

CO/6064/2004

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
THE ADMINISTRATIVE COURT

Royal Courts of Justice  
Strand  
London WC2

Friday, 11th March 2005

B E F O R E:

**MR JUSTICE FORBES**

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**THE QUEEN ON THE APPLICATION OF SUTOVIC**

**(CLAIMANT)**

-v-

**HM CORONER FOR NORTH LONDON**

**(DEFENDANT)**

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**MR L THOMAS** (instructed by Christian Khan) appeared on behalf of the CLAIMANT  
**MR P MATTHEWS** (instructed by Withers LLP) appeared on behalf of the DEFENDANT

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PROCEEDINGS

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1. MR THOMAS: My Lord, I represent the claimant in this matter. My learned friend, Mr Matthews, represents --
2. MR JUSTICE FORBES: You heard what I just said. In the case immediately ahead of you counsel has been presented quite lengthy handwritten documents by the litigant. I hope that you will not mind if I interpose her again at 2 o'clock.
3. MR THOMAS: No problem at all, my Lord.
4. MR JUSTICE FORBES: There is a letter from the Treasury Solicitor on behalf of the Foreign Office, you have seen that?
5. MR THOMAS: We have seen that. They are an interested party. They are aware of proceedings but they do not wish to attend. My Lord, can I make this clear. Although they are an important party I do not think at this stage there are any criticisms in relation to the Foreign Office.
6. My Lord, because of the amount of documentation what I propose to do, I hope helpfully, is to guide you through some of the evidence, which is why I have set it out in this way. May I just confirm with you the documents that you have in front of you, because there has been some recent documentation. There has been a change of solicitors, as you will see, and there was a recent statement which was served yesterday from Miss Khan. I do not know if it has reached you. My Lord, there should be the original bundle and there should be a bundle of authorities.
7. MR JUSTICE FORBES: I have lots of authorities. Two bundles of authorities. Three bundles, actually.
8. MR THOMAS: This morning there should be a bundle from the defendant, again containing some authorities and a skeleton argument. That should be the white bundle.
9. MR JUSTICE FORBES: Yes. I have the skeleton and the bundle.
10. MR THOMAS: My Lord, can I open my submissions by saying this. This is our application for permission, permission having been refused on the papers by Davies J on 21st January. This is the renewal hearing. In short, you will see from the claim form that there are a number of grounds of challenge and what I hope to do is to focus on the major grounds of challenge this morning so you can see why we say --
11. MR JUSTICE FORBES: Is that in line with the application to renew which identifies the main grounds of challenge?
12. MR THOMAS: Absolutely. The two page skeleton which I have handed up is pretty short. What I intend to do is just to take you through those grounds and why we say there is an arguable case at this stage.

13. MR JUSTICE FORBES: Can I ask you this. If I am not persuaded on those main grounds that there is an arguable case, is that the end of the matter as far as permission is concerned or are you going to go on and look at the other less significant grounds?
14. MR THOMAS: My Lord, if I cannot convince you on what I describe as the major grounds, then I do not think I will use up court time on grounds which are considered to be less major grounds, if that makes sense.
15. MR JUSTICE FORBES: Yes. I think so.
16. MR THOMAS: You will see though from Miss Khan's affidavit that there are additional grounds which we seek permission to argue. They have only just come to light. One of them is jurisdiction which is quite fundamental, and I will come back to that in a moment.
17. My Lord, this is a tragic case concerning the death of Petar Sutovic, and essentially the first ground on which we would seek permission is the failure of the coroner to grant an adjournment which was sought in September of last year, before 20th-23rd September. Before I actually take you to the reasons why an adjournment was sought, I think it is important you understand, briefly, the background of the case.
18. In that regard, can I ask you to take the main bundle, please, and I will take you through the evidence, as it were. In the main bundle, my Lord, at divider 4, page 1, you should see a copy of the inquisition. I am not too sure how good your copy is. Mine is not very good.
19. MR JUSTICE FORBES: I see Davies J has put two red lines and a exclamation mark beside it. You can actually read "open verdict" but you cannot read the body of the --
20. MR THOMAS: The body is quite important. Over the lunchtime adjournment I will ensure that a better copy is made.
21. MR MATTHEWS: My Lord, perhaps I can assist. We provided a better copy and it was exhibited to the first witness statement of the defendant coroner.
22. MR JUSTICE FORBES: I know I have seen what it says somewhere.
23. MR MATTHEWS: The problem is simply that the ink colour did not photocopy very well.
24. MR JUSTICE FORBES: Well --
25. MR THOMAS: Perhaps I can read it. This is under section 3, "Time, place and circumstances in which the injury was sustained":

"In the early hours of 27th January 2004 the deceased was seen lifeless at his mother's flat in Belgrade. There was no evidence as to the exact circumstances surrounding the death. He had previously been a drug user but his mother said that recent drug tests were negative. Open verdict."

Now, my Lord, it is important that we look at the evidence on which that was based; how the coroner could come to such a conclusion and why an adjournment was being sought. Can I first take you to some of the background documents. He starts at page 170.

26. MR JUSTICE FORBES: Yes.

27. MR THOMAS: My Lord, I said at the outset that the documents I am about to take you to were all before the coroner and were all challenged. It was as a result of the discrepancy within these documents I am about to show you which is why Mrs Sutovic was making various requests for forensic tests. I do not need to take you to the whole of that. At page 235, "The deceased was found dead in the flat". The problem with that is there are several contradictions within the actual body of the report. If you just turn over the page, practically the last sentence. Mr Petar Sutovic was apparently found by his flatmate and friend who went into his room. On 27th January at 2.30 Nestic entered the room and found him dead with the tools for drug administering beside him. This was confirmed by Cupac when he was interviewed. So there are contradictions as to the times within the report.

28. The second paragraph: "The death was on the spot established at 2.56 am by the physician on duty." So immediately we can see that within this report there are three times given an answer about the death and suspicions arise. There may well be explanations for it but I will come back to that in a moment. Also, you will see that this report was based apparently on the evidence of Mr Nestic and Mr Cupac. If we look at the last paragraph, about halfway down, it reads as follows:

"According to Nestic the deceased was a treated drug addict; however, three days ago when he came from work he found the deceased in the flat who according to his physical aspect and behaviour gave an impression of a man under the effect of drugs and therefore, he, Nestic, concluded that the deceased started to be on drugs again and added that on 26th January, around 11.20 pm [note the time, my Lord] Sutovic came to the flat where already were Sergej Nestic and a friend of both of them, Zoki Cupac, a citizen of Australia . . ."

Then he goes on to say that they go into the room and discover him dead.

29. The last paragraph on page 175 then goes on to say that within the flat various items which can only be described as drug paraphernalia were found: needless, syringes, metallic spoon. The clear suggestion from this report was that this was a self-administered death using illicit drugs seen by these witnesses. The second to last paragraph is quite important:

"In the interview held with a patrol on duty of this internal affairs unit [Pausing there, Mitrovic was not in the officers who arrived at the scene. He is apparently recording what he has been informed], these two persons confirmed that when coming to the spot they saw a syringe and a needle stuck into the deceased's left arm which fell out while the paramedics

were rendering aid to the deceased."

No statements from the paramedics were ever forthcoming. They have a picture set. Drugs paraphernalia, seen lifeless, a needle in his arm, and this report.

30. MR JUSTICE FORBES: Yes.
31. MR THOMAS: Mr Mitrovic prepared a second report which is to be found at page 180.
32. MR JUSTICE FORBES: Yes.
33. MR THOMAS: You will see, my Lord, that this report is dated 27th January.
34. MR JUSTICE FORBES: Yes.
35. MR THOMAS: May I take you to the second paragraph of this report. That is the translation.
36. MR JUSTICE FORBES: It is the same thing. Both reports are 27th January.
37. MR THOMAS: Yes. Now this report says this:

"As you went up the front room, at the end of the corridor on the right is a bedroom in which the body was found, lying on the bed in a vertical position on the back with outstretched arms. Legs were dangling from the bed with the left foot touching the floor. The deceased was dressed in a white vest, blue jeans, and on his feet socks and black boots. Upon external examination of the body, traces of blood were present on the face around the mouth and nose, and on the pillow and the bed linen on the head side."

This is a police report which is going to what is a suspicious death. My Lord, you should have some photographs which were exhibited to Miss Khan's affidavit. Can I take you to those photographs because I want to show you the clothing that the deceased had on at the time he was discovered. If you look at SK2, there should be an album of photographs.

38. MR JUSTICE FORBES: I have got photographs.
39. MR THOMAS: My Lord, I am not talking about the black and white photographs in the bundle.
40. MR JUSTICE FORBES: No, these are actually inside. It is an album of photographs.
41. MR THOMAS: TM1?
42. MR JUSTICE FORBES: TM1, yes.

