

**SHERIFFDOM OF NORTH STRATHCLYDE AT GREENOCK**

**[2024] FAI 19**

GRE-B164-22

DETERMINATION

BY

SHERIFF PRINCIPAL SEAN F MURPHY KC

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

into the death of

**JOHN RICE**

GREENOCK, 30 April 2024

**DETERMINATION**

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

1. In terms of section 26(2)(a) of the Act that John Rice, born 10 May 1965, died on 10 February 2021 at 17.20 hours at Inverclyde Royal Hospital, Greenock;
2. In terms of section 26(2)(c) of the Act the causes of death were
  - 1a Choking on a foreign object;
  - 2 Ischaemic Heart Disease;Methadone and Etizolam Intoxication.

3. In respect of subsections (b) and (d) of section 26(2) of the Act, no accident took place.
4. In respect of subsections (e), (f) and (g) of section 26(2) of the Act, no findings fall to be made.
5. In respect of section 26(1)(b) and (4) of the Act, no findings fall to be made.
6. At the time of his death Mr Rice was in the legal custody of the Police Service of Scotland. Accordingly this is a mandatory inquiry in terms of section 2(4) of the Act.

#### **NOTE**

[1] The Inquiry first called at Greenock Sheriff Court on 12 October 2022. On 10 November 2022 the joint minute which parties were preparing had not been finalised. It was ready by 1 December 2022 on which date it was agreed that the matter would proceed on the basis of written submissions. The Inquiry called on 17 March 2023. On that date Miss Allan appeared for the Crown, Miss Railton on behalf of the Chief Constable of Police Scotland, Mr Watson on behalf of PC Kerr and Mr Vaughan on behalf of PC Beggs. No other party appeared or was represented at any hearing. No parole evidence was led. A very detailed joint minute had been prepared, which, along with the various Crown productions and the written submissions put forward by each party to the Inquiry, formed the basis of my findings. I am very grateful to all concerned for their thorough and helpful preparation and assistance to the court, as well as to Miss Guy who had appeared for the Crown at all earlier stages and who had been

deeply involved in the preparation of the joint minute of agreement. All parties moved me to make formal findings only.

[2] John Rice was born on 10 May 1965. He was 55 at the time of his death on 10 February 2021, at which time he resided at 100 Cathcart Street, Greenock. He had a history of ischaemic heart disease, had undergone a triple bypass operation in 2017, and was prescribed various medications. He also had a history of illicit drug dependence. Between July 2020 and February 2021 he had attended the drugs and alcohol team at the Wellpark Centre. He was receiving methadone daily. Following a family bereavement with which he had been struggling he was abusing cocaine and valium.

[3] He had some 25 previous convictions which included offences under the Misuse of Drugs Act 1971. One of his pending case related to possession of thirty one wraps of crack cocaine and he was subject to a number of bail orders which included in one instance a requirement that he attend Paisley Police Office every Wednesday and Sunday between 11.00 and 12.00 hours.

[4] 10 February 2021 was a Wednesday. Mr Rice attended at Greenock Police Office at 11.26am and attempted to sign on there in terms of his bail conditions because he said that he was unfit and unable to travel to Paisley. He was advised that he would need to go to Paisley Police Office to comply with his bail conditions. The officer who spoke to him considered that he looked fit and well and had no concerns about his health.

[5] At 11.57 Mr Rice left his home address in the company of JG. The latter went into a post office and Mr Rice walked in the direction of Bank Street in Greenock with a dog on a lead. At about 12.00 police constables Connor Beggs and Graeme Kerr were

driving in a marked police vehicle on Bank Street. They observed the now deceased in the company of JG, JK and EMcC. The group was standing on a middle landing between two sets of stairs at the entrance to Well Park. Both officers were aware of recent intelligence that John Rice had been selling drugs in the area and that the location was frequented by people dealing in controlled drugs. PC Beggs saw the deceased place his right hand into his front jacket pocket. He appeared unsteady on his feet. The officers stopped their vehicle and decided to search the group, PC Beggs having formed the view that drug dealing was in progress. Both officers got out of their vehicle and approached the group.

[6] Constables William Gorry and Paul Jackman were on uniform foot patrol in the area. Seeing their colleagues running across Bank Street towards the stairs at the entrance to Well Park they decided to approach to offer assistance.

[7] As PCs Beggs and Kerr were walking up the first flight of steps, while they were between ten and fifteen feet from the group, they told them that they were being detained in terms of section 23 of the Misuse of Drugs Act 1971 for the purposes of a search. JG, JK and EMcC remained on the landing but Mr Rice walked at speed up the stairs and into the park, away from the officers. PC Beggs began to jog after him. He said loudly and clearly to him: "John, stop walking away. You're detained for a drugs search."

