
> (b) to produce any documents in the custody or under the control of the person which relate to a matter that is relevant to the investigation or inquest, or
>
> (c) to produce for inspection, examination or testing any other thing in the custody or under the control of the person which relates to a matter that is relevant to the investigation or inquest.
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> …
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> (4) A claim by a person that—

(a) he is unable to comply with a notice under this section, or

(b) it is not reasonable in all the circumstances to require him to comply with such a notice,

is to be determined by the coroner, who may revoke or vary the notice on that ground.

(5) In deciding whether to revoke or vary a notice on the ground mentioned in subsection (4)(b), the coroner shall consider the public interest in the information in question being obtained for the purposes of the inquest, having regard to the likely importance of the information….

Section 17B

…

(2) A person may not be required to give or produce any evidence or document under section 17A if—

(a) he could not be required to do so in civil proceedings in a court in Northern Ireland, or

(b) the requirement would be incompatible with an EU obligation.

(3) The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in relation to an inquest as they apply in relation to civil proceedings in a court in Northern Ireland."

The legal submissions

[12] I have had the benefit of detailed written submissions from counsel on behalf of the NOK, Daryl Paul ("DP") and Coroners Service ("CSNI"). I have also derived considerable assistance from counsels' succinct and erudite oral submissions.

[13] The NOK submits that the power of the coroner to call expert evidence in an inquest is effectively the same as the power of the court to hear expert evidence in a civil action. In my view the powers are not directly comparable. An inquest is an inquisitorial process, whereas civil proceedings are adversarial. As stated, it is the coroner in the exercise of his broad discretion who decides which expert witnesses to call. In civil proceedings, subject to the scrutiny of the court, the relevant parties

decide which witnesses to call, including expert evidence. A judge does not have the power to call a witness except with the consent of the parties.

[14] Counsel for the NOK have referred me to the decision of the Supreme Court in *Kennedy v Cordia Services* [2016] 1 WLR 597, which provides guidance on the extent to which expert evidence is permitted in civil proceedings, to include the permitted use of expert evidence and the admissibility of such evidence. The following passages from the unanimous decision of the Supreme Court were highlighted:

> "**The evidence of skilled witnesses**
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> 38. In our view four matters fall to be addressed in the use of expert evidence. They are (i) the admissibility of such evidence, (ii) the responsibility of a party's legal team to make sure that the expert keeps to his or her role of giving the court useful information, (iii) the court's policing of the performance of the expert's duties, and (iv) economy in litigation. The first is the most directly relevant in this appeal. But the others also arise out of either the parties' submissions or the Extra Division's concerns and we address them briefly.
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> ***(i) Admissibility***
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> 39. Skilled witnesses, unlike other witnesses, can give evidence of their opinions to assist the court. This gives rise to threshold questions of the admissibility of expert evidence. An example of opinion evidence is whether Miss Kennedy would have been less likely to fall if she had been wearing anti-slip attachments on her footwear.
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> 40. Experts can and often do give evidence of fact as well as opinion evidence. A skilled witness, like any non-expert witness, can give evidence of what he or she has observed if it is relevant to a fact in issue. An example of such evidence in this case is Mr Greasly's evidence of the slope of the pavement on which Miss Kennedy lost her footing. There are no special rules governing the admissibility of such factual evidence from a skilled witness.
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> 41. Unlike other witnesses, a skilled witness may also give evidence based on his or her knowledge and experience of a subject matter, drawing on the work of others, such as the findings of published research or the pooled knowledge of a team of people with whom he or

she works. Such evidence also gives rise to threshold questions of admissibility, and the special rules that govern the admissibility of expert opinion evidence also cover such expert evidence of fact. There are many examples of skilled witnesses giving evidence of fact of that nature. Thus, *Dickson on the Law of Evidence in Scotland* (Grierson's ed) (1887) at section 397 referred to *Gibson v Pollock (1848) 11 D 343*, a case in which the court admitted evidence of practice in dog coursing to determine whether the owner or nominator of a dog was entitled to a prize on its success. Similarly, when an engineer describes how a machine is configured and works or how a motorway is built, he is giving skilled evidence of factual matters, in which he or she draws on knowledge that is not derived solely from personal observation or its equivalent. An expert in the social and political conditions in a foreign country who gives evidence to an immigration judge also gives skilled evidence of fact.