43. MR THOMAS: Can I just clarify this. Originally my photographs were black and white. You can see on TM1 the vest that Petar had on him. I do not profess to be an expert, but there is what appears to be a quantity of blood on that vest.
44. MR JUSTICE FORBES: Yes.
45. MR THOMAS: Absolutely no mention of that either in Mr Mitrovic's first report, nor indeed mentioned in this second report. My Lord, just so you understand the time frame, the photographs were taken by a man called Mr Hrmus who was the technician who accompanied Mr Mitrovic to the flat. He was the police officer who was meant to have taken these scenes of crime photographs. Yet there is no mention of this blood, nor is there any mention, my Lord, when you look through these photographs -- still sticking with TM1, if you look at the very last photograph, that should be a photograph of a denim jacket, which is saturated in blood. Now, my Lord, I say this: All these photographs were before the coroner.
46. MR JUSTICE FORBES: Yes.
47. MR THOMAS: My Lord, just to make the point, the clothing that we can see in this bundle was removed from the deceased's body on his return to this country by the pathologist, or the pathologist's son. These items of clothing -- we say quite apparent bloodstained clothing -- the pathologist should have been aware of them. There is absolutely no mention, apart from this report which mentions traces of blood present on the face around the mouth and nose, and the pillow and bed linen. That was the extent of it.
48. Moving on, my Lord, the officers who actually went to the flat, their report is to be found at page 173.
49. MR JUSTICE FORBES: Mr Mitrovic was a civil servant, was he? What was his position?
50. MR THOMAS: He was a traffic officer. The police officers who actually went to the scene, their report is to be found at page 173. That is Officers Ivanov -- you will have to forgive me with the pronunciations of names -- Anjic, and Trajceviski. These are the officers who actually go to the scene upon receiving the call that Petar is discovered dead. May I take you to the third paragraph of their report in which they say:

"Present in the flat at the time was Sergej Nestic, registered at 37 Francuska Street, who confirmed that he had been living in the flat as a lodger for some 15 days and his friend Zoran Cupac, Australian national, had last seen the deceased around 2300 hours . . . "

Pausing there, my Lord, again a contradiction in the timings. You will remember in the Mitrovic report it was 11.20 that they said they had seen him. Twenty minutes. It may be a mistake but I will come on to some more discrepancies in a moment. I just ask you to note it at this stage.

" . . . when he had entered the sitting room and said that he was going to

call his mother's, rather call his mother who lives in London."

51. These officers make no mention of a needle stuck in the arm. They make no mention of blood, and indeed, my Lord, neither do the two witnesses who apparently find the deceased. But it does not stop there, my Lord. Can I take you to the next report which is to be found at page 183. By this time, my Lord, Mrs Sutovic is highly suspicious in relation to the time of death. What she does is she goes to Serbia herself and instructs private detectives or investigators to interview the apparent witnesses, Mr Nesic and Mr Cupac. Again, this was before the coroner. Can I take you to --
52. MR JUSTICE FORBES: What is the date of this, approximately?
53. MR THOMAS: Approximately this was in April/May 2004.
54. MR JUSTICE FORBES: Thank you.
55. MR THOMAS: My Lord, if we take up the last paragraph, just above the last paragraph where they enter the room.

"After 02.00 hours, he cannot give the exact time, Petar's dog started to behave strangely and vomit. Sergej [Mr Nesic] went to inform Petar. He entered the room and found Petar having cramps, and he saw a syringe on the floor beside the bed. He panicked and at first he did not know what he was doing. He called the emergency ambulance, having previously obtained their telephone number by calling a friend."

Then it goes on that the police arrive at the scene. My Lord, you can see immediately when Mr Nesic is asked about it he gives yet again a completely different account. Having apparently told the police that when he went into the room Petar was lifeless and apparently dead, when interviewed by these private detectives he said that he entered the room and Petar was alive but having cramps. The other discrepancy that is obvious from this is the syringe. Whereas earlier on in the Mitrovic report the suggestion was that a needle was stuck in the arm, here it is on the floor.

56. It does not stop there. Mrs Sutovic gets in contact with Mr Nesic himself and tape records the telephone conversation. Again, the transcript of that telephone conversation she placed before the coroner. May I just take you to that. I do not take you to the whole conversation but the conversation starts at page 185, and the relevant part of the telephone conversation is at page 192. "SS" is Mrs Susan Sutovic. This was recorded and translated.
57. MR JUSTICE FORBES: Yes.
58. MR THOMAS: The tapes are still in existence. All of them. My Lord, halfway down, Mrs Sutovic asked Mr Nesic:
59. "How did you find him?"

A. He was kneeling on the bed, on one side of the bed. I saw a syringe.

Q. What did you see?

A. A syringe.

Q. Where did you see the syringe?

A. Either in his arm or in his hand, or on the floor nearby. It was not in his vein.

Q. It was not in a vein? And what was in the syringe?

A. I beg your pardon?

Q. Was there anything in the syringe? Was it empty? What was inside?

A. I was not looking at the syringe as I immediately went out and was looking for a landline telephone . . . "

And so on. Again, my Lord, I do not need to highlight the discrepancies. You can see them for yourself.

60. Mrs Sutovic commences proceedings in Serbia whereby a statement is taken by Mr Nestic, an official statement. That statement is again put before the coroner and is to be found at page 199 of the bundle. Can I take you to the second page of that statement. I am instructed that the way that this statement is taken, it was taken by a Serbian prosecutor. If I can take you to page 200.
61. MR JUSTICE FORBES: Yes.
62. MR THOMAS: The first thing to note, my Lord, is the last sentence in the first paragraph:

"At the time we were in the sitting room at one moment Petar walked out of the flat, just left and said nothing. This was around 2330."

Again, a contradiction. It was never previously mentioned to the police that Petar had left the flat. My Lord, do you remember I mentioned to you earlier on about the discrepancies in the time? Initially, in the first report it was 11.20, then 11.00, now we have him leaving the flat at 11.30 and coming back in. More importantly, my Lord, can I take you to the last paragraph and what was said about when the bedroom door was opened. It is about five lines down:

"I then opened his bedroom door to wake him up. The light was on in the room and when I opened the door I saw him in a stiff position lying on the edge of the bed. He was lying on his left side, stiff, legs pointing to the floor. When I came close to him it immediately came to mind that he was dead. The colour of his skin changed and when I touched him on the shoulder to wake him up, I noticed that the body was lifeless. I saw that he was bleeding from the nose. I also noted that he had a syringe in his hand. I think he held it in his hand that was nearer the floor. His right hand. I only lightly nudged him when I grabbed him on the shoulder to see if he was giving any signs of life. Then I left the room and immediately told [Mr Cupac] what had happened."

Again, my Lord, the discrepancies are obvious.

63. The prosecutor also took a statement from Mr Cupac and his statement is to be found at page 205. My Lord, it is about halfway down.
64. MR JUSTICE FORBES: Who is this?
65. MR THOMAS: There are two people allegedly in the flat with Petar: Mr Nestic and Mr Cupac. This is Mr Cupac's statement to the official prosecutor.
66. MR JUSTICE FORBES: Right. Yes.
67. MR THOMAS: Halfway down, my Lord:

"That was the last time I saw him alive. We sat there and at one moment we went out on the terrace, we lit up another cigarette, I was expecting snow to fall, which for me who lived in Australia was a great excitement. Then I noticed that Petar's Rottweiler had vomited and I told Sergej to let Petar know. Sergej did not want to wake him up but I told him it would be important for Petar, because if I had a dog that would have been important for me to know. Then Sergej went into Petar's room and spent a minute in there. He came out and I saw he was very pale, and then Sergej told me to go into the room using the words: 'You have to see this', and also said 'I think Petar is dead'. I then went towards the room door and from there I saw Petar's green face. Petar was lying on the bed on his left side. His left hand, as far as I can remember, was outstretched. I cannot remember if he had anything in his hand, I think one leg was reaching the floor and the other leg I don't know where it stood. I remember a green face, and I got scared. I remember that I crossed myself. I gathered he was dead."

My Lord, note there is no mention of any needle. This was a man who in the original report, the report that the coroner ultimately relied on, had said that there was a needle stuck in his arm. As I hope I am demonstrating, there are so many discrepancies among these witnesses.

68. MR JUSTICE FORBES: This statement was also before the coroner?
69. MR THOMAS: Yes. All these documents were before the coroner. My Lord, can I make this clear. All these statements were obtained by Mrs Sutovic. She was conducting her enquiries and she was putting this before the coroner. I am going to come to the letter explaining that, and then come on to the issue about the adjournment, but I do think it is important you understand the context.
70. May I take you to some of the photographs because initially, when Petar was discovered dead and repatriated to this country, Mrs Sutovic did not have his documentation. She got it in a piecemeal fashion over the months leading up to August. She got the photographs in July 2004. Now, may I take you to some of these

photographs. They are photographs of the scene. They are, my Lord, exhibited to Mr Merston's report.

71. MR JUSTICE FORBES: They are not part of TM1 then? I have an album of photographs.
72. MR THOMAS: My Lord, do you have the photographs which are attached to --
73. MR JUSTICE FORBES: I have seen photographs -- are you going to show me photographs on Petar on the bed? I have seen those.
74. MR THOMAS: Yes. It is Mr Merston's report dated 25th November.
75. MR JUSTICE FORBES: I think it is right at the very back, behind divider 5.
76. MR THOMAS: My Lord, may I hand up this copy.
77. MR JUSTICE FORBES: I have them here.
78. MR THOMAS: Again, may I ask this --
79. MR JUSTICE FORBES: They are in colour.
80. MR MATTHEWS: I wonder if you have a copy, could I have a look at it as well?
81. MR THOMAS: You can. My Lord, just looking through these photographs -- and again, these photographs were eventually obtained in the July. These were the photographs that were taken by Mr Hrmus who was Mr Mitrovic's photographer. You can see, my Lord, we say there are obvious facial injuries to Petar. My Lord, may I ask you just to look at the third photograph. Does your Lordship see the reddish pink staining on the pillow just above Petar's head in the top photograph? Does your copy show that?
82. MR JUSTICE FORBES: I cannot honestly say it does.
83. MR THOMAS: I think it is important you do see these photographs. These are very important. Some of the qualities of photographs were not very good. Could I ask your Lordship to peruse that bundle.
84. MR JUSTICE FORBES: Sorry, I was looking at the wrong photograph. It does show on mine.
85. MR THOMAS: In fact, my Lord, that has been confirmed as blood. It is all bloodstaining. My Lord, just going through those photographs you can see the bloodstaining. If you look at that photograph, we say that not only is there an obvious injury to Petar's nose but can you see the side of his face where it is pinkish? We say that that was blood that has been wiped.
86. MR JUSTICE FORBES: Well, that could be due to post-mortem --

