A Court of Appeal

Regina (Maughan) *v* Oxfordshire Senior Coroner (Chief Coroner of England and Wales and another intervening)

[2019] EWCA Civ 809

B 2019 April 9; May 10

Underhill, Davis, Nicola Davies LJJ

Coroner — Inquest — Standard of proof — Death by hanging in prison cell — Whether criminal or civil standard of proof applying to question of whether deceased dying by suicide — Whether standard of proof differing depending on whether conclusion given in short form or narrative form — Human Rights Act 1998 (c 42), Sch 1, Pt I, art 2[1] — Coroners and Justice Act 2009 (c 25), s 5(2)[2]

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The coroner conducted an inquest into the death of a prisoner who had been found hanging in his prison cell. At the conclusion of the evidence the coroner ruled that a short-form conclusion of "suicide" should not be left to the jury, finding that a properly instructed jury could not, on the evidence, be satisfied to the criminal standard that the deceased had intended to take his own life. Instead he directed the D jury to reach a narrative conclusion as to the circumstances in which the deceased had died, instructing them to apply the civil standard of the balance of probabilities to their findings. Giving a narrative verdict, the jury concluded among other things that the deceased had intended to kill himself. The claimant, who was the deceased's brother, brought a claim for judicial review, contending that in deciding whether a person had taken his own life, an inquest jury should apply the criminal standard of proof. The Divisional Court of the Queen's Bench Division dismissed the claim, E holding that the standard of proof to be applied in cases of suicide, both for short-form and narrative conclusions, was the civil standard.

On the claimant's appeal—

Held, dismissing the appeal, that the standard of proof at an inquest in a case of suicide should be the same throughout, there being no logic in adopting a criminal standard of proof for a short-form conclusion but a civil standard of proof for a narrative conclusion, which would create difficulties for juries and confusion in terms F of public perception of the outcome; that the standard to be applied should be the civil standard since (i) the essence of an inquest was investigative and was not concerned to make findings of guilt or liability, (ii) suicide was no longer a crime, (iii) the civil courts generally applied the civil standard of proof, even where the proposed subject of proof might constitute a crime or suicide, (iv) the importance of a proper investigation into the circumstances of death, pursuant to section 5(2) of the Coroners and Justice Act 2009, in a case involving the procedural duty under article 2 G of the Convention for the Protection of Human Rights and Fundamental Freedoms supported the application of the civil standard and (v) the civil standard would apply to other potential aspects of the narrative conclusion; that, therefore, at an inquest the standard of proof to be applied to the question of whether the deceased had deliberately killed himself intending to take his own life should be the civil standard, not the criminal standard, regardless of whether the conclusion was expressed by way of short-form conclusion or by way of narrative conclusion; and that, H accordingly, the claimant's claim had been rightly dismissed (post, paras 51, 69–74, 88, 97, 99, 100, 101).

[1] Human Rights Act 1998, Sch 1, Pt I, art 2.1: "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law."

[2] Coroners and Justice Act 2009, s 5: see post, para 20.