

**SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES & GALLOWAY AT
HAMILTON**

[2020] FAI 6

HAM-B808-19

DETERMINATION

BY

SHERIFF D A BROWN

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

into the death of

SCOTT McMILLAN

Determination

The Sheriff, having considered the information presented at the inquiry, determines in terms of section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 that: in terms of section 26(2)(a), Scott McMillan, born 12 February 1975, died between 4.56pm on 27 January 2019 and 7.30am on 28 January 2019 in HM Prison, Shotts; and in terms of section 26(2)(c), the cause of death was hanging.

NOTE

Introduction

[1] Scott McMillan, born 12 February 1975, (“Mr McMillan”) died while in legal custody serving a sentence of imprisonment. In terms of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 (“the 2016 Act”) there required to be an inquiry in order to establish the circumstances of the death and consider what steps (if any) might be taken to prevent other deaths in similar circumstances.

[2] Mr McMillan had been in custody since 2004. Following his death no relatives or next of kin could be traced. A former partner was traced but did not wish any involvement in the inquiry. The only interested parties were the Crown, the Scottish Prison Service and the Scottish Prison Officers’ Association. The relevant facts were agreed by joint minute and are set out in brief below. There were no further inquiries which I considered appropriate.

The facts

[3] On 17 September 2004 at the High Court of Justiciary in Edinburgh Mr McMillan was convicted after trial on a charge of murder. On 15 October 2004 he was sentenced to life imprisonment with a punishment part of 14 years. That punishment part was reduced on appeal to 13 years. He was serving that sentence in HM Prison, Shotts. Infrequent visits by family or friends stopped in 2008.

[4] On 18 December 2017 he was transferred to HM Prison, Greenock as part of a rehabilitation programme to prepare him for potential release. He was allowed out on

home leave and to participate in work placements in the community, subject to a requirement for random drug testing on his return. One such test in August 2018 was positive for cannabis. His home leave and work placements were stopped and he was transferred back to HM Prison, Shotts. He refused to undergo any further drug testing. At the time of his death he was located in cell 204, level 2 in Lamont Hall and was the sole occupant of that cell.

[5] On Sunday 27 January 2019 he entered his cell at around 1607 hours. At around 1656 hours prison officers conducted a final walk round to secure a verbal response from all prisoners before they were locked in for the evening. A verbal response was obtained from Mr McMillan and he was locked in his cell.

[6] At around 0730 hours on Monday 28 January 2019 two prison officers began carrying out a routine welfare check of all prisoners. On entering Mr McMillan's cell they discovered him suspended by a piece of torn bed sheet at the back of the door of the bathroom leading off the cell. One end of the sheet was around his neck and the other end was knotted and attached to the top corner of the door. He was obviously dead in that he was not breathing, no pulse could be detected and his body was cold, stiff and blue in colour. The officers left, secured the cell and made an urgent Code Blue radio call for assistance.

[7] At 0746 hours a paramedic attended, examined the body and pronounced life extinct. The sheet was cut to release the body and it was placed on the bed in the cell. The cell was locked pending the arrival of two CID officers who attended at 0935 hours and conducted a visual inspection of the cell and contents. At 1015 hours a Scenes of

Crime officer attended and took photographs of the cell and contents. The cell was again locked. Mr Millan's body was removed from the cell at 1205 hours. At 1207 hours the two CID officers re-entered the cell and carried out a systematic search. They found nothing to suggest any cause of death other than suicide.

[8] A CCTV check revealed that after Mr McMillan entered the cell at around 1607 hours on Sunday 27 January 2019, no one else entered until around 0730 hours on Monday 28 January 2019 when the routine welfare check was being carried out.

[9] A post mortem examination on 31 January 2019 by Consultant Forensic Pathologist Dr John Williams established the cause of death as hanging.

[10] A Death in Prison Learning, Audit and Review meeting took place on 3 April 2019. The conclusion reached was that the death was unexpected in that there were no prior indicators of a suicide risk.

Determination

[11] I made formal findings in terms of section 26(2)(a) and (c) of the 2016 Act. No other finding appeared appropriate.