SHERIFFDOM OF LOTHIAN AND BORDERS AT EDINBURGH

2020 FAI 29

EDI-B228-20

DETERMINATION

BY

SHERIFF KENNETH J MCGOWAN

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

into the death of

JOHN DAVIDSON

Edinburgh, 3 September 2020

Determination

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

1. John Davidson ("the deceased") born 16 November 1970, then residing care of HM Prison, 33 Stenhouse Road, Edinburgh died on 8 March 2018 at the Royal Infirmary of Edinburgh ("RIE");

2. In terms of section 26(2)(a), that the deceased died at 02:40 hours on 8 March 2018 at Ward 114, RIE;

3. In terms of section 26(2)(b), no accident took place;

4. In terms of section 26(2)(c), the cause of death was complications of pulmonary thromboembolism in a man with dilated cardiomyopathy;

5. In terms of section 26(2)(d), no accident having taken place, no finding requires to be made under this subsection;

6. In terms of section 26(2)(e), there were no precautions which could reasonably have been taken or which had they been taken might realistically have resulted in the death being avoided;

7. In terms of section 26(2)(f), there were no defects in any system of working which contributed to the death; and

8. In terms of section 26(2)(g), there are no other facts which are relevant to the circumstances of the death.

Recommendations

In terms of section 26(1)(b), no recommendations are made as to the taking of reasonable precautions, the making of improvements to any system of working, the introduction of a system of working, or of any other steps.

NOTE

Introduction

[1] This fatal accident inquiry was held under the Fatal Accidents and Sudden Deaths Etc. Scotland Act 2016 into the death of John Davidson ("the deceased").

[2] There were no preliminary hearings. The inquiry hearing was held on 31 August 2020.

[3] The Crown was represented by Mr Motion, Procurator Fiscal Depute. The other participants were NHS Lothian represented by Mr Holmes, Solicitor and the Scottish Prison Service represented by Ms McCabe, Solicitor.

[4] No witnesses were called but a Post Mortem Examination Report dated 22 May 2018 (Crown Production No 1) was produced and agreed to be true and accurate in its terms and to be treated as the evidence of its author, Dr Kerryanne Shearer, Consultant Forensic Pathologist.

The legal framework

[5] The inquiry was held in terms of the 2016 Act and governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017. The deceased having been in lawful custody at the time of his death, an inquiry required to be held in terms of section 2 of the 2016 Act.

[6] The purpose of the inquiry, as set out in section 1(3) of the 2016 Act is to establish the circumstances of the death, and consider what steps (if any) might be taken to prevent other deaths in similar circumstances.

[7] In terms of section 26 of the 2016 act, the determination should cover, in relation to the death to which the inquiry relates, findings as to 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; any precautions which (i) could reasonably have been taken and (ii) had they been taken, might realistically have resulted in the death, or any accident resulting in the death,

being avoided; any defects in any system of working which contributed to the death or any accident resulting in the death; and any other facts which are relevant to the circumstances of the death.

[8] The determination should also cover such recommendations (if any) as the sheriff considers appropriate as to the taking of reasonable precautions, the making of improvements to any system of working, the introduction of a system of working and the taking of any other steps which might realistically prevent other deaths in similar circumstances.

[9] The procurator fiscal represented the public interest at the inquiry, which is an inquisitorial process. It is not the purpose of the inquiry to establish civil or criminal liability.

Summary

Material before the court

[10] The following material was placed before the court for the purposes of the inquiry:

a. Post Mortem Examination Report dated 22 May 2018 by Dr Kerryanne Shearer, Consultant Forensic Pathologist (Crown Production No. 1);

b. Death in Custody File, containing records held by HM Prison Edinburgh relating to the deceased (Crown Production No 2);

c. Medical Records, containing records of the deceased's past medical history, together with details of the care and treatment provided to him during his

various admissions to the Royal Infirmary of Edinburgh (Crown Production No 3);

d. Prison Medical Records, being a copy of the deceased's medical records (Crown Production No 4); and

e. a joint minute agreed among and signed on behalf of the three participating parties.

[11] Having considered the foregoing material and the submissions made by the parties, I found the following essential facts to be established.

Findings in fact

[12] The deceased was born on 16 November 1970 and died on 08 March 2018 at Ward 114, Royal Infirmary of Edinburgh. He was 47 years old.