87. MR THOMAS: My Lord, we are going to come on to that. The issue is this. These were questions that were being raised. That is the point. These were questions that were being raised. If you look at the photographs of the duvet.
88. MR JUSTICE FORBES: The staining on the cover, the separate cover.
89. MR THOMAS: That is right. Again, that has been confirmed to be blood. My Lord, can you see the photographs of the bed having been stripped?
90. MR JUSTICE FORBES: Yes.
91. MR THOMAS: If you look at the top photograph.
92. MR JUSTICE FORBES: Is this the staining on the mattress?
93. MR THOMAS: Yes, this is the cover underneath.
94. MR JUSTICE FORBES: Yes, I can see that.
95. MR THOMAS: You can see, my Lord, there is a photograph of a red bin underneath the green chair. If you look at the bottom photograph on that page, that is where the deceased's head was, that large patch. That is blood.
96. Then, my Lord, note the photograph with the spoon and the knife and the fork, what I am going to refer to as the "drugs paraphernalia". The knife, the tin foil, the syringe.
97. MR JUSTICE FORBES: Yes.
98. MR THOMAS: Then towards the end of that bundle you will see blood spots. You can see somebody measuring blood spots on the wall.
99. MR JUSTICE FORBES: Yes.
100. MR THOMAS: My Lord, again, all of this was put before the coroner.
101. MR JUSTICE FORBES: Yes.
102. MR THOMAS: I think it is important now for me to take you to the correspondence between parties leading up to the request for the adjournment, having set the scene, as it were. I should say this. There is just one other document to take you to. This is the photographer who took the photograph of Petar in situ, with Petar lying on the bed. If you turn to page 175 of the --
103. MR JUSTICE FORBES: What is the date of these photographs? 27th January 2004? Is that when they were taken?
104. MR THOMAS: The photographs of Petar on the bed are said to have been taken on 27th January.
105. MR JUSTICE FORBES: They were taken after the post-mortem in this country.

106. MR THOMAS: Precisely. My Lord, can I take you to page 175, please. This was a telephone conversation that Mrs Sutovic had with the photographer. My Lord, can I make this point. This was before Mrs Sutovic had actually seen the photographs so she is asking questions, as it were, in the dark. What she says, and this is the second to last question:

"Yes, I am aware it has been some time and you are very busy, and it is difficult to recall . . . but, can you remember, for example, what was . . . have you noticed anything in my son's arm?

A. No, no, I think I would have remembered if there was any visible injuries.  
No.

Then on page 177, Mr Hrmus confirms that he took the photographs. You can see halfway down Mrs Sutovic asked:

107. "Have you taken any photographs?

A. Yes.

Q. What have you photographed?

A. The room in which he was found, things like that.

Q. What about arms, for example? Can you remember any needle marks?"

108. MR JUSTICE FORBES: Right.

109. MR THOMAS: My Lord, I think it is important I come to the correspondence leading up to this. When Petar's body was repatriated to this country on 30th January -- my Lord, I know there is an issue in relation to the notification of post-mortem. Can I put that to one side?

110. MR JUSTICE FORBES: Yes.

111. MR THOMAS: You will see that there is conflict. I will just put that conflict to one side. His body is repatriated and the post-mortem takes place. We can see that post-mortem in section 4, page 56. My Lord, just before we come to the report, in my skeleton argument, which I handed up to you just a moment ago, there should be a document which is the document which accompanied Petar's body back to this country. It is entitled "Accompanying Document". It was issued by the Institute of Serbian Forensic Medicine. Your Lordship has an accompanying document for the transport. Does your Lordship have it?

112. MR JUSTICE FORBES: Yes. I have an exchange of what appears to be emails, is that right? Faxes?

113. MR THOMAS: No, my Lord, it is page 46 and 47 in the bundle. My Lord, this is the document which accompanies Petar's body back to this country. Page 47 is the translation. Can I ask you just to note this. At paragraph 4 on page 47 where it says

"Hour, day, place, and country of death", all that is recorded is "27th January". There is no address given or anything, or time of death. My Lord, can I also ask you to note this. At paragraph 5 "Cause of death" is blank.

114. MR JUSTICE FORBES: Yes.

115. MR THOMAS: The other thing I ask you to note is in section B, paragraph 4. The way in which the deceased was identified by the Ministry of Internal Affairs, in other words the Serbian police force.

116. My Lord, bearing that in mind can we now come on to the post-mortem that was conducted in this country. Can I take you to page 56. My Lord, you need to have one hand on page 56 and a finger at page 65. The reason why you are doing that, page 65 is the Institute of the Royal College of Pathologists regarding the conduct of post-mortems.

117. MR JUSTICE FORBES: I was going to observe that this is obviously going to take a few minutes, so if that is a convenient moment we will break off now. I will take the other earlier application at 2 o'clock. That should not take more than 20 minutes.

118. MR THOMAS: Can I say this. I know it is taking a little bit of time but I am setting the framework. When I come to the law, the law should slot in and I will be able to develop my arguments relatively quickly.

119. MR JUSTICE FORBES: I will assume that there is no need for you to come back before 20 past 2.

**(The Luncheon Adjournment)**

120. MR JUSTICE FORBES: Mr Thomas, you had taken me to page 56 and told me to keep my finger in page 65.

121. MR THOMAS: Before that, there is something I omitted to take you to and I shall do that. If you turn to page 49, this was the report that accompanied Petar's body back to the UK from the Serbian authorities. Can I just ask you to note the cause of death on that form: "Cause of death: heart failure with no infectious diseases". That was before the coroner. Also, my Lord, the ambulance crew that arrived at the scene to remove Petar's body from the flat, there is their report. I am not sure if it was copied in the bundle. It was before the coroner. Can I just hand you up a copy. **(Handed)**. You have the original and the translation. What is interesting if we look at the translation, which is the lighter copy, it is not completed or signed at the bottom by the ambulance crew at all. It is blank. But more importantly, the address is not filled in as to where they picked the body up from and, if you look at what the ambulance crew apparently write in a box called "Verdict", can you see that on the left-hand side?

122. MR JUSTICE FORBES: Yes.

123. MR THOMAS: "With syringe in hand. Vomiting on scene". That is what the ambulance crew apparently said, and this was before the coroner. My Lord, there was apparently meant to have been a doctor in the ambulance.

124. Then we come to the page 56, and I was asking you to have one finger in page 65 as well. My Lord, dealing with this very quickly, you will see that contrary to the guidelines given by the Royal Society in relation to the external examination of the body, there is no weight given, no height measurements, no colour, no racial pigment, no diagram of the scarring. The deceased had a large scar from a previous accident. There is no description of that. You will see, more importantly, it says that no injuries were received. My Lord, can I take you down to cause of death, 1A, at the bottom of that page. This was a report done on 2nd October and it is reported, on 2nd October, "morphine poisoning". But, my Lord, we know that the toxicological report was not conducted until -- this is page 58, two pages on.
125. MR JUSTICE FORBES: Yes.
126. MR THOMAS: We know the toxicological report was not conducted until 16th February. You see that at the very bottom. The post-mortem takes place on 2nd February, but the actual toxicological analysis was not reported until 16th February, which obviously begs the question --
127. MR JUSTICE FORBES: I do not know if you realise it but I actually have dealt with a major criminal case involving death by morphine administration. In that case the pathology was carried out in advance of the results of the tissue samples taken from the deceased. It is by no means unusual for the pathologist to record his findings at this point and then, in the light of what he is told, he then can express a view as to the cause of death. It would be very strange if the toxicological results of something like death by administration of morphine if that either was on the same date as or preceded the --
128. MR THOMAS: My Lord, I fully appreciate that and I anticipated that that was what was likely to be said; that that has been filled in when the toxicological report was received on the 16th or 18th, or whenever it was. I saw that point coming. The point is, where the pathologist adds to his report or concludes it later, usually that is when it is dated. "The post-mortem was carried out on", "Toxicology was received on", and there is nothing on the face of the document to describe this. It is a small point.
129. MR JUSTICE FORBES: The actual post-mortem was carried out on 2nd February.
130. MR THOMAS: Yes.
131. MR JUSTICE FORBES: Those are the results he found as set out in the body of the report, but the cause of death was added later.
132. MR THOMAS: Yes. Let me move on. One of the big issues in relation to the post-mortem report was the absence of any injuries that were seen. Also, the fact that when the toxicological reports came in it was said to have been morphine. Just to finish, there were two toxicological reports that were produced. One said "morphine", and that is the one you have just looked at at page 58. The claimant notified and made absolutely clear to the coroner that her son did not use morphine, and asked the coroner to conduct a freestanding morphine test. So it was not just a wide range test but a freestanding morphine test. You can see that at page 57 if you go back a page. This is

the report of Professor Johnstone at St George's. That concluded that there was no heroin. Pure morphine, not illicit morphine. That raises --

133. MR JUSTICE FORBES: Heroin is diamorphine, and it breaks down to morphine in the body very, very quickly.
134. MR THOMAS: That is right, but it raises issues. I am going to take you to Professor Forrester's report.
135. MR JUSTICE FORBES: The toxicology report from St George's said there was no morphine in the blood sample, is that right? Do I assume that is the blood sample taken from the deceased at the same time as the ones that gave positive results?
136. MR THOMAS: Yes. My Lord, it is important that you do see -- if I can just hand this up. You have this but I have conveniently labelled it. It is nicely labelled and tagged for you. **(Handed)**.
137. MR JUSTICE FORBES: Thank you.
138. MR THOMAS: My Lord, the first issue that is raised from the post-mortem report was the absence of injuries. That is one of the things that the claimant made absolutely clear. If I can take you to the correspondence and then I will come to the legal submissions. If we start at the back of the bundle at page 272.
139. MR JUSTICE FORBES: Yes.
140. MR THOMAS: Very quickly, my Lord, we will see in the third paragraph on that page claimant immediately raises:

"I have reasonable doubts to believe that my son may have been murdered. These beliefs are based on the following: The pathological report confirms the cause to be morphine poisoning. It also confirmed that there were no signs of recent needle marks on his body. My son has never taken morphine . . . "

So immediately the claimant is raising issues in relation to the findings. If you go over two pages to page 274, the claimant sets out the suspicious circumstances surrounding the death, and the discrepancies. I have touched upon some of those discrepancies already with you. On page 274, four paragraphs up from the bottom:

"I have also now found out that there was a spoon on his bed and some bags of heroin. The pathologist confirmed that no heroin was found in the body and no needle marks. Please confirm how morphine was therefore admitted into the body. It seems it was a set up."