[8] Mr Rice continued to walk away from him. PC Beggs again instructed him to stop. When he was about fifteen to twenty feet away from him, the now deceased turned to face the officer who saw him remove a white wrap from his right jacket pocket

and place it into his mouth. He was wearing a blue, surgical style, disposable face mask which he moved up to cover his mouth. It looked bigger than a single typical street deal to PC Beggs. PC Kerr, who was about twenty feet away, saw the deceased remove something from his front right jacket pocket with his right hand, place his hand over his mouth, and pull his surgical mask up to cover his mouth. PC Beggs repeatedly told the deceased to remove his mask and open his mouth. He did not do so. Eventually he lifted his mask but kept his mouth closed. He was again instructed to open his mouth. He put his head back, looked up to the sky and opened his mouth. PC Beggs instructed him to move his head down, face him and open his mouth. Mr Rice looked at the officer and opened his mouth slightly. He started to speak, opening his mouth further, at which time PC Beggs clearly saw the wrap in his mouth. He instructed Mr Rice to spit it out. PC Kerr was approaching to assist and he saw an off-white item at the back of the deceased's mouth. The deceased did not spit it out but moved his head towards his chest.

[9] PC Beggs informed Mr Rice that he was under arrest in terms of section 1 of the Criminal Justice (Scotland) Act 2016 as an officially accused person for a contravention of section 23(4) of the Misuse of Drugs Act 1971, for obstructing a search. PC Kerr took hold of his arm so that Mr Rice was in lawful custody from that time onwards, until the time of his death.

[10] PC Beggs attempted to handcuff Mr Rice to the rear to prevent him from removing any further items from his person and swallowing them. The deceased began to resist violently, using his body weight and movement and flailing his arms about to

prevent the application of the handcuffs. He was asked by PC Kerr to spit the wrap out from his mouth but he appeared to be attempting to swallow it. Constables Beggs and Kerr took hold of his arms and placed him face down on the ground and continued to attempt to apply the handcuffs to the rear. Mr Rice continued to flail his arms around but the officers were eventually able to apply the handcuffs, stacked with one hand above the other, to the rear. There was nothing to indicate that the now deceased was in any difficulty up until this point.

[11] Constables Gorry and Jackman approached as both PC Beggs and PC Kerr were repeatedly shouting instructions to the deceased to "Spit it out". He was continually instructed to do so for his own safety but Mr Rice closed his mouth and continued to struggle. After about 20 seconds, PC Beggs noticed that his lips were turning purple. He and PC Kerr manoeuvred Mr Rice slightly on to his side and PC Beggs delivered several slaps by pushing the palm of his hand inward and upward into his back between his shoulder blades. The officers believed the deceased was choking. They spoke to him. He did not reply or respond but was still breathing.

[12] After about 30 seconds the two officers lifted him to his feet and removed the handcuffs. He was able to stand on his own and maintain eye contact. PC Kerr asked him to bend forward. He applied five solid back slaps and encouraged him to cough. Mr Rice was bent slightly further forward and the same process was repeated. He did not cough. PC Gorry applied five more slaps to his back. PC Beggs then applied the Heimlich manoeuvre, making between twelve and fifteen thrusts, without managing to dislodge the wrap. PCs Beggs and Kerr then walked Mr Rice to the boundary fence of

the park and placed his upper body over it at an angle. Both officers then attempted the Heimlich manoeuvre in turn. PC Kerr continually told him to cough but Mr Rice's mouth was clamped shut.

[13] At 12.04 PC Beggs made a radio call requesting that an ambulance attend as soon as possible while PC Kerr continued to repeat the Heimlich manoeuvre. John Rice was conscious but not alert and his face was slightly purple. An ambulance was despatched to Bank Street at 12.10pm. Other police officers who had heard PC Beggs's request for assistance attended. The Heimlich manoeuvre was attempted again but Mr Rice became limp and unable to stand. He was still breathing. The officers lowered him to the ground and placed him in the recovery position. Pushes were delivered to his back in unsuccessful attempts to dislodge the item. His breathing became laboured and PC Beggs detected a slight pulse. This information was relayed to the ambulance crew on route via the police area control unit. PC Beggs attempted to open Mr Rice's mouth so see if there was a clear blockage for the first time but nothing was visible. He was lifted to his feet and the Heimlich manoeuvre was attempted again, without success. He was returned to the recovery position. He was completely unresponsive and did not appear to be breathing. His skin was a pale blue colour and eyes and mouth were wide open. PCs Beggs and Kerr rolled him on to his back without resistance and removed his false teeth to prevent obstruction. The two officers then took it in turns to commence CPR procedure by making compressions to Mr Rice's chest. Neither officer attempted mouth-to-mouth resuscitation because of the risk of covid-19 infection.

