

SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE AT ALLOA

[2019] FAI 33

ALO-B41-19

DETERMINATION

BY

SHERIFF DAVID N MACKIE

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

into the death of

HUGH McCARDLE

Alloa, 16 July 2019

DETERMINATION

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

Hugh McCardle, born on 20 July 1950, lawfully detained in custody at the date of his death within HM Prison, Glenochil, died at 1715 hours on 15 January 2018.

1. In terms of section 26(2)(a) of the 2016 Act Hugh McCardle died within Forth Valley Royal Hospital at 1715 hours on 15 January 2018;
2. In terms of section 26(2)(b) of the 2016 Act there are no findings, there having been no accident resulting in the death of the late Hugh McCardle;
3. In terms of section 26(2)(c) of the 2016 Act the death was caused by:
 - a. Dilated cardiomyopathy with ischaemic heart disease

- b. Chronic kidney disease
4. In terms of section 26(2)(d) of the 2016 Act there are no findings, there having been no accident resulting in the death of the late Hugh McCardle;
 5. In terms of section 26(2)(e) of the 2016 Act there are no precautions which could reasonably have been taken that might realistically have resulted in the death or the accident resulting in the death being avoided had they been taken.
 6. In terms of section 26(2)(f) of the 2016 Act there are no defects in any system of working which contributed to the death or the accident resulting in the death.
 7. In terms of section 26(2)(g) of the 2016 Act there are no other facts which are relevant to the circumstances of the death.

RECOMMENDATIONS

In terms of section 26(1)(b) of the 2016 Act there are no recommendations as to any of the matters mentioned in sub-section (4) which might realistically prevent other deaths in similar circumstances.

NOTE

Introduction

[1] A fatal accident inquiry was held under the Fatal Accidents and Sudden Deaths Etc. (Scotland) Act 2016 (“the 2016 Act”) into the death of the late Hugh McCardle who died on 15 January 2018. He was, at the time of his death, lawfully detained in custody

at HM Prison Glenochil and, accordingly, in terms of section 2(4)(a) of the 2016 Act, an inquiry was required to be held into the circumstances of his death.

[2] A preliminary hearing was held within Alloa Sheriff Court on 2 July 2019. The only interested party represented at the inquiry was the Scottish Prison Service. The family were interested in the outcome of the inquiry but were not represented. The Procurator Fiscal was keeping them informed regarding the progress of the inquiry and will report to them after this Determination has been issued.

[3] It became clear at the preliminary hearing that there were no matters that were likely to be in dispute and that the evidence in the inquiry was capable of being agreed. A Joint Minute of Agreement between the Crown and the only other party participating in the inquiry, the Scottish Prison Service, was tendered at the inquiry itself. The scope of the agreement on the evidence was such that it was unnecessary for any witnesses to be led.

The legal framework

[4] This inquiry is governed by the **Act of Sederunt (Fatal Accident Inquiry Rules) 2017 (SSI 2017/103)**. The Inquiry was initiated by the procurator fiscal, who represents the public interest, in accordance with her statutory duty to do so. The purpose of an inquiry under section 1(3) of the Act is (a) to establish the circumstances of the death and (b) consider what steps, if any, might be taken to prevent other deaths in similar circumstances. This Determination sets out my findings as to the circumstances mentioned in section 26(2)(a) to (d) of the Act, that is to say, when and where the death

occurred, when and where any accident resulting in the death occurred, the cause or causes of the death, the cause or causes of any accident resulting in the death. There was no accident resulting in death in this case and that is reflected in my findings. An inquiry such as this is an inquisitorial process the purpose of which is not to establish civil or criminal liability.

Summary

[5] The late Hugh McCardle was born on 20 July 1950 and died at 1715 hours on 15 January 2018 at Forth Valley Royal Hospital, Larbert.

[6] He was, at the date and time of his death, lawfully detained in custody serving a sentence of 10 years imprisonment within HM Prison, Glenochil, Tullibody in respect of charges of rape, a contravention of section 5 of the Sexual Offences (Scotland) Act 1976 and two charges of lewd, indecent and libidinous practices and behaviour imposed at Glasgow High Court on 13 June 2013.

[7] Mr McCardle suffered from a number of health problems throughout his period of incarceration and in 2018 was suffering from end stage heart and renal failure.

[8] He was located within cell A3/61 within Abercrombie Wing at the prison. He had a hospital bed in his cell and was treated by medical and nursing staff on a daily basis.

[9] A decision was made on 15 January 2018 to have him transferred by ambulance to hospital and that happened at 1558 hours. He was transferred to Forth Valley Royal Hospital, Larbert. He sadly died and life was pronounced extinct at 1715 hours.

[10] A *post mortem* examination of the late Hugh McCardle was conducted on 25 January by Dr Robert Ainsworth, a Consultant Forensic Pathologist, within the City of Edinburgh Mortuary. The cause of death was determined to be:

- (a) dilated cardiomyopathy with ischaemic heart disease.
- (b) chronic kidney disease

The Consultant Forensic Pathologist explained in his report that the nature of the late Mr McCardle's heart disease was such that it could have caused acute cardiac failure and/or fatal cardiac arrhythmia at any time. It also remained a possibility that his chronic kidney disease may have contributed to his death, for example, by causing some degree of generalised metabolic or biochemical derangement which contributed to his terminal cardiac dysfunction. It was considered, clinically, as having potentially played a role in death.

Discussion and conclusions

[11] The late Hugh McCardle suffered from serious health problems in relation to his heart and kidneys. Despite high levels of medical care within the prison setting he finally succumbed to his illnesses. The primary cause of death was dilated cardiomyopathy with ischaemic heart disease but, in addition, Mr McCardle's chronic kidney disease is likely to have played a role in his death.

[12] There are no other matters arising from this inquiry upon which I have any cause to comment.