

Neutral Citation No: [2020] NICA 61	Ref: MOR11381
<i>Judgment: approved by the Court for handing down (subject to editorial corrections)*</i>	ICOS No: 18/080945/A01
	Delivered: 17/12/2020

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IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

IN THE MATTER OF AN APPLICATION BY JURA STEPONAVICIENE
FOR JUDICIAL REVIEW

AND IN THE MATTER OF A DECISION BY A CORONER

Ms Quinlivan QC with Ms Wilson (instructed by Ó Muirigh Solicitors) for
Jura Steponaviciene (Appellant)
Mr Scoffield QC with Mr Chambers (instructed by the Coroners Service for
Northern Ireland) for the Coroner (Respondent)

Before: Morgan LCJ, Lord Stephens and Treacy LJ

Morgan LCJ (delivering the judgment of the court)

[1] This is an appeal from a decision of McCloskey J in which he dismissed the appellant's challenge to the ruling of a coroner that the jury should be invited to answer whether the deceased died by his own act, in other words by suicide, by applying the balance of probabilities as the standard of proof.

[2] The appellant is the mother of the deceased. The deceased was a Lithuanian national and became a remand prisoner at HMP Maghaberry on 5 January 2016. He was 23 years old at the time of his imprisonment. On 6 February 2016 he was seen by a nurse complaining of anxiety and a fast heartbeat. He described anxiety about being in prison and difficulty in sleeping. The nurse offered him a GP appointment for 17 February 2016.

[3] On 11 February 2016 he was attended by a second nurse and requested help for his insomnia. He was again offered a GP appointment, this time for 24 February 2016. The second nurse was unaware of the pending GP appointment. This consultation was conducted at the entrance to the treatment room as the deceased was reluctant to enter. The second nurse described the deceased's mood as being poor.

[4] Later that day a third nurse attended a meeting with Senior Officer Moore. The deceased wanted to be transferred to a different cell. On the same date he was found hanging from a ligature in a toilet in the exercise yard at HMP Maghaberry. He died at Craigavon Area Hospital on 22 February 2016.

[5] Section 36 of the Coroners Act (Northern Ireland) 1959 provides for the making of Rules regulating the practice and procedure at or in connection with inquests. The Coroners (Practice and Procedure) Rules (NI) 1963 were made in exercise of this power and Rule 22 provides:

“22.- (1) After hearing the evidence the coroner, or where the inquest is held by a coroner with a jury, the jury, after hearing the summing up of the coroner shall give a verdict in writing, which verdict shall, so far as such particulars have been proved, be confined to a statement of the matters specified in Rule 15. [Amended by SR (NI) 1980/444]

(2) When it is proved that the deceased took his own life the verdict shall be that the deceased died by his own act, and where in the course of the proceedings it appears from the evidence that at the time the deceased died by his own act the balance of his mind was disturbed, the words “whilst the balance of his-mind was disturbed” may be added as part of the verdict.”

The question at issue before the Coroner was the meaning of “proved.”

[6] It is common case that prior to the ruling by the Coroner it had been the established practice in this jurisdiction to adopt the approach taken in R v West London Coroner, ex parte Gray [1987] 2 App ER 129 and direct the jury that they should not record a finding of suicide unless they were satisfied beyond reasonable doubt that the deceased had died by his own hand and intended to do so. That approach was challenged by the English Divisional Court in R (Maughan) v Her Majesty Senior Coroner for Oxfordshire [2018] EWHC 1955 (Admin). The court concluded that the standard of proof required for a conclusion of suicide was the balance of probabilities.

[7] It was submitted that Maughan was wrongly decided but the learned trial judge in his careful judgment rejected that submission. Maughan was appealed to the Court of Appeal and eventually to the Supreme Court ([2020] UKSC 46). By a majority the Supreme Court decided that the standard of proof in a coroner’s inquest on the question of suicide or unlawful killing was the balance of probabilities.

Conclusion

[8] Suicide requires proof and should not be presumed. That principle was supported by all of the Justices. There is, however, no basis upon which this court could distinguish this case or fail to follow this binding authority from the Supreme Court despite the persuasive judgment in dissent by Lord Kerr with whom Lord Reed agreed. Accordingly, it must follow that the appeal should be dismissed.