The claimant is raising at the outset that she thinks that this was staged. My Lord, this was at the very beginning of the proceedings when the claimant had not conducted half of the investigations which were later conducted in the July, but she was raising her suspicions.

141. We then come on to page 270, the letter dated 24th March, second paragraph, where the claimant specifically disputes Mr Crompton's post-mortem report:

"I write to inform you that the police did not investigate the death of my son at all and in fact the pathologist did not carry out a proper post-mortem."

Going down to the fifth paragraph:

"Please find now enclosed the translated police report which has been filed with the court".

That is the Mitrovic report. The claimant is making it absolutely clear that the Mitrovic report she does not accept:

"I also enclose a copy of the report prepared by the doctor who attended the scene. You will note the discrepancies as to the syringe. The pathologist who examined my son's body in this country has confirmed that there was no recent injection mark on the body."

The claimant is making the comment that ongoing investigation is being carried out. On page 268, my Lord, the claimant is saying in a letter dated 20th April, first paragraph:

"I have now seen the pathologist and toxicologist report. The illicit drug was synthetic morphine and not heroin. My son has never taken morphine. As you state in your letter, the police report states illicit drug heroin --"

142. MR JUSTICE FORBES: How is the claimant able to say it was what she called "synthetic morphine"?

143. MR THOMAS: She was basing that on the report from Professor Johnstone.

144. MR JUSTICE FORBES: Saying that it was synthetic morphine?

145. MR THOMAS: Can I take instructions on that?

146. MR JUSTICE FORBES: Let me tell you what my understanding is based on other cases. It is that diamorphine breaks down into morphine once it is injected or ingested in some way, and it is a matter of seconds it takes to break down to morphine.

147. MR THOMAS: My Lord, that may well be right and in relation to what she is writing here, I am not suggesting that at this stage the claimant had forensic evidence to back up -- what she is doing is she is raising her concerns.

148. MR JUSTICE FORBES: Very well.

149. MR THOMAS: The point being that this ties into two points. Firstly, the adjournment, all I am doing --
150. MR JUSTICE FORBES: Sorry to interrupt you again. The point about diamorphine is that it actually acts much more quickly on the body than if it was taken as morphine.
151. MR THOMAS: My Lord, I do not dispute that. Still serious questions raised in relation to --
152. MR JUSTICE FORBES: The equivalent amount of diamorphine is twice the strength of the equivalent in morphine.
153. MR THOMAS: My Lord, you will have read from Professor Forrester's report, when you are conducting these tests there are a number of factors you have to bear in mind. First, the history. Secondly, whether or not the claimant is a diabetic. None of these were taken into account. Thirdly, and more importantly, my Lord, just to deal with the point as you raise it, one of the things the toxicologist can do is to check the hair samples and that was not done.
154. MR JUSTICE FORBES: I know it was not done and I know it can be done. Do not let us lose sight of the fact that I am not sitting here as a coroner revisiting the whole matter.
155. MR THOMAS: No, my Lord. I fully appreciate that.
156. MR JUSTICE FORBES: What I am concerned with is whether the decision-making of the coroner is arguably challengeable.
157. MR THOMAS: I appreciate that. My Lord, forgive my enthusiasm, I do have a loud voice at times.
158. MR JUSTICE FORBES: No, it is very satisfactory. Let us not lose sight of what the real target is.
159. MR THOMAS: I appreciate that. At this point I am laying out the correspondence --
160. MR JUSTICE FORBES: She is raising her concerns, as one would expect. The background scenario is one that would worry and trouble any mother. She is raising her concerns in very obvious places, directing attention to matters which would plainly concern any mother faced with this.
161. MR THOMAS: My Lord, that is absolutely right. What she is doing, what is absolutely clear, she is making it clear that she does not accept this evidence.
162. MR JUSTICE FORBES: She has made it quite clear that she thinks her son was murdered and she thinks there is a basis to come to that conclusion by way of the various areas of concern she has identified.

163. MR THOMAS: My Lord, we then come on to the correspondence in August. August is a significant event because that is when she has returned from Serbia, having been there and obtained the photographs and a file. The file I am talking about is all the police reports, the investigative reports; documents that I took you through this morning.

164. May I please take you to the letter at page 262. There you will see, my Lord, the claimant setting out all the concerns that she has: telephone investigations to see whether Mr Nestic was in the place that he said he was at the time. She got hold of his telephone records, she got hold of the emergency services telephone logs. Her housekeeper provided evidence in relation to whether or not there was blood in the flat. Can you see there, the second to last paragraph on 263:

"Please find enclosed photographs of clothes and you will see that they are full of blood at the back and also at the front."

This applies to the under pants and soles of the socks. Then she says on page 265, in the second to last paragraph:

"I believe I have provided you with sufficient information to come to a decision as to whether the police will be involved. You state in your letter I need to be patient. However, seven months have gone by and I have received no assistance from anyone".

She had been obtaining all of this on her own.

165. The coroner replies and his reply is important. It is at page 257, I am told. Sorry, it was the page just before that. When she got back she sent in the file. It is page 266. I have taken it slightly out of order. Apologies for that. You can see the doctor writes to her saying:

"I am writing to thank you for sending me the full and detailed files relating to your son's death and for going over them with my officers. Clearly they raise new questions which will have to be explored. This may take some time and require further police involvement."

So the coroner is accepting, having received all of this, that potential criminal matters have been raised which is why he says, we say, this may require further police involvement.

166. After the claimant writes that letter of 20th August saying "I have waited seven months", she sends a further letter, on page 259, saying:

". . . you state there will be further police involvement. I do not understand what you mean by this. There has been no police involvement and any other involvement with the authorities to assist me, save for Annie and Michelle. However, these two persons have no power to make a decision. With respect, it is a disgrace. Not only did the authorities in Serbia fail to make a proper investigation but indeed the authorities in this

country."

The final paragraph is quite interesting on that page:

"The coroner does have a duty to investigate if there were suspicious circumstances in this case. From your earlier correspondence, with respect, it is clear that you formed that view that there was suspicious circumstances. An official pathology report was carried out in the UK. An overdose, drug-related, end of story. You did, however, put it in a more polite way by saying enquiries abroad are fraught with difficulties and in addition you referred to the groin area where addicts usually inject."

And it goes on. She deals with bleeding and so on. My Lord, just on page 260, the second to last paragraph, she raises this point:

"If a person dies of an overdose and no-one else is involved, and in their own flat, why is there such injuries to the body which were not identified here?"

You take the point.

167. As a result of writing that letter, it crossed with a letter dated 20th September, at page 257, where he says he studied the papers and translations:

"There is no need to provide me with any further information because I have had the opportunity of discussing the matter with Professor Crane."

The claimant had instructed Professor Crane to prepare a report, but she never received one. What transpires happened -- which is clear from the coroner's own statement -- is the coroner telephoned him and after him telephoning Professor Crane, Professor Crane quite frankly refused to communicate with the claimant thereafter. The learned judge considered this in the application on the papers: did the claimant ever get the report? That is dealt with in Miss Khan's affidavit. Then he says this:

"You have commented on inconsistencies in the report that you passed me. I note them. I intend to resume the inquest into your son's death on 27th September."

So he makes the decision that he is going to have the inquest.

168. The claimant had instructed forensic experts, because at this time, my Lord, it still was not clear whether the blood found in the flat actually came from the deceased. Mr Fordy -- his witness statement is at page 256 -- actually does two things. He writes the letter and he rings up the court asking for an adjournment on the claimant's part. He makes it absolutely clear, if you look at the fourth paragraph, it says:

"I have already been in consultation with the Home Office forensic pathologist regarding this case and I know Mrs Sutovic has engaged the

services of two further forensic pathologists. She has also instructed a forensic scientist with whom I shall be liaising on Monday 27th with regards to the examination of Petar's clothing."

Up until that point the clothing had not been examined. It was assumed to be Petar's blood but it had not been DNA tested. He said:

"I would like, if possible, to speak to Mr Crompton, the pathologist, who is under your instruction."

The claimant requested of the coroner to speak to the pathologist back in February and March, and was denied access to him. The point she wanted to raise in relation to the nose she never put to him because he was instructed not to speak to her. So via her expert she wanted to put: did you see this, did you see that, were you aware of that, were you aware of the clothing? Perfectly reasonable questions you would want to put to a pathologist, particularly a pathologist who comes back with a report saying: "No injuries found". Despite that, the coroner proceeds and does not grant an adjournment.

