SHERIFFDOM OF LOTHIAN AND BORDERS AT EDINBURGH

[2020] FAI 4

DETERMINATION

BY

SHERIFF N A ROSS

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

into the death of

ALEXANDER MOORE

Edinburgh 27 January 2020

The sheriff, having considered the information presented at an enquiry under section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 (the "2016 Act"), determines as follows:

1. In terms of section 26(2)(a) of the 2016 Act that Alexander Moore, born 17 July 1935, latterly a convicted prisoner at HMP Prison Edinburgh, died in ward 204 of Edinburgh Royal Infirmary at 18.35 hours on 8 October 2018.
2. In terms of section 26(2)(c) of the Act that the cause of death was complications of lung malignancy (squamous carcinoma) and chronic lung disease.

Note

[1] This inquiry was held under section 1 of the Act. It was a mandatory inquiry in terms of section 2(1) and (4) of the Act. Mr Moore was in legal custody at the time of his death.

[2] Three parties were represented at the inquiry on 24 January 2020. Ms De Gaetano, procurator fiscal depute, appeared for the Crown. Ms Middleton, solicitor, appeared for the Scottish Prison Service. Mr Holmes, solicitor, appeared for the NHS. No representation was instructed or appearance made by any other person.

[3] No oral evidence was presented at the enquiry. The evidence was agreed in terms of a joint minute by the parties. The parties invited formal findings in terms of the joint minute, in terms of section 26(2)(a) and (c) of the Act.

Findings

[4] Mr Moore was born on 17 July 1935. He died in ward 204 of Edinburgh Royal Infirmary at 18.35 hours on 8 October 2018.

[5] At the date of his death, he was in lawful custody at HMP Edinburgh, having been convicted of a number of sexual offences. On 19 June 2018 he had been sentenced at Glasgow High Court to a period of 8 years' imprisonment.

[6] On 19 May 2018 Mr Moore was medically examined at HMP Edinburgh. He reported suffering from heart trouble, rheumatoid arthritis and asbestos in his lungs.

[7] On 8 July 2018 Mr Moore reported difficulty breathing. He received medical attention and was provided with an inhaler which alleviated his symptoms. A sputum specimen was taken. On 13 July 2018 Mr Moore reported increased breathing difficulty and was seen again by a nurse practitioner. On 19 July 2018 he attended again with breathing difficulties. He was advised to rest. His sputum results showed oxygen saturation levels of 94 per cent, which is within an acceptable range for chronic obstructive pulmonary disease.

[8] On 24 July 2018 Mr Moore complained of shortness of breath. He was seen by a medical general practitioner. He was examined, and found to have no persistent cough, no chest pains, no wheeze and could breathe without difficulty when resting. A small amount of crackling in the

lungs and swollen ankles and calves were noted. Mr Moore was treated with medication to address fluid retention. There were no signs of chest infection.

[9] On 6 August 2018 Mr Moore complained of shortness of breath. He was found to have reduced blood oxygen levels. He was sent by ambulance to Edinburgh Royal Infirmary with a suspected chest infection. He remained there overnight and returned to HMP Edinburgh the next day.

[10] On 24 August 2018 Mr Moore was found to have decreased oxygen saturation levels of 72 per cent. He was given oxygen and his condition improved. On 27 August 2018 he complained of breathing difficulties. He was again conveyed to Edinburgh Royal Infirmary. His condition improved and he was discharged to HMP Edinburgh. On 7 September 2018 he was readmitted to Edinburgh Royal Infirmary with blood oxygen levels of 54 per cent. He was found to have a respiratory tract infection and pneumonia. He was treated with antibiotics.

[11] On 10 September 2018 Mr Moore underwent a CT scan, as a result of which he was found to have a 45ml lesion on his right lung as well as extensive emphysema and fibrosis. The lung mass was diagnosed as 95 per cent likely to be lung cancer. It was likely that the cause of breathlessness was the emphysema. His breathing was treated with antibiotics, steroids and nebulisers.

[12] On 19 September 2018 reduced levels of blood oxygen were noted at 84 per cent. Intravenous antibiotics were commenced and observations increased. Medical staff discussed Mr Moore's condition with him and his wife, as a result of which a Do Not Attempt CPR form was signed by him.

[13] On the same date a multi-disciplinary team meeting was held to discuss Mr Moore's treatment. It was decided that a biopsy presented too high a risk to life due to his COPD. That condition and the pulmonary fibrosis rendered surgery, radiotherapy and chemotherapy unsuitable. There was a prospect that such treatment would have reduced Mr Moore's lung capacity and hastened death.

[14] On 24 September 2018 medical staff began to consider palliative care and discussed the prospect of compassionate leave with prison staff. Next of kin were informed. On 28 September 2018 prison staff visited Mr Moore in hospital. He expressed his wish to be with his wife. Compassionate release paperwork was sent for signature.

[15] Mr Moore died on 8 October 2018 at 18.35 hours in ward 204.

[16] A post-mortem was carried out on Mr Moore on 11 October 2018 at Edinburgh City Mortuary by Dr Robert Ainsworth, who prepared a report, a true copy of which is lodged. The cause of death was found to be complications of lung malignancy (squamous carcinoma) and chronic lung disease.

Conclusion

[17] In the circumstances of Mr Moore's death and in accordance with the agreed evidence, I am of the view that only findings in terms of paragraphs (a) and (c) of section 26(2) should be made. Mr Moore's death was attributable solely to natural causes which are accurately described in the post-mortem report. No other findings are warranted on the evidence.

[18] All parties expressed their condolences to Mr Moore's family.