

SHERIFFDOM OF LoTHIAN AND BORDERS AT EDINBURGH

[2020] FAI 005

EDI-B1354-19

DETERMINATION

BY

SHERIFF N A ROSS

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

into the death of

JAMES REID HAMILTON

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 Act that James Reid Hamilton, born 8 February 1948, latterly a convicted prisoner at HMP Prison Edinburgh, died at the Marie Curie Centre, 45 Frogston Road West, Edinburgh EH10 7DR at 09.37 hours on 30 November 2018.
2. In terms of section 26(2)(c) of the Act that the cause of death was non-small cell carcinoma of the left lung.

Note

[1] This inquiry was held under section 1 of the 2016 Act. It was a mandatory inquiry in terms of section 2(1) and (4) of the Act. Mr Hamilton was in legal custody at the time of his death

[2] Three parties were represented at the inquiry on 24 January 2020. Mr Motion, 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 Hamilton was born on 8 February 1948. He died on 30 November 2018 at the Marie Curie Hospice, 45 Frogston Road West, Edinburgh. He was 70 years old.

[5] At the time of death Mr Hamilton was in lawful custody, having been sentenced on 31 May 1983 at Glasgow High Court to life imprisonment. He had been on licence from 2 May 1997 until 27 August 2004, when his licence was revoked and he was returned to lawful custody.

[6] Mr Hamilton's health began steadily to decline from December 2017. He was a smoker. He suffered from type 2 diabetes, and claudication (impaired walking). He suffered a stroke in 2015.

[7] In December 2017 Mr Hamilton complained of breathing problems. He was referred for respiratory assessment. Following CT scan and x-ray he was diagnosed in February 2018 with stage-3 cancer, later confirmed as non-small cell lung cancer. The diagnosis was terminal.

[8] Following the diagnosis Mr Hamilton received advice and support for end of life care from Marie Curie Hospice, Frogston Road West, while he remained in HMP Edinburgh.

[9] Mr Hamilton's health continued steadily to decline, leading to violent coughing, sickness, weight loss, breathlessness, pain, lethargy and constipation. In medical consultation on 17 July 2018 Mr Hamilton was informed of his low chances of survival in the event of stroke or heart attack. He requested that a DNACPR (Do Not Resuscitate) form be completed.

[10] Mr Hamilton continued to receive medical prescriptions as appropriate and assistance with daily tasks. He received appropriate support and comfort as required. His medications were kept under review and adjusted as appropriate.

[11] On 13 November 2018 a case conference was held at HMP Edinburgh to consider a future care plan and to consider Mr Hamilton's compassionate release to Marie Curie Hospice. It was decided that this would not be appropriate until he was comatose.

[12] Mr Hamilton suffered a fall on 27 November 2018 as a result of increased weakness and pains in his legs. He was provided with an emergency button. He was assessed for a possible spinal tumour. On 29 November 2018 as a result of disorientation and increased agitation he was transferred by ambulance to the Marie Curie Hospice. He was escorted by Scottish Prison Service staff. He was handed over to the care of G4S Security at the hospice. He was not handcuffed at any point.

[13] On Friday 30 November Mr Hamilton's condition deteriorated significantly. Staff contacted his brother, who attended Mr Hamilton and remained with him until his death. Mr Hamilton was treated with medication to keep him comfortable.

[14] Mr Hamilton was pronounced dead at 09.37 hours on 30 November 2018. The cause of death was certified by Dr Fiona Lashley as non-small cell carcinoma of the left lung. Copies of the death certificate and the death in custody report are lodged and are accurate in their terms.

Conclusion

[15] In the circumstances of Mr Hamilton'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 Hamilton's death was attributable solely to natural causes which are accurately described in the death certificate. No other findings are warranted on the evidence.

[16] All parties expressed their condolences to Mr Hamilton's family.