

**SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES & GALLOWAY
AT HAMILTON**

[2018] FAI 19

HAM-B221-18

DETERMINATION

BY

SHERIFF D A BROWN

UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC
(SCOTLAND) ACT 2016

into the death of

GRAEME McLAREN

Hamilton, 14 May 2018

DETERMINATION

The Sheriff, having considered the information presented at the inquiry, determines in terms of section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc.

(Scotland) Act 2016 that :-

in terms of section 26(2)(a), Graeme McLaren, born 13 January 1966, died at 10.28 am on 4 September 2017 in Wishaw General Hospital; and

in terms of section 26(2) (c), the cause of death was cirrhosis and carcinoma of the liver.

NOTE

Introduction

[1] An inquiry under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (“the 2016 Act”) into the death of Graeme McLaren (“Mr McLaren”) was held on 14 May 2018 at Hamilton Sheriff Court. The circumstances of the death had previously been investigated by the Procurator Fiscal.

Representation at the inquiry was as follows –

- Mr A Calderwood, Procurator Fiscal Depute, for the public interest
- Mr R Fairweather, Anderson Strathern, for the Scottish Prison Service.

The legal framework

[2] The inquiry was held under section 1 of the 2016 Act. It was a mandatory inquiry in terms of section 2(1) and (4) of the 2016 Act as Mr McLaren was in legal custody at the time of his death in that he required to be imprisoned. Any person in legal custody is entitled to a degree of protection and the requirement to hold a public inquiry in the event of that person’s death is in accordance with that principle. In terms of section 1(3) of the 2016 Act the purpose of the inquiry was to establish the circumstances of the death and consider what steps (if any) might be taken to prevent other deaths in similar circumstances.

[3] Where preliminary investigation by the Procurator Fiscal establishes that a death which is the subject of a mandatory inquiry was due to natural causes and the court is satisfied that the circumstances do not give rise to any concern, the evidence at the

inquiry may be brief and unchallenged. That was the situation here. In particular Mr McLaren's sister, speaking on behalf of the family, had confirmed that they had no concerns about his treatment by prison staff and medical staff and, more than that, had expressed appreciation for the medical care he received. As the evidence was not in dispute, it was presented in the form of a joint minute of agreement, signed by the two representatives who appeared at the inquiry and by Ms Paton, solicitor, NHS National Services Scotland, for Greater Glasgow and Clyde Health Board. The main facts as established by that means are set out below.

The facts

- (1) On 17 December 2013 Mr McLaren was sentenced to life imprisonment for murder and ordered to serve a period of at least 20 years. His earliest release date was 11 June 2033. He was serving that sentence in HM Prison, Shotts.
- (2) He had a significant history of various medical problems, including cirrhosis, and was on a range of prescribed medications. He had a lengthy history of drug abuse, involving heroin and cannabis.
- (3) On 10 August 2017 he was admitted to Wishaw General Hospital suffering from jaundice and a suspected liver problem. It was intended to investigate this problem by means in particular of an ultrasound examination but on 11 August 2017, before this could be done, he insisted on being discharged. He was therefore returned to HM Prison, Shotts.

- (4) On 21 August 2017 he was again admitted to Wishaw General Hospital, on this occasion suffering from hematemesis (vomiting of blood). He was given a blood transfusion and his condition appeared to improve. He was kept in hospital.
- (5) On 28 August 2017 he was provisionally diagnosed with carcinoma of the liver and cirrhosis. On 30 August 2017 he was due to have a MRI scan (being a magnetic resonance imaging technique used to assist in the diagnosing of medical conditions by producing detailed pictures of internal body organs and structures). However he refused to allow this and it was cancelled.
- (6) On 31 August 2017 his condition was noticeably deteriorating and he did not appear to be responding to treatment. Despite further treatment over the following few days his condition continued to deteriorate until his death on 4 September 2017 at 10.28am.
- (7) On 8 September 2017 a post mortem examination was carried out. This established that the cause of death was cirrhosis and carcinoma of the liver.

Submissions

[4] Both Mr Calderwood and Mr Fairweather submitted that only findings in terms of section 26(2) (a) and (c) of the 2016 Act were appropriate. I agreed.