…

43. Counsel agreed that the South Australian case of *R v Bonython (1984) 38 SASR 45* gave relevant guidance on admissibility of expert opinion evidence. We agree. In that case King CJ stated, at pp 46–47:

> 'Before admitting the opinion of a witness into evidence as expert testimony, the judge must consider and decide two questions. The first is whether the subject matter of the opinion falls within the class of subjects upon which expert testimony is permissible. This first question may be divided into two parts: (a) whether the subject matter of the opinion is such that a person without instruction or experience in the area of knowledge or human experience would be able to form a sound judgment on the matter without the assistance of witnesses possessing special knowledge or experience in the area, and (b) whether the subject matter of the opinion forms part of a body of knowledge or experience which is sufficiently organized or recognized to be accepted as a reliable body of knowledge or experience, a special acquaintance with which by the witness would render his opinion of assistance to the court.

> The second question is whether the witness has acquired by study or experience sufficient knowledge of the subject to render his opinion of value in resolving the issues before the court.'"

[15] As stated by the Supreme Court, in *R v Bonython*, the court was addressing opinion evidence. The court accepted that a skilled person could give expert factual evidence either by itself or in combination with opinion evidence. At para [44] the Supreme Court emphasised four considerations which govern the admissibility of skilled evidence, namely:

> "(i) whether the proposed skilled evidence will assist the court in its task;
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> (ii) whether the witness has the necessary knowledge and experience;
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> (iii) whether the witness is impartial in his or her presentation and assessment of the evidence; and
>
> (iv) whether there is a reliable body of knowledge or experience to underpin the expert's evidence."

[16] The above four considerations apply to opinion evidence, provided that when applying the first consideration, the threshold is the necessity of the evidence. The four considerations also apply to skilled evidence of fact, provided that the skilled witness draws on the knowledge and experience of others rather than or in addition to personal observation or its equivalent.

[17] Applying the said guidance from the Supreme Court, the next of kin challenges Professor Fazel's knowledge and experience, his impartiality and whether there is a reliable body of knowledge or experience to underpin his evidence. Although, as stated above in para [11], I am of the view that the powers of a coroner to call expert witnesses are distinguishable from the powers of a civil court, it is my view that the guidance provided by the Supreme Court in *Kennedy* should be deployed by a coroner in consideration of a decision to admit expert evidence.

Necessary knowledge and experience

[18] Referring to the report from Dr Richard Church, Consultant in Forensic and Child and Adolescent Psychiatry, the NOK emphasise the following paragraph:

> "[Professor Fazel] does not have specialist registration with the General Medical Council in Child and Adolescent psychiatry, and I do not believe that he has

> worked clinically as a consultant Child and Adolescent Psychiatrist. His clinical practice and expert experience is predominantly with adults."

[19] Prompted by the NOK, a letter dated 10 June 2025 was sent by CSNI to Professor Fazel requesting, inter alia, details of his clinical and forensic experience as a child and adolescent psychiatrist and also any academic articles written and published by him on child and adolescent psychiatry.

[20] Professor Fazel responded in a letter dated 7 September 2025. He accepted that he did not hold a certificate of specialist training in child and adolescent psychiatry. However, he emphasised that he trained in general psychiatry and obtained membership of the Royal College of Psychiatrists. Following membership, he completed higher training in forensic psychiatry. He has been a consultant forensic psychiatrist since 2003. As a consultant psychiatrist, he has worked in a variety of settings including low, medium and high secure hospitals. He is also a visiting psychiatrist in a number of prisons and is currently part of a community specialist forensic mental health team. In these roles, Professor Fazel states that he has clinically assessed adolescent cases, both for medico-legal purposes and in clinical service provision.

[21] In relation to publications on child and adolescent psychiatry, Professor Fazel stated that he had written a number of papers on the forensic aspects of child and adolescent psychiatry, which includes several studies on suicide risk. A list of relevant publications was attached to his correspondence. In addition, he stated that he co-authored the chapter on forensic child and adolescent psychiatry in the new edition of Rutter's Child and Adolescent Psychiatry and Psychology, which he claims is the leading text book in the field.

[22] In the appendix to his report dated 1 November 2021, entitled 'Qualifications and Experience', Professor Fazel also states that from 2007, he has been employed as a clinical academic at the University of Oxford where he is an affiliate of the Centre for Suicide Research. He also details prizes and awards received by him and recent published research on, inter alia, the epidemiology and prevention of suicide.

[23] Having carefully considered the above, I disagree with the proposition put forward by the NOK that Professor Fazel lacks the necessary knowledge and experience to provide expert evidence in this inquest. Although Professor Fazel is not a consultant in child and adolescent psychiatry, for the reasons given by him, to include his experience in forensic psychiatry, research and various publications, he is plainly identifiable as a skilled expert witness whose expert opinion has a potential to be of assistance to the inquest.