169. MR JUSTICE FORBES: Was there a formal request for an adjournment? Show me the request for the adjournment.
170. MR THOMAS: There is a witness statement from Mr Fordy.
171. MR JUSTICE FORBES: Mr Fordy asked for the adjournment?
172. MR THOMAS: Yes. My Lord, if you turn to page 250.
173. MR JUSTICE FORBES: Yes. It that the letter from Mr Fordy?
174. MR THOMAS: No, this is the letter from the coroner. If you look at the last paragraph you will see where the coroner says that there was certainly no reason to adjourn the inquest. In other words, there was a request for an adjournment.
175. MR JUSTICE FORBES: Where are you looking?
176. MR THOMAS: Sorry, page 251, second to last paragraph, last line. He is talking about what happened earlier on.
177. MR JUSTICE FORBES: Well, that certainly confirms that it is his view that there was no reason to adjourn the inquest, but it does not follow from that that there had been a request for an adjournment. I am not wanting to quibble unduly, but if there was a formal request for an adjournment I would like to see it. Obviously a coroner faced with the sort of representations he was receiving from Mrs Sutovic might well ask himself if it is appropriate to adjourn this, without actually having been formally requested to do so. He might consider it and decide against it. Page 251 could be read in that way. What I want to know is was there a formal request for an adjournment by the claimant?

178. MR THOMAS: My Lord, I am instructed that Mr Fordy made a formal request for an adjournment on the claimant's behalf on 23rd September.
179. MR JUSTICE FORBES: Well, I must say it is very unusual, because he is an expert witness, or potentially an expert witness.
180. MR THOMAS: He was asking for an adjournment so he could conduct his enquiries.
181. MR JUSTICE FORBES: Can I see his request for an adjournment? Did he put it in writing or what?
182. MR THOMAS: My Lord, can I just take instructions?
183. MR JUSTICE FORBES: Yes. Looking at that letter, it does not seem to me, with the best will in the world, that one can construe that as a formal request for an adjournment, even assuming Mr Fordy was authorised to make such a request.
184. MR THOMAS: My Lord, you wanted evidence on that. Can I take you to paragraph 76 of the claimant's witness statement. It is the same bundle, behind divider 2.
185. MR JUSTICE FORBES: Paragraph?
186. MR THOMAS: Paragraph 76. I think that deals with the point that you are asking, where is the evidence. Can I also take you to Mr Fordy's report on page 145, my Lord. Sorry, page 151:

"Having personally been engaged by Mrs Sutovic on 2nd September and realising the importance of the inquest which was to be reconvened on 27th of that month, I contacted Dr Dolman's Coroner's Officer, Ms Ann Murphy, by telephone on 23rd. Whilst I informed her that it was a case for the coroner whether an adjournment took place, in the light of the new documentary evidence provided by Mrs Sutovic alluded to in Dr Dolman's letters of 6th August and 20th September [My Lord, I have taken you to those letters] coupled with her recruitment of a variety of forensic experts, it might be prudent to have an adjournment. I confirmed this telephone call by way of a letter dated 23rd September. Whilst I received an acknowledgment of the letter, I did later learn from the coroner's officer that the coroner had been informed of my conversation by his officer, and had received my letter prior to 27th September, but went ahead with the inquest."

187. My Lord, a request for an adjournment was made. There are two points on this. Firstly, bearing in mind the evidence that had been raised whether a reasonable coroner would have adjourned to ensure that a full and sufficient enquiry was conducted, whether or not a request had been made Secondly, if a request had been made, whether a reasonable coroner would have granted an adjournment in the light of that request. In my submission, no reasonable coroner would not have adjourned if they are told the deceased's clothes are covered in blood, there is blood on the bed, there is blood on the wall, and we are conducting tests to see whether or not that blood is his. Bearing in

mind there is a suggestion there are no injuries to this man's body and bearing in mind we have photographs showing what appears to be apparent injuries to the face.

188. MR JUSTICE FORBES: What is the test that has to be applied here? Is it at the coroner's discretion? Mr Fordy is not so much requesting an adjournment but indicating that in his view it would be prudent to have an adjournment. The decision of the coroner to proceed with the inquest is one that can only be impugned on the grounds of rationality, **Wednesbury** unreasonable. How do you want to express it?
189. MR THOMAS: My Lord, bearing in mind you have a post-mortem report which indicates no injuries, and bearing in mind the purpose behind the inquest is to ascertain --
190. MR JUSTICE FORBES: I understand, but bearing in mind the time and the amount of time that was estimated for this hearing, we are now dealing with the first ground of challenge. I accept the test is whether you can satisfy me that on an arguable basis, arguably, the decision of the coroner not to adjourn was irrational, perverse, or **Wednesbury** unreasonable.
191. MR THOMAS: My Lord, can I take you to the case of **Reilly**.
192. MR JUSTICE FORBES: Is that right?
193. MR THOMAS: I do not think that is quite right because, my Lord, **Reilly** was a case dealing with whether or not sufficient investigation was carried out at an inquest. In this case the coroner failed to call two witnesses that the claimant suggested should have been called if there was to be a full and sufficient enquiry. The Divisional Court, at page 9, sets out a test. In fact, if we go back a page to the last line of page 8:

"An inquest is, as has been stated many times . . . an enquiry into the reasons for one's death. In my judgment, when an apparently healthy man rapidly deteriorates and shortly after dies, it is necessary that the enquiry into death should, so far as possible, seek to establish the probable cause of the events and to resolve any ambiguity in the evidence by investigation at the inquest [section 13 is then set out]. As to whether a sufficient enquiry has taken place . . . I take the simple the starting point that an enquiry that leaves too much questions unanswered and too much issues unresolved is not a sufficient enquiry. The applicants make a number of complaints."

Then the complaints are summarised.

194. MR JUSTICE FORBES: That is about the nature of the enquiry. What we are dealing with on this first ground is the proper exercise of the coroner's discretion whether to adjourn the inquest. The fact that he refuses to adjourn the inquest, it does not follow that the progress of the non-adjourned inquest will result in an enquiry which does not satisfy the requirements of the statute. That may or may not be the case. By refusing to adjourn the inquest at this stage, the coroner is not committing himself absolutely to a refusal to investigate matters which he should investigate. He is merely saying: "I am

going to get on with this inquest and I see no good reason for adjourning the inquest". Now, I emphasise that that does not mean to say he will not revisit that decision later on as the enquiry progresses. What you have to show, by challenging this decision, is that this decision, at this stage, not to adjourn was a decision that no coroner in a reasonable discharge of his duty could possibly come to, or that it was perverse or irrational. Is that not right?

195. MR THOMAS: That is right. That is the correct test. What do I say in relation to that is that given the fact that this coroner did not have any information dealing with the issues that had been raised, that no reasonable coroner in those circumstances would have said: "I am going to proceed in any event". If you look at the timings, the request was made on the 23rd. There was no way the coroner was going to obtain the answers to those unanswered questions by the 27th.
196. If I am wrong on that, that leads me into the other ground of challenge which I make. I am taking these out of order now but I think it is necessary. This ground is that at the inquest, once it was clear that those questions were still unanswered, at that point the coroner should have adjourned.
197. MR JUSTICE FORBES: Was he asked to do so?
198. MR THOMAS: My Lord, he was. Whether or not the coroner was asked to do so is an irrelevant question because the inquest is for the coroner. He is the state authority to ensure --
199. MR JUSTICE FORBES: I read past that. It is an inquisition. It is conducted by the coroner in accordance with the statute and --
200. MR THOMAS: My Lord, as I have pleaded in the claim form, within domestic law **Jamieson** principles to have a full and sufficient enquiry, not a slipshod enquiry, where you have a situation where you have injuries, or what appears to be apparent -- I am not expert, my Lord, but looking at those photographs they certainly raise questions. At the very least, what the coroner should have done was gone back and asked his pathologist. Can I take you to the defendant's bundle, my Lord.
201. MR JUSTICE FORBES: Where do you want me to go now?
202. MR THOMAS: It is called the defendant's authority bundle.
203. MR MATTHEWS: My Lord, I think you may have two copies.
204. MR JUSTICE FORBES: I see. Right.
205. MR THOMAS: Can I take you to section 8 and can I take you to -- unfortunately it is not paginated but it is the exhibits.
206. MR JUSTICE FORBES: The exhibits are paginated.

207. MR THOMAS: It is page 2. It is a letter from Dr Crompton. My Lord, can I ask you to note a couple of things. Firstly, this is a letter dated 18th January of this year and it is in response to a letter dated 17th January. Unfortunately, we do not see the letter that the defendant wrote. I think it is important that we do see that letter, what he is responding to. He said this:

"I am writing to confirm my autopsy findings on this young man after careful examination. These are set out in my report to you, AC218/04 dated 2/2/04. I can especially confirm that at the time of the autopsy no injuries were seen externally or on further examination."

My Lord, what does that mean?

208. MR JUSTICE FORBES: It means, presumably, what it says. Your point is that they are looking at photographs where plainly it can be seen an injury to the nose and the area adjacent to the nose.

209. MR THOMAS: Absolutely. But, my Lord, the other point is that one would have expected that no reasonable coroner, given those photographs and having this post-mortem report, would not have gone back to the pathologist and said: "Can you comment on these? Does this make you change your opinion? Can you explain it?" It was not done. My Lord, I say at the very least that must be arguable. That must raise an arguable point in a judicial review. Even if I am wrong about the adjournment on the 23rd --

210. MR JUSTICE FORBES: Identify, if you would, the ground you are directing me to at the moment. I am looking at your brief outline.

211. MR THOMAS: Can I take your Lordship to the claim form. In the skeleton it is paragraphs 4 and 6. In the claim form it is paragraph 21:

"At the inquest the coroner decided not to investigate a number of matters raised by the claimant. These included those matters listed in paragraph 3 of the section, in particular the injuries Petar had sustained to his face, neck, groin, were not investigated properly. The coroner's only comments were that the injury to Petar's nose could have happened just before his death or the area around his eyes would have been blue."

This was not based on any expert analysis, but on the coroner's own opinion. He did not explain the large amount of dried blood coming from Petar's nose and mouth. You could add -- I did not in the claim form but it is obvious --

212. MR JUSTICE FORBES: Can I have a look at the photographs again?

213. MR THOMAS: If you look at the paginated bundle the photographs are better. The paginated bundle that I handed up to you, it is SK2 so if you look for number 2. If you look at those photographs you can see. Exhibit SK2.

