

Our ref: HW/7864/1

Your ref:

B **Birnberg Peirce & Partners**

Solicitors

31 March 2016

For the attention of Colin Gibson
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Dear Sirs,

**Re: Judge's notification of decision refusing permission for a Judicial Review
The Queen on the application of David De Freitas versus HM Coroner of
West London
Your client: Alexander Economou**

Please find attached, by way of service, the Order of Mr Justice Holroyde in the above matter which was received by our firm on 18 March 2016.

Although your client is not an interested party, the court has requested we serve this Order on him (see para 14). For your information we have now lodged a Notice of Renewal.

Yours faithfully,

Birnberg Peirce & Partners

Birnberg Peirce & Partners
Enc.

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**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO Ref:
CO2664/2015

In the matter of an application for Judicial Review

The Queen on the application of David de Freitas

versus

HM Coroner for West London

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the Acknowledgement of service filed by the Defendant

Order by the Honourable Mr Justice Holroyde on 9th March 2016

Permission is hereby refused.

Reasons:

I have every sympathy for the Claimant. In my judgment, however, there is no arguable ground on which he can claim judicial review. My reasons, in brief, are:

1. The Coroner accepted in his written ruling that the deceased was vulnerable, and is reported to have said at a later stage that her impending prosecution was a very significant stressor at the time when she took her own life. It does not however follow that he was therefore under an obligation to investigate the decision of the CPS to take over and continue the prosecution and/or the subsequent conduct of that prosecution. A procedural obligation under Article 2 to undertake a Middleton-style investigation could only have arisen if it was arguable that an agent of the state had acted in breach of a substantive Art 2 obligation. As I read his rulings, the Coroner accepted that the CPS was an agent of the state for this purpose, but concluded that it did not come under a duty to safeguard the life of the deceased merely because it decided to continue the prosecution. He further concluded that even if the CPS had been under such a duty, there was no breach of it, because the medical evidence provided no reason for the CPS to anticipate a real and immediate risk to the deceased's life. It might be arguable that the first of those conclusions was wrong; but I can see no basis on which it could be argued that the second conclusion was wrong. In the absence of any arguable breach of an Art 2 obligation, the conduct of the CPS could not be said to have been a central issue in the case. It therefore cannot be said that the Coroner was wrong in his decision not to investigate the decisions and actions of the CPS; see Allen and R (Wiggins) v HM Assistant Coroner for Nottinghamshire [2015] EWHC 2641 (Admin).
2. As to Ground 1, for the reasons summarised above, the decision was not arguably irrational.
3. As to Ground 2, I am afraid the reliance on Douglas-Williams is misconceived: the passage on which the Claimant relies is a statement of one of the legal ingredients of the offence of gross negligence manslaughter, not the test for deciding which issues a Coroner should consider. The Coroner here did not arguably apply the wrong test.
4. As to Ground 3, the phrase "no arguable failures" may be equivocal; but in the context in which the ruling was given, it can only mean that the Coroner did not find any arguable breach of an Art 2 obligation. The late service of the ABE interview recording is to be deprecated, but it could not arguably amount to a breach of an Art 2 obligation.
5. As to Ground 4, it must be remembered that the factual background to D was very different to this case. The CPS here had medical evidence, including that which was relied on by those representing the deceased, which did not identify any real or