[13] At the date of his death, the deceased was in lawful custody at HM Prison Edinburgh.

[14] The deceased had a long-standing history of mental health problems, and had been diagnosed as suffering from a delusional disorder in around 2003. He also displayed elements of an anti-social personality disorder and paranoia. He was under the care of Dr Deborah Nelson, Forensic Psychiatrist at the Royal Edinburgh Hospital.

[15] The deceased was prescribed the anti-psychotic medication Paliperidone to treat his delusional disorder. It was administered by monthly intra-muscular depot injection.

[16] Despite his ongoing mental illness, the deceased had capacity to understand medical advice, and make his own decisions in relation to medical care and treatment.

[17] The deceased was not known to have any physical health conditions prior to September 2017. He was not registered with a GP. He was a heavy smoker and drank alcohol excessively.

[18] On 24 September 2017, the deceased was admitted to the Acute Medical Unit at the RIE suffering from community acquired pneumonia. Due to his symptoms, he was the subject of a Critical Care Referral and Review and found to be suffering from Severe Heart Failure which was believed to be related to a previously undiagnosed Dilated Cardiomyopathy.

[19] The deceased was discharged from hospital on 4 October 2017, having been prescribed medication and referred to the Community Heart Failure Team for out-patient management. An electronic discharge letter could not be transmitted because the deceased was not registered with a GP at the time. Instead, a hard-copy of the discharge letter was provided to him and he was advised to register with a GP as a matter of urgency.

[20] On 17 October 2017, the deceased was visited at home by the Community Heart Failure Team. At that time, he reported complying with his medication and is noted to have been displaying no clinical signs or symptoms of heart failure.

[21] The deceased registered with Sighthill Medical Practice on 24 October 2017. He is documented as having appeared tired and breathless at that time, and reported still smoking and drinking alcohol every day. He did not disclose his recent admission to hospital, or his diagnosed heart condition.

[22] The deceased appeared at Livingston Sheriff Court on 15 November 2017, at which time he was remanded to HM Prison Edinburgh.

[23] On arrival at HM Prison Edinburgh, the deceased did not want to see nursing staff for a reception nursing assessment to be carried out. Instead, the assessment was completed on 16 November 2017. At that time, when providing his medical history, he mentioned his mental health problems and the medications prescribed in that regard. He did not disclose any physical illness and made no reference to cardiac problems.

[24] On 21 December 2017, the deceased told Nurse Laura McConnell that he had been in hospital earlier in the year in relation to heart problems. He was very vague and provided no further detail. This was investigated by Ms McConnell who accessed the deceased's hospital records and established that he had been previously admitted with pulmonary oedema. He was not interested in stopping or cutting down on his smoking.

[25] Between 21 December 2017 and 10 January 2018, both dates inclusive, the deceased was seen by prison nursing staff on twelve occasions. He voiced various complaints relating to his breathing, ranging between shortness of breath and hyperventilation. On examination, his clinical observations were stable and he did not appear to be acutely unwell on any occasion.

[26] On 16 January 2018, the deceased was seen by prison GP, Dr William Smith. At that time, he was suffering from shortness of breath and bilateral oedema (to the level of his knees) and was coughing up blood. The decision was taken that he should be admitted to hospital and an ambulance was called immediately.

[27] The deceased was taken by ambulance to the Accident and Emergency Department of Royal Infirmary of Edinburgh on 16 January 2018. The clinical impression was that he was suffering from a lower respiratory tract infection and had worsening heart failure. He was admitted to the Acute Medical Unit with the intention of providing aggressive IV diuretic therapy.

[28] The deceased remained under the care of the Acute Medical Unit, until his discharge back to HM Prison Edinburgh on 4 February 2018. During that admission, the medical records document him being difficult to manage, being aggressive and abusive at times. Overall, save for a few brief periods of compliance, he refused to be weighed; to accept medication; or to restrict his fluid intake. On discharge, he openly admitted to hospital staff that he had no intention of limiting his fluid intake or taking his medication once back in HM Prison Edinburgh.

[29] On return to HM Prison Edinburgh, arrangements were made for the deceased to receive his prescribed medications by supervised individual dose. Prison nursing staff attended at his cell in order to administer those medications.

