

SHERIFFDOM OF GRAMPIAN HIGHLAND AND ISLANDS AT PETERHEAD

[2018] FAI 36

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

JOHN ALEXANDER KILMINSTER

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 John Alexander Kilminster born on 9 December 1965 died in HMP Grampian, South Road, Peterhead on 19 March 2016, life being formally pronounced extinct at 0145 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 Kilminster 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 Kilminster 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 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 Kilminster.

Circumstances

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

[4] Mr Kilminster was remanded in custody at HMP Grampian, South Road, Peterhead on 13 November 2015 following an appearance at Aberdeen Sheriff Court in relation to a charge of fire-raising, latterly allocated Cell 30 in Ellon Hall, B Wing.

[5] On arrival at the prison Mr Kilminster was assessed as being at risk of self-harm due to a history of mental health issues and self-disclosed suicidal thoughts, and as such was placed on ACT2Care, the Scottish Prison Service suicide risk strategy, and made subject to hourly checks whilst locked within his cell.

[6] Mr Kilminster was locked within his cell at about 2100 hours on 18 March 2016 for the night, with hourly checks being carried out thereafter.

[7] At about 0054 hours on 19 March 2016 Mr Kilminster was checked by a prison officer at which time the hatch pertaining to his cell was found to be blocked and there was no response to knocking on the cell door or turning on the cell light.

[8] Upon gaining access to the cell at about 0102 hours, same day, Mr Kilminster was found hanging from the door which leads from the main cell into the adjoining toilet, with a bed sheet having been used as a ligature.

[9] Despite lifesaving attempts being made, life was pronounced extinct at 0145 hours, same day, by paramedics employed by the Scottish Ambulance Service.

[10] No suicide note was recovered.

[11] The death of Mr Kilminster was reported to the Procurator Fiscal at Aberdeen on 21 March 2016.

[12] The body of Mr Kilminster was subject to a post mortem examination by Dr Matthew Stewart Lyall and Professor James Henderson Kerr Grieve on 23 March 2016 at Aberdeen Mortuary and it was their considered opinion that he died as a consequence of hanging.

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

Conclusion

[14] No submissions were made by any party that any precautions could reasonably have been taken which might realistically have resulted in Mr Kilminster'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 Kilminster's death fell to be included in my determination (section 26(2)(g)).

[15] 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.

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