214. MR MATTHEWS: My Lord, I do have the original photographs that were exhibited at the inquest. They are the original prints from which all of these photocopies were made. **(Handed)**.
215. MR THOMAS: My Lord, again I am no expert, but --
216. MR JUSTICE FORBES: The obvious injury, if I can call it that, at the bridge of the nose extending across the nose and down below. There seems to be an injury on the bridge of the nose crossing the nose and going below the left eye. That looks as though it is an old injury in the photograph, assuming that the photograph was taken on 27th January. I am not sure I can identify any other injuries to the face, as such, after that old injury. I use the word "old" in the loosest possible sense.
217. MR THOMAS: My Lord, the point is this. I do not know whether that can be described as an old injury or not because I am not an expert, but surely --
218. MR JUSTICE FORBES: It is clearly not an injury that was inflicted at the time of death.
219. MR THOMAS: Exactly. Therefore, surely, if you were a coroner you would be asking the question: "Was there any suggestion that he had any injury beforehand?" You would be asking an expert: "Have a look at this photograph. Can you explain why there is no mention of this injury in your report?"
220. MR MATTHEWS: I hesitate to intervene, but I think in the interests of fairness your Lordship ought also to see a photograph amongst the same photographs, which was a photograph of Petar taken during life, so your Lordship can compare the two. **(Handed)**.
221. MR THOMAS: Of course.
222. MR JUSTICE FORBES: Mr Matthews, is it your understanding that this young man is the deceased?
223. MR MATTHEWS: It is the deceased. I think there is a date on the back.
224. MR JUSTICE FORBES: Obviously it was taken some time before.
225. MR MATTHEWS: I invite your Lordship to look at the back. I think there is a date on the back.
226. MR JUSTICE FORBES: I see. That is November 2003.
227. MR MATTHEWS: That is approximately two months before death.
228. MR JUSTICE FORBES: Whatever that injury is, he received it between that photograph and death.

229. MR THOMAS: My Lord, that is the point. The housekeeper confirmed that there were no injuries to the deceased, and the claimant put that evidence before the coroner -- there was a telephone transcript -- and invited the coroner to call the housekeeper. None of the witnesses describe any blood or injuries to the deceased. In fact, if you turn to page 12 of the bundle, even the Serbian post-mortem report makes reference to: "It is concluded that it was a violent death caused by the intake of drugs". That is the last sentence. Even the Serbian post-mortem report makes reference to some injuries and blood.
230. MR JUSTICE FORBES: Unless you want to be carrying on with this on Monday, Mr Thomas, you have to have regard to the way in which time is going. Take me to the details of the coroner's finding.
231. MR THOMAS: The transcript or the actual inquisition?
232. MR JUSTICE FORBES: Whatever you think is going to help me and I get a picture of how the coroner --
233. MR THOMAS: Well, if I take you to the inquisition --
234. MR JUSTICE FORBES: I saw the inquisition.
235. MR THOMAS: He was "seen lifeless". Where is the evidence that he was seen lifeless in the flat? There was contradictory evidence on that. On what basis did the coroner decide that Nestic's evidence -- what version --
236. MR JUSTICE FORBES: You were going to give me a fair copy of that.
237. MR THOMAS: Yes. I have a fair copy of that, my Lord. On what basis did the coroner come to the conclusion. Here we are. That copy should be better than the one that is in your bundle. Here is a cleaner copy. **(Handed)**.
238. MR JUSTICE FORBES: Thank you. That is much better. Right. Is there a transcript?
239. MR THOMAS: Yes, there is a transcript. The transcript is in the bundle at page -- sorry, my Lord, it is not a transcript, it is notes. It is important to know that the notes are dated later.
240. MR JUSTICE FORBES: Well, they are maybe sort of tidied up notes. Even judges have been known to do that.
241. MR THOMAS: They are to be found in the bundle at sorry A2, pages 2-4.
242. MR JUSTICE FORBES: Sorry?
243. MR THOMAS: Pages 2-4.
244. MR JUSTICE FORBES: The core bundle is this?
245. MR THOMAS: Yes.

246. MR JUSTICE FORBES: Behind tab 2?
247. MR THOMAS: Behind tab 4. Immediately behind the inquisition.
248. MR JUSTICE FORBES: I have it. Let me just read those.
249. MR THOMAS: My Lord, when you get up to page 4 --
250. MR JUSTICE FORBES: What is the significance of the final sentence on page 3: "It worked against her"?
251. MR THOMAS: My Lord, I think the claimant was not happy with the way that the detective agency were conducting the enquiries. There it is. I do not think anything of significance turns on that. Can I say, on page 4, the last sentence, that is not the claimant saying that. That is apparently the coroner saying that. The claimant is saying that he has injuries. In fact, I should make it clear that these notes are not accepted.
252. MR JUSTICE FORBES: Just a moment, Mr Thomas. Mr Matthews, is this unarguably not a sufficient enquiry in the circumstances?
253. MR MATTHEWS: My Lord, I say "Yes". I say that it is unarguable.
254. MR JUSTICE FORBES: Well, use the time available to try and persuade me that that is the case. You need not worry about the adjournment point at this stage but as to whether, arguably, this has been a sufficient enquiry within the ambit of the sort of test expressed in **Jamieson**. Bear in mind that it is only a question of arguability.
255. MR MATTHEWS: My Lord, I do. May I take it that your Lordship has read the grounds of resistance.
256. MR JUSTICE FORBES: Yes, I have.
257. MR MATTHEWS: The facts in which were confirmed by the short witness statement of the coroner himself. Secondly, that your Lordship has seen the skeleton argument.
258. MR JUSTICE FORBES: I have. It was very helpful. Thank you.
259. MR MATTHEWS: In that case, what I would like to deal with is the question of what actually did the coroner have at the time he carried out the hearing on 27th September. If I could take your Lordship to my skeleton argument. Your Lordship has already heard from my learned friend that the claimant had very helpfully gone to Serbia and procured a great deal of information which she considered to be relevant, and she had placed it before the coroner. There is a tremendous difficulty when deaths occur abroad for the coroner to hold an enquiry. Unlike this country where he can summons witnesses and pull strings and get people to do what he wants, that is not possible in a case of death abroad. He has to operate through the Foreign Office and try to persuade the Foreign Office to obtain information. In fact that was not necessary in this case -- although he did make enquiry of the Foreign Office -- because the claimant in this case actually did a lot of the work in producing the evidence that she did. Therefore, the

coroner, by the time of the hearing in September, had all the various documents which are referred to in the correspondence to which your Lordship has already been taken.

260. MR JUSTICE FORBES: He was very grateful.
261. MR MATTHEWS: He was very grateful, because it is not something which usually happens. At the end of the day, this is an inquest where the coroner found two essential things: (1) the medical cause of death, and (2) a conclusion as to death, the open verdict. At the end of the day, my Lord, what we say is that the both of those important points, the medical cause of death and the conclusion as to the death, were wholly justified exercises of judgment on the basis of the evidence before him.
262. In my skeleton argument under paragraph 6, my Lord, your Lordship will see what evidence the coroner had before him in relation to the morphine poisoning. He had the evidence of the claimant herself, and then he had the autopsy and toxicology report. A singular feature of this case is that the coroner had the luxury of not one but two sets of reports. He had the reports from Belgrade and he also had the reports from London.
263. MR JUSTICE FORBES: I do not think there is any problem about the cause of death. Where the problem lies, and I have no doubt gave rise to the understandable anxiety and distress of his mother, is that she believes that had the coroner carried out the sort of enquiry that she says he should have carried out, he would not have recorded an open verdict, he would have recorded a verdict of unlawful killing. I hope I am not doing an injustice to her position, but her position can be stated fairly shortly. This coroner, she says, bottled out of doing his job properly and took the easy route of giving an open verdict and not investigating further. If he had done, and if he had carried out a complete enquiry, he would have been driven inexorably to a conclusion that this was an unlawful killing.
264. Things like the blood are important because that would be part of the case for demonstrating that the victim had been subdued before he had been administered the fatal dose. I hope I am not doing an injustice to the case but that really is it in a nutshell. No problems about cause of death. It is verdict.
265. MR MATTHEWS: My Lord, there are two aspects to that. The first is whether, on the material before the coroner, he was entitled to come to the view that he had got enough, so to speak, in order to hold the inquest. The second is whether, if he had gone on, he would have discovered anything to enable an unlawful killing conclusion to be come to. In a nutshell, my Lord, it comes to this. First of all, we say, he did have enough. He had all the material the claimant had helpfully provided, in addition to the material he actually admitted at the inquest. That was not just the medical evidence, that was also the statement of the housekeeper and the statement of the flat sharer, Mr Nesic. So he had a lot of material and he was entitled to say: "I looked at all this material and, in the exercise of my discretion, I think the important parts are this and I think those things over there are not so important".
266. I draw your Lordship's attention specifically to the case of **Chaudhary**, cited in my skeleton argument. That was a case where the deceased's family -- it was a 5-month

old child who had died in hospital and the deceased family believed that the hospital doctors had conspired to kill the baby. They objected to the coroner's decision who refused to call a lot of the witnesses that they wanted. The judge, Elias J, said that it was a matter for the coroner to decide, having looked at all the available material, what he thinks are the essential things overall in this case. This coroner looked at the material and said: "There we are, that is what I think is important and that is what I am going to admit".

