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Local & National

Dad denied inquest to investigate son's killing

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McIlwaine stabbed too soon for probe rules Appeal Court

Friday, February 29, 2008

By Chris Thornton

A grieving dad today lost his bid to have an inquest with full investigation powers into the cut-throat murder of his son.

The Court of Appeal in Belfast ruled that David McIlwaine was stabbed too soon to have his death examined by new inquest powers.

The 18-year-old was killed, along with Andrew Robb, eight months before the European human rights legislation was formally incorporated into UK law.

David's father, Paul McIlwaine, has long alleged that a security force agent was involved in the killings.

The two Portadown teenagers were stabbed while on a night out in Tandragee in February 2000. The Human Rights Act - which had the effect of giving inquests here greater powers to investigate deaths - came into effect the following October.

The High Court ruled in 2004 that the teenagers' murders should be the subject of such an inquest, which could look into the broader circumstances of the case.

But the Armagh Coroner appealed the decision, and the Court of Appeal said today that House of Lords rulings made it clear that the Human Rights Act "does not have retrospective effect".

Lord Justice Campbell said that "not only does (the Act) not apply to a death which occurred before it came into force but also to any investigation into such a death."

Outside court, Paul McIlwaine said he was "disappointed" by today's ruling.

"But I'm not surprised," he said. "The police have done everything to block me for the past eight years, although it's all backfiring on them now.

"If it had happened nine months later, we would have a proper inquest. I find that hard to take in."

Any inquest into the murders will have to be held under old rules, meaning a coroner will only be able to determine the strict cause of death. The inquest will not look into any background behind the murders, like the possible role of agents.

However, it is not clear if an inquest will ever take place. Two men are awaiting trial for the murders, and if that trial takes place the Coroners' Service will not be obliged to hold an inquest.

That case could make legal history because one of the defendants has offered to give evidence against the other - believed to be the first time an accused person has turned Queen's Evidence in Northern Ireland since the supergrass cases of the Seventies.

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