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**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
NEUTRAL CITATION NUMBER: [2023] EWHC 1006 (Fam)**

The Royal Courts of Justice
Strand
London
WC2A 2LL

Before THE HONOURABLE MR JUSTICE MOOR in public on 5 April 2023

IN THE MATTER OF

SANDRA THOMAS (Applicant)

RE: DAVID HORTON CANN

THE APPLICANT appeared as a litigant in person

JUDGMENT

MR JUSTICE MOOR:-

1. This is an application that is dated 3 March 2023 for a certificate of the presumption of death in relation to David Horton Cann, who was born on 22 February 1963, and whose last known address was 12, Cromwell Road, Southsea in Hampshire. The applicant is his sister, Mrs Sandra Thomas, who lives at 113 Goldsmith Avenue, Milton, in Southsea in Hampshire.
2. The facts are sad and, in some respects, slightly perplexing, but that does not mean that I have not formed a clear view as to the position. Mr Cann went on holiday to Turkey on 26 June 2019. He was due to return to this country on 4 July 2019. On the morning of 2 July 2019, he told fellow guests in the hotel where he was staying that he was going to go on a hike to a tourist spot called Kaya Koy. He was then going to walk on to the blue lagoon at Olu Deniz before returning to his hotel, the Happy Nur Hotel, in Hisaronu in Turkey. There was no indication whatsoever of anything wrong in his life.
3. He set out on the hike but never returned. On 4 July 2019, he failed to check in for his flight home and, because of this, Mrs Thomas and others, raised the alarm. Five different search parties were sent out to try to find him. There was an intensive search. Absolutely nothing was discovered whatsoever.
4. Mr Cann was a teacher. He had not married. He does not have any spouse or civil partner. He has no children, and, as I understand it his and Mrs Thomas' parents are both deceased. He therefore has no other relatives, other than Mrs Thomas and her family.
5. I am entirely clear that Mrs Thomas has taken every step that she possibly can to try to find her brother. I have read her statement and I have taken oral evidence from her on oath. She went to Turkey, with her family, both in July 2019 and again in May 2022 to try to find her brother, without any success whatsoever. Her statement in support of the application says that the search for Mr Cann took place with dogs, drones, and a helicopter. Nothing was found whatsoever. Eventually the search had

to be called off. The matter was reported on local television. Posters were put up. There were no further sightings of Mr Cann, either in Turkey or in the United Kingdom.

6. Mr Cann's hotel room contained his passport and personal items, which strongly suggests that he was not deliberately intending to disappear. Calls to his mobile went to voice message, and eventually, when the battery ran out, went dead. That suggests to me that the phone was probably with Mr Cann.
7. Mr Cann had no record of depression. He was an experienced outdoorsman. He had left his teaching post in Portsmouth and was thinking about the next steps in his career, but Mrs Thomas told me that that was because he worked for a language school in Portsmouth. It was suffering as a result of Brexit, such that he decided to leave. There were no signs that he was depressed. There was nothing to point to an accident or even a medical episode. This is the reason why I have described it as something of a mystery, but, as I said to Mrs Thomas on the last occasion, it is similar to the situation of the actor Mr Julian Sands, who has disappeared in California in very similar circumstances and, again, has not been found.
8. On 11 March 2023, as was required, notification of this application was given in the Portsmouth News. Anybody who had any information or any interest in the matter, including, of course, Mr Cann himself, if he was to read it, was to apply to the court within 21 days, which was by 1 April 2023. Nobody has made any such application.
9. I heard the matter in March 2013. I could not determine it then for the obvious reason that the time for anyone interested to approach the court had not yet expired, but I did take the opportunity to take the oral evidence, on oath, of Mrs Thomas. I accept the evidence she gave to me entirely. She told me that there was nothing suspicious in Mr Cann leaving his employment as there were only a few students left. He was self-employed. Moving on was just a natural progression in his career. She thought he was highly unlikely to plan to disappear. She reminded me that the passport had been found in his hotel room and the other guests had said they would see him there that evening. Thereafter, there has been absolutely

nothing heard from him at all. He has a property in Portsmouth worth around £350,000, which, if he was still alive, you would expect him, at the very least, to find out what was happening in relation to it.

10. Mrs Thomas explained again that there were five different search parties. She added that, in addition to dogs and drones, horses had been involved. The army had taken part. She told me it was rough terrain, although it was a tourist area. She wondered whether he might have fallen and hurt himself, but she was surprised that they had not found anything. She did say that there were crevices. I wondered if he might have fallen down one of these.
11. The law that I have to apply is set out in the Presumption of Death Act 2013. I am absolutely clear that I have jurisdiction to deal with the matter, on the basis that Mr Cann was domiciled in England and Wales, and that, if he was still alive, he would still be domiciled, in this jurisdiction. This was his home. It was where he was born. It was where he grew up. It is where he worked. It is where he had his house. There is no issue about that whatsoever. He had only gone to Turkey on holiday.
12. I am satisfied that the matter has been advertised in the local newspaper in accordance with the Rules. If I grant a declaration of presumed death, Mrs Thomas will be able to apply to the General Register Office for a certificate of death. She will then be able to administer the estate. If, by any chance, Mr Cann was ever to reappear, then, of course, an application could be made to set my order aside.
13. Section 1 of the Act provides that the person concerned must be missing and be thought to have died. There is a seven-year provision, but the fact that there is a presumption of death after seven years, does not affect the ability to apply at an earlier point. In those circumstances, section 2 applies. I must make the declaration if I am satisfied that the missing person has died. I must find the date and time of death, if I can do so, or if I cannot, I must say that he is presumed to have died at the end of a particular period.

14. I accept that, in some respects, the facts here are unusual because no body was found, but, of course, the application would not have had to be made if a body had been found. There is absolutely no evidence that Mr Cann intended to disappear. There is no evidence at all that he intended to form a new life with somebody else without telling his sister, her husband and their children. Everything suggests that he went out for a walk, which he was used to doing, during a holiday, intending to return to the hotel that evening. I find it almost inconceivable that he would have left his passport and his other belongings in the hotel, if he really had intended to disappear.
15. I am, of course, surprised that his body has not been found, but, as I have already noted, that is the position at present with Mr Sands as well. I am satisfied that something happened to him on that morning, the result of which was that he died, but his body has not been found. I do not know whether he tripped and fell down a crevice, such that his body was never discovered, or equally, whether he had a heart attack or a stroke and a similar thing occurred. I am, however, satisfied that a responsible man such as himself, with no ties anywhere other than in this country, with a loving sister and family, would not disappear without telling her what was going on or communicating with her in some way. I find that he would have done so if he was still alive, even if he did wish to disappear.
16. I am therefore quite satisfied, for the purposes of the Act, that I can declare him to be presumed dead. I make that declaration. I have to decide when he died. I cannot, of course, say with certainty, that he died on 2 July 2019. I hope, for his sake, that he did, because I would not want him to have suffered in any way. I take the view that the correct declaration to make is that he died by 9 July 2019, which was seven days after the day on which he went missing.
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