[14] At 12.15 hours an ambulance passed on Regent Street apparently attending elsewhere and officers requested an update on the situation and asked for a defibrillator to be brought. Officers took up positions to control traffic and pedestrian access to the scene pending arrival of the ambulance. Two officers met John Rice's son, DR, walking on Bank Street with JG. He asked if his father was okay and began to film the officers on his mobile phone. The ambulance arrived at 12.26 pm, crewed by Paramedic Nelson Grant and Ambulance Technician Jolanta Ostrowska who instructed police officers to continue with chest compressions while they applied advance life support assistance. No airway obstruction was seen using a laryngoscope. Stepwise airway management to the supraglottic airway and endotracheal intubation were all used but with strong resistance and no noticeable rise and fall of the chest. The obstruction seemed to clear, after which good ventilation was achieved. Adrenaline and fluids were administered. Spontaneous circulation returned at about 13.00pm. John Rice had a pulse but was unresponsive and not breathing. Atropine was administered as he was bradycardiac. At 13.11 he was taken to the ambulance by stretcher but suffered cardiac arrest. The ambulance left Bank Street at 13.26, driven by PC Elliot so that both crewmembers could provide ongoing support to Mr Rice on the way to hospital. The police provided a blue light escort and controlled the junctions on route. The ambulance arrived at Inverclyde Royal Hospital at 13.35 hours.

[15] Dr Gordon McNaughton, a consultant in emergency medicine, and his team received him. He was still in cardiac arrest but although correctly intubated reduced amounts of oxygen were being pushed through which suggested that his airway was



obstructed below the level of the vocal chords. Cardiac output was established and a pulse was noted. Assistance was requested from the intensive care and respiratory consultants who attended at 14.00. At about 15.10 a blockage was detected in the left main bronchus by the use of a flexible laryngoscope. The obstruction was pulled free by the application of suction and recovered from the back of Mr Rice's throat with forceps. It was a small, bloodied, clear plastic item, measuring 8x2 cm, which was handed to the police. Mr Rice was re-intubated and transferred to the Intensive Treatment Unit at approximately 16.30 hours. He showed signs of prolonged cardiac arrest without improvement and treatment was withdrawn at 17.00 hours. Life was pronounced extinct at 17.20 hours on 10 February 2021 by Dr Daniel Pethers. The deceased's ex-partner, sister, son and daughter were present and had been informed of the decision to withdraw treatment.

[16] Subsequent examination of the item recovered from the deceased's airway revealed that it was a plastic wrap containing five individual wraps of small white rocks weighing 8.5 grams in total. Presumptive testing was positive for crack cocaine.

[17] Dr Gillian Wilson, forensic pathologist, examined the body of the deceased on 5 March 2021. Cause of death was certified as:

1a: choking on a foreign object

2: ischaemic heart disease

Methadone and etizolam intoxication.

There were no significant injuries to the deceased's body which bore signs of the CPR procedures and other treatments it had received.

[18] Methodone was present at therapeutic levels but it could have had a toxic effect especially if taken with other, similar drugs and an active metabolite of etizolam was detected as was a low level of diazepam. Their presence could depress the central nervous and respiratory systems and impair natural protection of the airways by suppressing the “gag” reflex and increasing the risk of choking.

[19] Cocaine was present in the hospital and post-mortem blood samples taken from the deceased, which may have been taken prior to the event which led to the death of Mr Rice or may have been absorbed from the package within his system. Cocaine could cause cardio-toxicity and increased risk of fatal arrhythmia, particularly at times of stress.

[20] Ischaemic heart disease was thought to have contributed because Mr Rice would have been at greater risk of cardiac arrest and the possibility of survival would have been reduced.

[21] During the post-mortem examination one small wrap was recovered from within an airway and three more from within the oesophagus. Subsequently one of these tested positive for the presence of heroin.

[22] The officers who attempted the Heimlich manoeuvre had been taught how to do so at Officer Safety Training. In particular PC Beggs had last completed the course in December 2019 and PC Kerr in September 2019. The actions of the officers present at the scene were reviewed by PC Mark Scott, a qualified Lead Operational Safety Instructor attached to the Operational Safety Unit at the Scottish Police College in Jackton. He

expressed no concerns over the steps taken including the levels of force used and the application of first aid techniques with Mr Rice.

[23] I had a concern over whether the placing of the deceased face down on the ground might have contributed adversely to the situation. However, that aspect of the matter was considered by Dr Wilson in her report. She expressed the opinion that: "It is not possible to say with any certainty whether the facedown position would have played any role in the events." Accordingly I have no findings to make in that regard.

[24] The death of Mr Rice unfortunately occurred because when he was being approached by the police he swallowed several packages of drugs one of which lodged in his left main bronchia, causing him to choke. His pre-existing heart disease contributed to his death. It is not possible to determine whether the presence of other drugs within his system contributed to his death to any significant extent. The actions of the police officers at the scene reflect real concern for Mr Rice and they are to be commended for their appraisal of the situation and their sustained attempts to assist him pending the arrival of the paramedical ambulance crew.

[25] All parties at the Inquiry expressed condolences to the family of Mr Rice and to these I add my own condolences.

[26] All parties to the Inquiry submitted that I should make only formal findings in relation to the death of Mr Rice as are set out above. I am satisfied that no further recommendations should be made in this unfortunate case.