(b) Impartiality in the presentation and assessment of his evidence

[24] The NOK submit that, in advancing his preferred theory of suicide, Professor Fazel appears to have sought out evidence in support of this theory (no matter how tenuous) whilst dismissing evidence and/or entirely failing to engage with evidence which it is suggested reasonably undermines his theory. For example, the NOK state that Professor Fazel dismisses his own theory that Noah was intoxicated "with drugs and alcohol" because "there is no autopsy evidence of any substances or alcohol intake" and "it would have been associated with obvious impairment in his cycling, which was not apparent." In coming to this conclusion, the NOK asserts that Professor Fazel entirely disregards the evidence as to the limits of the toxicology testing and the fact that the scope of screening for drugs can deteriorate over time and become undetectable. In this regard, it is submitted that Professor Fazel turns a blind eye to the statements of other expert witnesses.

[25] The NOK highlights other examples which, in her view, undermine Professor Fazel's opinion. As demonstrated by these examples, a concern is expressed that his opinion is neither sound nor impartial and has the potential to inappropriately influence the jury.

[26] The essential touchstone in any inquest is the fairness of the proceedings. In *R v HM Coroner for North Humberside ex parte Jamison* [1995] 1 QB 1 at para [26], Lord Bingham referred to the duty of the coroner to ensure that the "relevant facts are fully, fairly and fearlessly investigated." Plainly, in my view, the independence and impartiality of an expert will be relevant in considering fairness, if it arises on the facts of the case.

[27] It is stated that the NOK take issue with Professor Fazel's assessment of the evidence and his conclusions, particularly in relation to his theory of suicide. However, it is axiomatic that any alleged deficiencies in his evidence, both written and oral, will inevitably be the subject of intense scrutiny and examination by counsel on behalf of the NOK. The weight to be attached to Professor Fazel's evidence will be determined by the jury, following the coroner's careful assessment of all the evidence.

[28] In my view, the NOK's allegation that Professor Fazel is not impartial in his assessment lacks any evidential foundation. In relation to his professional standards as an expert witness, Professor Fazel expressly states that his overriding duty, both in respect of his reports and oral evidence, is and will be to assist the court impartially. He has stated that he has confined his evidence to matters within his specialist competence and has distinguished fact from opinion making it clear the circumstances in which he has relied on medical records and where he has expressed professional judgement. In my opinion, Professor Fazel is fully aware of the primacy of an expert's duty to the court and I am not persuaded that he lacks independence, is unreliable or guilty of actual or perceived bias.

A reliable body of knowledge or experience to underpin the expert's evidence

[29] The NOK submit that having regard to Professor Fazel's training or experience as a psychiatrist, the court cannot be satisfied that he has the appropriate knowledge or expertise to provide an opinion on the circumstances leading to the death of a child in the highly unusual circumstances to be examined by this inquest. The NOK further state that even within his own specialism of suicide, references to any body of knowledge or experience in support of his conclusion is "conspicuously absent." Rather, it is submitted that Professor Fazel's opinion is based on speculation and conjecture, unsupported by any concrete evidence or a reliable body of knowledge or experience in the field of psychiatry.

[30] The NOK referred to the reports of Dr Richard Church, Consultant in Forensic and Child and Adult Psychiatry and Dr Louise Bowers, Forensic Psychologist, who offer an opinion which differs from that of Professor Fazel. The said experts set out their opinions in their respective reports.

[31] It is certainly not unusual for experts in coronial, civil and criminal proceedings to provide differing opinions. Applying the guidance from the Supreme Court in *Kennedy* at para [34], it seems to me that provided the expert witness has the necessary knowledge and experience, is impartial in their presentation and assessment of the evidence and their opinion is underpinned by a reliable body of knowledge or experience, their opinions, which may conflict, are admissible.

[32] In his opinion, Professor Fazel states that it is likely that Noah's death was from suicide. In his report he gives his reasons. Dr Church, Dr Bowers and Dr Vaidya disagree with the conclusion reached by Professor Fazel. In their reports they set out their reasons. In the course of the coronial proceedings, the evidence of all the expert witnesses will be carefully analysed and scrutinised by various counsel. This scrutiny and challenges to their evidence will be carefully considered by the jury who, following deliberation, will place whatever weight and relevance on the evidence, following proper direction from the coroner.

