

SHERIFFDOM OF GRAMPIAN HIGHLAND AND ISLANDS AT PETERHEAD

[2019] FAI 31

PHD-B70-19

DETERMINATION

BY

SHERIFF CHRISTINE P McCROSSAN

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

into the death of

JOHN THOMAS FORSYTH HUGHES

Peterhead, 3 July 2019

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 (“the Act”) finds and determines:

1. In terms of section 26(2)(a) of the Act that John Thomas Forsyth Hughes born on 24 March 1955 died at HMP Grampian, South Road, Peterhead on 29 August 2017, life being formally pronounced extinct at 06 00 hours on that date;
2. In terms of section 26(2)(c) of the Act that the cause of death was a consequence of natural causes, namely:
 - 1(a) Complications of Bronchopulmonary Fistula,
 - 1(b) Carcinomatosis,
 - 1(c) Bronchogenic Carcinoma.

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 Hughes was in legal custody at the time of his death.

[2] The Crown in the public interest is represented by the procurator fiscal depute. A fatal accident inquiry is an inquisitorial process and it is not the purpose of an inquiry to establish civil or criminal liability. The purpose of such an Inquiry is to establish the circumstances of the death and to consider what steps, if any, might be taken to prevent other deaths in similar circumstances.

[3] The Procurator Fiscal issued notice of the inquiry on 25 April 2019. A preliminary hearing took place at Peterhead Sheriff Court on 19 June 2019 with the date for the inquiry being set for 3 July 2019. Mr Hanton, Procurator Fiscal Depute appeared for the Crown. Mr Hughes' next of kin did not enter appearance in these proceedings. Representatives were in attendance for the Scottish Prison Service, the Prison Officers' Association (Scotland) and NHS Grampian. The Crown and Scottish Prison Service intimated that they proposed to enter into a Joint Minute setting out all salient facts, thus it was unlikely an evidential hearing would be required. The matter was continued to the date of the inquiry.

[4] On 3 July 2019 Mr Hanton again represented the Crown. Mr Smith attended for the Scottish Prison Service. 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 position was supported by Mr Smith. Mr Hanton and Mr Smith concluded by expressing condolences for the family and friends of Mr Hughes.

Circumstances

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

[6] Mr Hughes was a prisoner at HMP Grampian, South Road, Peterhead having been admitted as an untried prisoner on 21 December 2016. He was sentenced to 3 years and 3 months of imprisonment at Aberdeen Sheriff Court on 14 March 2017. His sentence start date was backdated to the date of his admission. At the time of his death he had been allocated single occupancy of Cell 23, Level 2 in Ellon Hall, D Wing.

[7] Mr Hughes had suffered with a persistent cough since late 2016 and had self-referred himself to medical staff at HMP Grampian in January, April, July and August 2017. He had been prescribed antibiotics on each occasion.

[8] On 28 August 2017 Mr Hughes was locked within his cell for the night at about 2030 hours. At that time a check was carried out by prison staff and he was seen to be lying on his bed watching television whilst smoking a cigarette.

[9] A further verbal check was carried out at about 2200 hours same day. At that time Mr Hughes verbally responded. No further checks thereafter were carried out during the night.

[10] At about 0500 hours on 29 August 2017 a call was received from Mr Hughes' cell. He was heard to shout "Call an ambulance, I'm going to die." Prison officers attended at his cell immediately. Mr Hughes was seen to be standing in the middle of his cell. He

was vomiting blood and appeared to be losing consciousness. He was assisted to the floor and placed in the recovery position. An ambulance was summoned.

[11] An ambulance arrived at 0523 hours on 29 August 2017. Lifesaving attempts were made by emergency staff for approximately 30 minutes. These were not successful. Mr Hughes' life was pronounced extinct at 0600 hours by an employee of the Scottish Ambulance Service.

[12] The death of Mr Hughes was reported to the Procurator Fiscal at Aberdeen on 30 August 2017.

[13] The body of Mr Hughes was subject to a post mortem examination by Professor James Henderson Kerr Grieve on 30 August 2017 at Aberdeen Mortuary and it was his considered opinion that he died of natural causes, namely 1(a) Complications of Bronchopulmonary Fistula, 1(b) Carcinomatosis, 1(c) Bronchogenic Carcinoma.

[14] The Crown lodged in process the post mortem report.

Conclusion

[15] Taking into account the circumstances of Mr Hughes' death I am satisfied that formal findings should be made in this case. Mr Hughes' death was due to natural causes as indicated in the post mortem report. No information available to the court suggests that his being in custody at the time contributed to his passing. He did seek medical intervention regularly for the discomfort being caused by his persistent cough. The Crown raised no concerns that the treatment he received in this regard was in any way impacted as a consequence of his being in custody and thus required examination

by the inquiry. No submissions were made to the effect that any precautions could reasonably have been taken which might realistically have resulted in his 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 there any other facts relevant to the circumstances of his death which fell to be included in this determination (section 26(2)(g)).

[16] I have set out the formal findings at the outset of this determination.

[17] I wish to add my condolences to the bereaved family of the deceased Mr Hughes.