267. The other side of the coin, so to speak, is what would have happened if he said: "I am not satisfied. I am going to ask for lots more enquiries to be carried out"? First of all, my Lord, you are asking for these enquiries to be carried out in a foreign country. You are asking the Foreign Office to obtain all this information. You are asking to get witnesses who may be unwilling to travel to the United Kingdom, witnesses who were concerned, if it be the case, in a murder enquiry to travel voluntarily to be subjected to oral evidence. What is the likelihood, says the coroner to himself. The coroner is entitled to say to himself, as a matter of discretion, the likelihood of getting such evidence as would enable the English coroner to get over the legal test for an unlawful killing verdict which is not on the balance of possibilities, it is beyond reasonable doubt --
268. MR JUSTICE FORBES: If the points being made by the claimant were fanciful then I think your submissions would be irresistible, but she was not raising fanciful points and there are areas of concern. This was a British citizen. Yes, it was abroad but if these non-fanciful points raise the question as to the circumstances of death suggesting that a crime has been committed, then I think at least arguably questions of inconvenience and cost do not really carry much weight.
269. MR MATTHEWS: The coroner does not put anything on that. The coroner says: "I have all this material and I have made that decision. It is an exercise of my discretion".
270. MR JUSTICE FORBES: It would be a **Wednesbury** unreasonable decision if the result of that is an inquisition which fails to meet the required standards of **Jamieson**. If the course the coroner chooses to adopt, in the exercise of his discretion, is going to result in an incomplete inquisition then that would be at least arguable.
271. MR MATTHEWS: My Lord, yes.
272. MR JUSTICE FORBES: That must be right, must it not?
273. MR MATTHEWS: I accept that, but what I am saying is here the coroner had sufficient material to justify the position that he took.
274. MR JUSTICE FORBES: That is something you may well be able to persuade the court on a substantive application. At this stage, in a sense, it is not for me to explore that in too comprehensive a fashion because it may drive me to express conclusions which would not be binding on whoever it was that dealt with it and might be embarrassing for him or her.

275. MR MATTHEWS: My Lord, I perfectly understand that. The fact is that cases such as the **Chaudhary** case which I have just referred to, and indeed, the case in the paragraph immediately before **Surrey Coroner ex parte Wright** which was a different exercise of discretion.
276. MR JUSTICE FORBES: Those, of course, were cases involving judgments on substantive applications.
277. MR MATTHEWS: No, my Lord, they were not. In both cases they were permission applications. So it does show that your Lordship is in a position, actually, to look closely at what was done and express a view. In other words, say it is not arguable as Davies J did on papers.
278. MR JUSTICE FORBES: Well **ex parte Wright** says no more than I have already said, whether it is arguable --
279. MR MATTHEWS: It was held not to be.
280. MR JUSTICE FORBES: I would add to that this gloss: if, arguably, the exercise of discretion is going to result in an incomplete inquisition, the whole matter must be open to argument because, well, I have already said why. In the face of **Chaudhary**, it is not possible to say whether the type of points that were relied on by the deceased's family, by reference to the many witnesses, were fanciful points. If points are fanciful I will accept that I am in a position to say that that is the case and act accordingly, in other words, disregard fanciful points.
281. MR MATTHEWS: My Lord, may I take you to some of the specific points my learned friend made in order to deal with them head on and say, therefore, that the coroner was entitled to take the view he did. A point was made about the inconsistency of witness statements. It is inevitable that small details --
282. MR JUSTICE FORBES: I agree.
283. MR MATTHEWS: My Lord, the substance of the evidence being given was in fact remarkably the same. That is that at a certain time around 2.30 in the morning, the flat sharer went into the bedroom and saw Petar on the bed. He was confused about where the syringe was, confused about this, confused about that, but Petar had either died or was dying at that stage. He called the emergency services who came. The emergency services came and did whatever they could. It is not quite right to say that no doctor attended the scene, my Lord. There was in fact the statement obtained by the claimant with a doctor who did attend the scene --
284. MR THOMAS: My Lord, I said a doctor did attend the scene.
285. MR JUSTICE FORBES: Yes, you did.
286. MR MATTHEWS: I apologise. We have the question of the blood on the clothing. My Lord, there are four short witness statements which I hope you have. They are very, very short. **(Handed)**.

287. MR JUSTICE FORBES: Thank you.
288. MR MATTHEWS: They are all one paragraph long. Could I ask you to read them.
289. MR JUSTICE FORBES: Let me read them. Thank you. None of those deal with the blood on the pillow.
290. MR MATTHEWS: No, my Lord. They deal with the photographs which my learned friend took you to. Look at all these bloodstained clothes. There you have four people, two of whom are connected with this case and two of whom are entirely independent. My Lord, I hope that therefore deals with at least that part of it.
291. MR JUSTICE FORBES: Yes.
292. MR MATTHEWS: In relation to the obvious facial --
293. MR JUSTICE FORBES: But this was not information before the coroner.
294. MR MATTHEWS: Well, in a sense it was. Not the statements of three of them, but the fourth one is his own officer. She is the officer who originally accompanied the claimant to the mortuary on the day after the body was brought back.
295. Moving to the question of the obvious facial injuries seen in the photographs, the question one asks oneself is: why is it that in the Belgrade post-mortem examination there is an express statement, on page 10 of the main bundle, saying:
- "Bones of skull and base were examined together with facial bones. No fractures have been identified."
- There is nothing there. Then we have Dr Crompton, and he says on page 56:
- "No old or recent fractures were detected and no injuries were seen."
- That is the evidence of two physical examinations of the actual body, as against the surmise of people looking at a colour photograph taken from a particular angle. Your Lordship can well see that if blood runs along the line of the nose it may give a different impression to that which you get when you see the body from the front et cetera. The photograph of Petar in life which I asked your Lordship to look at is a photograph which the coroner had seen, and he could properly have taken the view that Petar was someone who had a slightly deformed nose to start with. Your Lordship will see from the photograph that that appears to be the case. So to take the photograph from a particular angle, particularly when there is blood running along the nose may very well give the impression of a serious injury. Why should the coroner in those circumstances consider that he should disbelieve the two quite separate forensic reports. There is the evidence of the flat sharer --
296. MR JUSTICE FORBES: That would be a lot more compelling, I suspect, if -- and I am not revisiting the adjournment argument because, as far as that is concerned I am absolutely satisfied one cannot impugn as irrational the coroner's decision not to

adjourn at that particular stage. But if further investigations had been carried out, more light would have been thrown on that, I have to say, very worrying aspect of the case. It is all very well saying there is blood running along the face and so on but that is ignoring the evidence of our own eyes. Looking at that photograph, there is plainly an injury to the nose. There was plainly a great deal of blood around his head. It was sufficient to soak through and on to the mattress. That blood may or may not have been his, or may or may not have been contemporaneous with the death. It may or may not have been contemporaneous with the wound on his face. All of these are questions which are still open. Some of them Mr Fordy is going to be looking at. At the moment I find it difficult to resist the suggestion that there is not at least an argument here that the coroner should have gone on and looked at this aspect of the matter more closely so as to complete his inquisition. Had he done so, he might have been driven to the conclusion that this young man was subdued and then killed.

297. MR MATTHEWS: Yet, my Lord, you have the evidence, as I was about to say, about the flat sharer and the Australian friend.
298. MR JUSTICE FORBES: They would obviously be candidates for doing it, would they not? As I say, the more you go into this the more you are going to force up things, by way of observation and concerns, which somebody else who looked at the substantive application may not share at all.
299. MR MATTHEWS: My Lord, yes. I am trying to emphasise the quantity of material which the coroner had at his disposal in making his decision --
300. MR JUSTICE FORBES: Mr Matthews, this is a worrying case. Nothing should be read into the fact that I am going to grant permission other than that I consider there is arguably a case here that the enquiry conducted by the coroner left too many questions unanswered and too many issues unresolved, and therefore was not a sufficient enquiry. I emphasise that I see that only as an arguable matter. I do not grant permission in respect of the decision not to grant an adjournment at the stage when he did so in September.
301. MR THOMAS: I wonder whether your Lordship would go through the grounds to say which --
302. MR JUSTICE FORBES: I will identify the grounds that I --
303. MR THOMAS: Your Lordship has not heard anything, for example, on the European Convention.
304. MR JUSTICE FORBES: It does not seem to me there is anything in the European Convention. Your case here, Mr Thomas, is arguably this was an insufficient enquiry for the purposes of satisfying section 13 of the Coroners Act.
305. MR THOMAS: That is one ground. I accept that, but there is also, putting to one side the European argument, there is also a ground in relation to the section 37 argument. That is relying on the documentary evidence, when the coroner knew they had been objected to, without calling those witnesses. That is the pathologist --

306. MR JUSTICE FORBES: Alright. For the moment assume that that is arguable, subject to anything Mr Matthews has to say. What else?
307. MR THOMAS: In relation to the coroner's jurisdiction, can I take you very quickly to Miss Khan's affidavit. It is this in a nutshell. The coroner is a North London coroner. The deceased had no connection with North London. His mother lived in Ealing. He came into Heathrow airport. There is an issue as to how the coroner assumed jurisdiction. The coroner in his witness statement --
308. MR JUSTICE FORBES: If you think this is going to help you at all, you can renew that application to whoever hears the substantive application.
309. MR THOMAS: On the European argument, I do not think my learned friend quite understands the way I put it. I am not saying -- and I think the learned judge who looked at the application on paper thought that my argument was that Article 2 was engaged because this was possibly a (**Inaudible**) of death with the Serbian authorities but this is in English jurisdiction. That is not what I was saying. Following cases such as **Jordan, Middleton**, where there was thought to be a death of a national, even a death abroad, there are procedural enquiries to conduct a full and proper investigation.
310. MR JUSTICE FORBES: Is that not part and parcel of your argument that there was an insufficient enquiry?
311. MR THOMAS: My Lord, I do agree there may be an overlap but **Middleton**, a domestic case which extends **Jamieson**, says that a coroner has to not simply look at how the deceased came by his death but in what circumstances. Whereas before you had your traditional verdicts of accident, open, unlawful killing, one of the things **Middleton** now envisages is a narrative. This may well be the case that there might be some answers we never get to the bottom of, but from it you can give a narrative. The coroner can make findings of fact following **Middleton**, in what circumstances --
312. MR JUSTICE FORBES: I am not sure that it adds anything to the main challenge you wish to bring. If you wish to renew your application for permission with regard to Article 2, you may do so as well. I will not refuse you permission in respect of that, but I do not encourage you to renew it. It seems to me that this is essentially a case where the main thrust of your case is that there was material here which required the coroner to carry out a more detailed enquiry than he did, and that what he did was not sufficient for the purpose of section 13. That really is the thrust of this case. Even that can be reduced to an even more simple term. That is to say, that the coroner failed to carry out the sort of enquiries that he should have carried out which would have enabled him to reach a verdict of unlawful killing.
313. MR THOMAS: Yes.
314. MR JUSTICE FORBES: These are really the thrust of what your case is about, as it seems to me. Nothing should be read into what I have just said as indicating whether I think that is where it will eventually end. But I am prepared to regard it as arguable and