[33] It is notable that the courts themselves can have differing views regarding the relevancy and admissibility of expert evidence. In *Kennedy*, the Lord Ordinary admitted evidence from a consulting engineer with qualifications and experience in the area of health and safety at work. The Lord Ordinary accepted his evidence that anti-slip footwear attachments were readily available and would have reduced the risk of slipping and falling on an icy path. On appeal, the Extra Division of the Inner House (Lady Smith, Lord Brodie and Lord Clarke) stated that the Lord Ordinary had impermissibly admitted and adopted evidence given by the consulting engineer. They stated that the Lord Ordinary had "abdicated his role as a decision maker" and was fully equipped to make a decision without any instruction or advice. The Supreme Court disagreed and allowed the appeal stating that, inter alia, the health and safety practice of employers could properly be the subject of expert advice and the pursuer's expert had given evidence on factual matters of which he had

experience and the qualifications and as such were admissible because they were relevant and might assist a judge. On the basis of the engineer's evidence, the Lord Ordinary was entitled to conclude the employers had breached the relevant health and safety regulations.

[34] Accordingly, in my view, I am not convinced by the NOK's proposition that Professor Fazel's expert evidence is unsupported by a reliable body of knowledge or experience.

[35] As outlined above, Professor Fazel provides details of his research and publications, which include several studies on the risk of suicide. He also referred to the decision of the Court of Appeal in *R v Nijhawan* [2022] EWCA Crim 10 in which the court found him to be an impressive witness (para 34). In another case, namely *The Government of the United States of America v Julian Assange*, Professor Fazel claims that the judge considered his evidence on suicide risk to be "helpful."

[36] The next of kin drew my attention to a recent ruling by the former Presiding Coroner, Mr Justice Humphreys, in relation to the *Inquests into the deaths of Lawrence McNally, Anthony Dorris and Michael Ryan* [2023] NICoroner 10. At this inquest, Professor Fazel was asked to provide an opinion in relation to an application for medical excusal in respect of a soldier anonymised as "Soldier F." Following a review of his evidence at paras [24]-[29], Humphreys J concluded at para [30] with added emphasis:

> "[30] **For these reasons, I have concluded that Prof Fazel has failed to comply with his fundamental duty** which is to assist the court by clearly addressing all relevant material and drawing attention to any matters which may affect the validity of an opinion expressed. In his addendum report **he has exacerbated the situation by attempting to cover over the evident shortcomings in his evidence** which were exposed at hearing. The reality is that **Prof Fazel's opinion is pure conjecture, unsupported by any concrete evidence**."

[37] As coroner to this inquest, I remain concerned as to the severe criticism directed by Humphreys J at Professor Fazel, particularly the learned judge's conclusion that Professor Fazel failed to comply with his fundamental duty as an expert to assist the court. The CSNI correctly requested Professor Fazel to respond to the said criticisms. In his response dated 7 September 2025, it appears that, with one caveat, Professor Fazel did not accept the said criticisms, strongly rejecting that the opinions outlined in his report were "pure conjecture" and emphasising that he signed the expert witness declaration at the end of the report.

[38] The NOK submit that the same criticisms could be levelled at Professor Fazel in this inquest, particularly that his conclusions are based on unfounded conjecture and speculation.

[39] The relevance of the said criticisms by Humphreys J to the circumstances of this inquest will undoubtedly be fully ventilated by counsel during Professor Fazel's evidence. Professor Fazel will have an opportunity to defend himself, not only with regard to the said criticisms but also in respect of his expert opinion in this inquest. However, at this stage, previous criticism of Professor Fazel cannot be sufficient to exclude his evidence in this inquest, at least before giving him the opportunity to defend himself and to stand over his opinion.

Decision

[40] For the reasons given above, it is my decision that the evidence of Professor Fazel is properly admissible and should not be excluded in these coronial proceedings. I am satisfied that Professor Fazel is an appropriate expert witness whose opinion is underpinned by his experience and interpretation of a reliable body of knowledge. I reject the submission that, in reaching his opinion, he has strayed well beyond his expertise. Whether he has engaged in unfounded speculation in reaching his conclusions, whether he has failed to address important aspects of the evidence when reaching his conclusions and whether he was guilty of actual or perceived bias and/or lack of independence in his assessment and presentation of the evidence, will be a matter for the jury in the consideration of his evidence.

[41] Contrary to the submissions of the NOK, at this stage of the coronial proceedings, I remain unconvinced that Professor Fazel lacks independence and impartiality. He has emphasised that he is fully aware of the primacy of an expert's duty to the court and feel I must accept his assertion.