[30] On 10 February 2018, the deceased was re-admitted to the Royal Infirmary of Edinburgh. He was complaining of shortness of breath, and suffering from increasing peripheral swelling. It was reported at that stage that he had not been taking his prescribed medication, while deliberately exceeding his recommended fluid intake in prison. It is noted in his medical records that "he is trying to engineer a re-admission to hospital".

[31] Between 10 and 13 February 2018, the deceased refused medication and continued to deliberately exceed his fluid restriction, contrary to medical advice. As a result of his non-compliance, he was discharged on 13 February 2018 to be managed with diuretic therapy at HM Prison Edinburgh.

[32] The deceased remained non-compliant with medical advice upon his return to HM Prison Edinburgh. He refused to accept medication; to comply with restricting his fluid intake; or to allow nurses to weigh him and check his clinical observations on a daily basis.

[33] The deceased was re-admitted to the RIE from HM Prison Edinburgh on 27 February 2018 due to his worsening condition. On arrival there, he appeared hypoxic and drowsy, and was suffering from an acute kidney injury. He was grossly oedematous to the level of his mid-back and his heart sounds were not clearly audible. At that stage he was assessed by the Cardiology Team as follows:

> "Quick to be re-admitted and only managing short periods of time out of hospital. Agreed downward trajectory, not a candidate for transplantation. For standard treatment and CPAP (Continuous Positive Airway Pressure ventilation) on ward 114 as ceiling of care. Not for ICU/HDU."

[34] The deceased was transferred to Ward 114 where he initially accepted IV diuretic medication. He looked better, but continued to experience gross peripheral oedema and persistent sinus tachycardia as a result of the strain being placed on his heart. He pulled out two canulae on 28 February 2018 and thereafter refused to have them re-sited.

[35] On the morning of 1 March 2018, the deceased suffered a cardiac arrest. Cardiopulmonary resuscitation (CPR) was administered immediately and achieved a

return of circulation. Very quickly thereafter, he was awake and talkative, but his medical records describe him as remaining "on the verge of cardiogenic shock" and in renal failure.

[36] On 3 March 2018, the deceased began to comply with medication and treatment. His condition continued to deteriorate nonetheless.

[37] On 5 March 2018 the deceased's renal function was noted to be worsening and he remained hypotensive and oedematous despite passing urine and complying with a restricted fluid intake. It was apparent that he was nearing the end of his life.

[38] At around 02:20 hours on 8 March 2018, the deceased suddenly slumped, unresponsive in his bed. CPR was commenced, but was ultimately unsuccessful. Life was pronounced extinct at 02:40 hours by Dr Su Ern Yeoh.

[39] The deceased's body was taken to Edinburgh City Mortuary, Cowgate, Edinburgh and was examined by Dr Kerryanne Shearer, Consultant Forensic Pathologist on 14 March 2018. A report of Dr Shearer's findings was prepared. The medical cause of the deceased's death was complications of pulmonary thromboembolism in a man with dilated cardiomyopathy.

Submissions

[40] All three participants invited me to make formal findings.

Discussion and conclusions

[41] Mr Davidson's cardiomyopathy was diagnosed in September 2017. As I understand it, cardiomyopathy is a potentially serious condition, the effects of which can be ameliorated by lifestyle changes such as avoiding being overweight, ceasing or restricting alcohol consumption and not smoking. The symptoms can be treated by drug therapy, such as diuretics to clear excess fluid.

[42] While he was in custody, Mr Davidson's medical condition was known to the medical staff based there as they were able to access his hospital records.

[43] Mr Davidson was thereafter offered appropriate treatment both in prison and during his hospital admissions. Unfortunately, his compliance was poor. He continued to smoke and did not accept medication offered to him.

[44] As a result, his condition worsened and he went into cardiac arrest on 1 March 2018 and was successfully given CPR. Nevertheless, he remained very ill.

[45] Ultimately, Mr Davidson's condition deteriorated further and he died on 8 March 2018 from complications of pulmonary thromboembolism with dilated cardiomyopathy, as confirmed by Dr Shearer's post-mortem examination.

[46] In the circumstances, formal findings only are appropriate and there are no recommendations to be made.

[47] Finally, I offer my condolences to Mr Davidson's family.