

SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES AND GALLOWAY

[2022] FAI 6

HAM-B390-21

DETERMINATION

BY

SHERIFF MOIRA MACKENZIE

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

into the death of

PETER JAMES CUMMING

Hamilton 12 January 2022

Determination

The Sheriff having considered the information presented at the inquiry, determines in terms of section 26 of the Act that:

- a) Peter James Cumming (the deceased), born 2 June 1954, died on 24 August 2020 at Kilbryde Hospice, McGuinness Way, East Kilbride. Life was pronounced extinct at around 0505 hours. At the time of his death, the deceased was in legal custody, having been a prisoner at HMP Shotts prior to being admitted to Wishaw General Hospital on 4 August 2020 and thereafter transferred to Kilbryde Hospice on 17 August 2020.
- b) The cause of death was 1a) Metastatic Adenocarcinoma Right Lung (Thoracic Nodes, Pleura).

- c) There were no cause or causes of any accident which resulted in the death.
- d) No precautions could reasonably have been taken which might realistically have resulted in the death being avoided.
- e) There were no defects in any system of working which contributed to the death.
- f) There are no other facts relevant to the circumstances of the death.

Recommendations

No recommendations are made under section 26(4) of the Act.

NOTE

- [1] This inquiry took place at Hamilton Sheriff Court on 12 January 2022.
- [2] The following parties were represented:
 - Ms Guy, Procurator Fiscal Depute on behalf of the Crown.
 - Ms Shippen, Agent for Lanarkshire Health Board.
 - Ms Thornton, Agent for Scottish Prison Service.
- [3] Ms Guy had kept the deceased's family apprised of all aspects of the proceedings. No family member wished to participate in, or view, the proceedings.
- [4] Written submissions were submitted by all three parties to the inquiry.
- [5] A Joint Minute was agreed, signed and lodged on behalf of all three Parties. In terms thereof, the following facts were agreed and admitted in evidence:

1. On 6 February 2013, Peter James Cumming was sentenced to life imprisonment at The High Court of Justiciary, Glasgow for the charge of murder.
2. Mr Cumming was incarcerated in two HMP establishments over his period of incarceration, HMP Barlinnie and most recently HMP Shotts (Canthill Road, Shotts, ML7 4LE) where he had been incarcerated since 2013.
3. Mr Cumming attended hospital suffering with shortness of breath and underwent a Computed Tomography (CT) Scan of the chest on 20 June 2020 which confirmed a right middle lobe aggressive and presumed malignant mass, with extensive thoracic necrotic nodal metastases; overall the appearance suggested advanced stage disease. This was a life limiting diagnosis with a terminal prognosis. Mr Cumming had full capacity and did not wish aggressive treatment with chemotherapy.
4. Mr Cumming had a do not attempt cardiopulmonary resuscitation instruction in place since June 2020 which remained unchanged in August 2020. (Pg 32 of Crown Production 3).
5. On 16 July 2020, Mr Cumming underwent a Positron Emission Tomography (PET) Scan which showed an avid right middle lobe mass measuring 3.5 cms but with associated collapse it measured 6 cms. There was widespread adenopathy in both sides of the mediastinum and also extending to the supraclavicular area. There was a small pleural effusion, which was not avid but increased in size since his last effusion. There was several pleural mets, one

at the base of the lung and one on the diaphragmatic surface near to the heart. (Pg 271 of Crown Production 5).

6. On 16 July 2020, medical staff completed section 4A of an Application for early release on compassionate grounds. (Pg 151 of Crown Production 4). On 29 July 2020, a Social Worker, Prison Social Work, completed section 4B of the Application for early release on compassionate grounds. (Pg 153 of Crown Production 4). A senior Social Worker, completed an update to section 4B of the Application for early release on compassionate grounds on 13 August 2020. On 13 August 2020, the (Acting) Governor of HMP Shotts completed section 4C of the Application for early release on compassionate grounds (page 7 of SPS Production 1). The Application for early release on compassionate release was submitted to the Parole Board on 21 August 2020.

7. SPS Production 1 is the completed Application for early release on compassionate grounds in relation to the Mr Cumming. It is agreed to be true and accurate.

8. At about 0048 hours on 4 August 2020 an ambulance was called to HMP Shotts as Mr Cumming had experienced a downturn in his health over the preceding days, with increased shortness of breath. Mr Cumming was taken by ambulance to Wishaw General Hospital Emergency department at about 0154 hours. Mr Cumming was admitted to the hospital on 4 August 2020 (pg 288 of Crown Production 5). Mr Cumming continued to decline Chemotherapy.

9. After an initial assessment within the Emergency Department
Mr Cumming was transferred to Ward 7, Wishaw General Hospital on 5 August 2020 for treatment and palliative care which included: Oxygen, Intravenous Fluids and a Subcutaneous Infusion Prescription of Morphine and Midazolam by syringe driver.
10. On 7 August 2020, Mr Cumming had a chest drain inserted, which was removed on 11 August 2020.
11. On 11 August 2020 a referral was made to the Prince and Princess of Wales Hospice in Glasgow for end of life care for Mr Cumming. (pg 360 of Crown Production 5). He remained in hospital until a bed became available in a suitable hospice.
12. On 17 August 2020, Mr Cumming was discharged from Wishaw General Hospital and was transferred by ambulance to the Kilbryde Hospice, McGuinness Way, East Kilbride for end of life care.
13. On 21 August 2020 an Application for early release on compassionate grounds for Mr Cumming was submitted to the Parole Board by HMP Shotts (page 4 of Crown Production 2). The application was pending at the time of Mr Cumming's death, therefore he remained in legal custody at the time of his death. Mr Cumming was accompanied by prison guards during his time in both Wishaw General Hospital and Kilbryde Hospice.
14. At around 0505 hours on 24 August 2020, life was pronounced extinct by medical staff at Kilbryde Hospice.

15. Medical staff issued a death certificate with the cause of death noted as
1a) Metastatic Adenocarcinoma Right Lung (Thoracic Nodes, Pleura).

[6] Finally, in their submissions all Parties offered their condolences to the family
and friends of the deceased. The Court joins in that expression of sympathy.