

SHERIFFDOM OF GRAMPIAN HIGHLAND AND ISLANDS AT PETERHEAD

[2018] FAI 35

PHD-B80-18

DETERMINATION

BY

SHERIFF CHRISTINE P McCROSSAN

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

into the death of

KEVIN RUSSELL THAIN

Peterhead, 17 September 2018

The Sheriff, having considered the information presented at an inquiry under section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 finds and determines:

- (1) In terms of section 26(2)(a) that Kevin Russell Thain born on 9 May 1979 died in HMP Grampian, South Road, Peterhead on 30 October 2017, life being formally pronounced extinct at 2345 hours on that date;
- (2) In terms of section 26(2)(c) that the cause of death was hanging.

NOTE

Legal Framework

[1] This Inquiry was held under section 1 of the 2016 Act. This was a mandatory inquiry in terms of section 2(1) and (4) of the 2016 Act as Mr Thain was in legal custody at the time of his death. The purpose of the Inquiry was to establish the circumstances of the death and to consider what steps, if any, might be taken to prevent other deaths in similar circumstances.

[2] The Procurator Fiscal issued notice of the inquiry on 15 May 2018. A preliminary hearing took place at Peterhead Sheriff Court on 29 June 2018. Mr Hanton, Procurator Fiscal Depute appeared for the Crown. Representatives were in attendance for the Scottish Prison Service, the Prison Officers' Association (Scotland) and NHS Grampian. The family of Mr Thain were not represented. Parties intimated that they proposed to enter into a Joint Minute setting out all salient facts, thus an evidential hearing would not be required. The matter was initially continued until 6 August. This date was subsequently discharged and the hearing on the Joint Minute took place on Monday 20 August 2018.

[3] Mr Hanton again represented the Crown. Local agents attended for the other represented parties. Mr Hanton produced the terms of the Joint Minute agreed between the parties: Sarah Phillips for the Scottish Prison Service, Andrew Phillips for the Prison Officers' Association (Scotland) and Mr McCormack for NHS Grampian. Mr Hanton read out the terms of the Joint Minute. He invited the court to make formal findings in terms of Section 26(2)(a) and (c) of the 2016 Act. This was a position adopted by all

represented parties. Mr Hanton concluded by expressing condolences to the family of Mr Thain.

Circumstances

The following narrative is taken from the terms of the agreed Joint Minute.

[4] Mr Thain was the subject of an apprehension warrant granted on 24 October 2017 to revoke his licence in order to return him to HMP Grampian.

[5] Mr Thain came to the attention of a police officer on St Machar Drive, Aberdeen at about 1920 hours on 29 October 2017 due to a display of erratic behaviour. Following a check, it was discovered that a warrant was outstanding and Mr Thain was conveyed to Kittybrewster Police Office, Great Northern Road, Aberdeen.

[6] At about 2044 hours, same day, Mr Thain was conveyed to Aberdeen Royal Infirmary for assessment prior to his admission into police custody following his arrest being documented and it being noted that he appeared to be heavily intoxicated.

[7] Whilst at Aberdeen Royal Infirmary Mr Thain intimated that he had consumed unspecified quantities of a number of illicit substances but that he had never attempted to self-harm or commit suicide, nor had any thoughts of doing so.

[8] Mr Thain was consequently accepted as a high risk custody due to still appearing very drowsy and, as such, was placed on constant supervision.

[9] At about 0739 hours on 30 October 2017 Mr Thain was examined by a doctor who assessed that he was fit to be kept in custody, with standard custody care

implemented. As such, the constant supervision was ceased with half hourly checks to be carried out thereafter.

[10] At about 1440 hours, same day, Mr Thain was conveyed to HMP Grampian, South Road, Peterhead.

[11] On arrival at HMP Grampian Mr Thain was assessed by medical staff who noted that he appeared drowsy and unsteady on his feet, but that he made no disclosure of any intention to self-harm, and as such he was deemed fit to be imprisoned. He was placed on the Management of Offenders Under Risk of Suicide Misuse Policy by Nurse Dray, with half hourly checks while he was in his cell that required both a verbal and visual response. His cell was within the Ellon wing of the prison.

[12] At about 1730 hours, same day, half hourly checks were commenced which carried on without issue until about 2300 hours.

[13] At about 2300 hours, same day, Mr Thain was seen to no longer be within his bed and was not responding to knocking on the cell door or shouts of his name.

[14] Upon gaining access to the cell Mr Thain was found to be hanging from the door which leads from the main cell into the adjoining toilet, with a bed sheet having been used as a ligature.

[15] Despite lifesaving attempts being made Doctor Wani pronounced life extinct at 2345 hours, same day.

[16] No suicide note was recovered.

[17] The death of Mr Thain was reported to the Procurator Fiscal at Aberdeen on 31 October 2017.

[18] The body of Mr Thain was subject to a post mortem examination by Professor James Henderson Kerr Grieve on 1 November 2017 at Aberdeen Mortuary and it was his considered opinion that he died as a consequence of hanging.

[19] The Crown lodged in process the post mortem and toxicology reports.

Conclusion

[20] No submissions were made by any party that any precautions could reasonably have been taken which might realistically have resulted in Mr Thain's death being avoided (section 26(2)(e)); or that any defect in any system of working had contributed to his death (section 26(2)(f)). Nor were any submissions made to indicate that any other facts relevant to the circumstances of Mr Thain's death fell to be included in my determination (section 26(2)(g)).

[21] I am satisfied that in all the circumstances formal findings should be made in this case. I have set out those formal findings at the outset of this determination.

[22] In conclusion I wish to express my condolences to the bereaved family of Mr Thain.