I will grant you permission to apply for judicial review in respect of the following grounds --

315. MR MATTHEWS: Your Lordship has not heard me on the points which my learned friend has just addressed your Lordship.
316. MR JUSTICE FORBES: I am not going to decide that. I am simply going to say that he can renew that application if he wishes to. I am not encouraging him to do so. You want me to refuse the permission altogether?
317. MR MATTHEWS: If your Lordship will just hear me for a few moments. My Lord, with respect the jurisdiction point, with respect, this is nonsense.
318. MR JUSTICE FORBES: I beg your pardon. I do not think I was proposing to let that one be renewed.
319. MR THOMAS: You did, my Lord. There is argument on it --
320. MR JUSTICE FORBES: What does it matter now?
321. MR THOMAS: If the coroner did not have jurisdiction, then the whole inquest would have been null and void in any event. He would have been acting ultra vires. If a coroner does not have jurisdiction --
322. MR JUSTICE FORBES: You have a significant delay problem, in any event.
323. MR THOMAS: No, my Lord. We only found this out in February of this year.
324. MR JUSTICE FORBES: Found out what?
325. MR THOMAS: My Lord, can I take you to Miss Khan's affidavit. It sets it out.
326. MR JUSTICE FORBES: Whereabouts?
327. MR THOMAS: Exhibit 10. It is the letter dated 9th March. Exhibit 10. Jurisdiction.
328. MR JUSTICE FORBES: I have exhibit 10.
329. MR THOMAS: There is a letter from Christian Khan to Withers dated 9th March.
330. MR JUSTICE FORBES: Yes.
331. MR THOMAS: It says:

"Thank you for your fax dated 8th March.

Jurisdiction. You state in your fax of 8th March that the funeral director's **(Inaudible)** of North London's Coroner's Office where the body had been returned to the UK on 29th January and that this was the first time **(Inaudible)**. With respect this cannot be right. Miss Michelle Jones . . .

telephoned . . . on 27th January asking Miss Bryant to obtain the relevant papers from the Serbian authorities including the toxicological results relating to the death of Petar Sutovic. Miss Jones gave the case reference number 591 to assist Miss Bryant in her enquiry. This reference number purports to relate to the . . . report conducted by the Serbian authorities."

332. Just pause there. This is this defendant's coroner's officer ringing up the Serbian --
333. MR JUSTICE FORBES: What is the basis of the coroner's jurisdiction.
334. MR THOMAS: The basis is where the body is lined within his district. The point I am making, on 27th January when the coroner's officer is ringing up Serbia, Petar's body is still in Serbia and he has no connection with North London. The coroner is assuming jurisdiction. This has been unexplained. My learned friend says that it is an obvious mistake.
335. MR JUSTICE FORBES: Do you have the amended grounds?
336. MR THOMAS: No, I do not have them in draft.
337. MR JUSTICE FORBES: You can renew your application to amend at the hearing of the substantive application. I do not encourage you to do any such thing. Since you do not actually have your amendment here, I am not in a position to deal with it properly. If you think it is worth having a go, in applying to amend the claim, to add this further ground, you can make that application to whoever deals with the substantive application. Let us just look at your existing grounds and make sure that we --
338. MR THOMAS: My Lord, if you look at the claim form.
339. MR JUSTICE FORBES: Yes.
340. MR THOMAS: Page 6 of the claim form. This relates to the post-mortem and whether the claimant was informed. My Lord, I am not going to pursue that.
341. MR JUSTICE FORBES: Where are the grounds?
342. MR THOMAS: The claim form. Page 6. This is the internal numbering.
343. MR JUSTICE FORBES: Sorry, the internal numbering.
344. MR THOMAS: It is paragraph 5 of the claim form.
345. MR JUSTICE FORBES: I have the claim form. Right, I am immediately behind divider 1. I have the claim form. Where do I go from there?
346. MR THOMAS: The claim form, you have the standard boxes and then you get to --
347. MR JUSTICE FORBES: Internal page 5.
348. MR THOMAS: Factual background begins on page 4.

349. MR JUSTICE FORBES: Your pagination and mine do not --
350. MR THOMAS: My Lord, do you see the heading "Factual Background"?
351. MR JUSTICE FORBES: No, I do not.
352. MR THOMAS: My Lord, can I just give you my copy. **(Handed)**. We are all looking at the same document now. Turn over the page.
353. MR JUSTICE FORBES: It really does not seem to be in the bundle.
354. MR THOMAS: My Lord, one of the things that I am going to be asking for directions on is that the claimant's solicitors lodge new paginated bundles containing all the documentation. If you look at the factual background, over the page, page 6, the first decision under challenge. Do you see that? I am not pursuing that.
355. MR JUSTICE FORBES: Right. Then.
356. MR THOMAS: Page 8.
357. MR JUSTICE FORBES: I am refusing permission in respect of paragraph 9 of the second decision. That is the decision to adjourn, is it not?
358. MR THOMAS: Yes.
359. MR JUSTICE FORBES: I do not see the third decision as being something which is a separate matter from the main thrust. Or the fourth.
360. MR THOMAS: Indeed. The fifth decision --
361. MR JUSTICE FORBES: You may renew your application for permission at the substantive hearing in respect of the fifth decision.
362. MR THOMAS: The sixth decision really is a gloss on the fifth decision. It is part of the procedure, what coroners should do under rule 37. So it is tied up. The seventh --
363. MR JUSTICE FORBES: That is one in respect of which I will give you permission.
364. MR THOMAS: I am grateful.
365. MR JUSTICE FORBES: So five and six you may renew your application for renewal at the substantive hearing. The other grounds, one to four, I do not grant permission on. The seventh decision, I grant permission in respect of that ground. If you wish to seek to amend your grounds to add further ones in respect of jurisdiction and Article 2, that is a matter for you. I would not encourage you to do it. You can make any such application to the judge hearing the substantive application.
366. MR THOMAS: My Lord, that just raises directions.
367. MR JUSTICE FORBES: Are there any further directions you require?

368. MR THOMAS: My Lord, yes. I would ask for expedition in this matter.
369. MR JUSTICE FORBES: Expedition? Is there anything you want to say about that, Mr Matthews?
370. MR MATTHEWS: Only that expedition was sought by the claimant shortly after these proceedings were issued last December. Representations were then made on behalf of the coroner that there was no real reason for expedition in this case. Richards J, having considered the matter, decided that there was no reason to expedite the case. Now we have moved on a little bit since then but, at the end of the day, these issues will not be resolved next week or the week after. There will have to be evidence and so on and so forth. There is no real reason why it should come on in say July or June rather than in October if that be the case.
371. MR JUSTICE FORBES: Well, I am not going to order expedition but I will direct that it is to be listed for hearing as soon as reasonably practicable. How long do you expect it to take, bearing in mind that the application for permission has taken a good half day?
372. MR THOMAS: My Lord, I think hearing the arguments, a day, and not concluding the delivery of judgment. I think a day not including the delivery of judgment.
373. MR MATTHEWS: My Lord, I rather think that given the possibility of further arguments about renewing applications and so on, I think that is optimistic.
374. MR JUSTICE FORBES: I would think two days.
375. MR THOMAS: My Lord, that leaves the question of costs. I would simply say costs reserved. Although it was a permission hearing it was an actively contested permission hearing --
376. MR JUSTICE FORBES: Well, I do not imagine Mr Matthews will protest about that. What about the bundles? You said that you were going to get the claimant to lodge a complete and paginated bundle.
377. MR THOMAS: I think that needs to be done.
378. MR JUSTICE FORBES: Let me hand you back this bit. I have some papers which have been treasury tagged which are photographs.
379. MR THOMAS: My Lord, if you can give a direction that the bundles are to be submitted by the claimant's solicitors completely paginated. Then we can ensure that we are all looking at the same documents.
380. MR JUSTICE FORBES: Yes, I will direct that the claimants are to ensure that the court bundle and the bundles served on the defendant are full, complete and paginated.
381. MR THOMAS: I am grateful. My Lord, thank you.

382. MR MATTHEWS: The only thing I would ask for to be returned are the original photographs exhibited at the inquest.
383. MR JUSTICE FORBES: Yes. There we are. **(Handed)**. Thank you very much. Is there anything else? Is that all perfectly clear? I do not propose to give a detailed judgment. It never seems to me to be particularly helpful in a case where permission is granted. I am content to say that I regard the matters in respect of which I have granted permission to be arguable, for the reasons which have been expressed in the course of submissions. Anything else?
384. MR THOMAS: No, my Lord.
385. MR MATTHEWS: No, my Lord.
386. MR JUSTICE FORBES: Thank you both very much indeed. This witness statement of Miss Khan, does that stay with the papers?
387. MR THOMAS: We will take it back and make sure it is in the bundle.