

SHERIFFDOM OF GLASGOW AND STRATHKELVIN

2020 FAI 31

GLW-B250-20

DETERMINATION

BY

SUMMARY SHERIFF DANIEL P KELLY

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

into the death of

ROBERT EDGAR

Glasgow, 30 July 2020

Determination

The Summary Sheriff, having considered all 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 (hereinafter 'the Act') that:

- I. In terms of section 26(2)(a) of the Act Robert Edgar, born 6 February 1966, then a prisoner within HMP Barlinnie, Lee Avenue, Glasgow died at about 1620 hours on 2 December 2018 within ward 5C of the Queen Elizabeth University Hospital, Glasgow.
- II. In terms of section 26(2)(c) of the Act, the cause of death was (1a) necrotising meningoencephalitis (herpes simplex virus type 1); and (2) epilepsy, Hepatitis C infection with liver cirrhosis.

- III. In terms of section 26(2)(b) of the Act no accident took place and accordingly no finding requires to be made under section 26(2)(d) of the Act.
- IV. In terms of section 26(2)(e) of the Act there were no precautions which could reasonably have been taken which might realistically have resulted in the death being avoided.
- V. In terms of section 26(2)(f) of the Act there were no defects in any system of working which contributed to the death.
- VI. In terms of section 26(2)(g) of the Act there are no other facts which are relevant to the circumstances of the death.

Recommendations

The Summary Sheriff having considered the information presented at the inquiry makes no recommendations in terms of section 26(1)(b) of the Act.

NOTE

Introduction

[1] This determination is made following the fatal accident inquiry held under the Act into the circumstances of the death of Robert Edgar, who died whilst a prisoner of HMP Barlinnie, Glasgow on 2 December 2018. His death was reported to the Crown Office and Procurator Fiscal Service on 3 December 2018.

Procedural history

[2] A notice of the Inquiry was given by the Procurator Fiscal under section 15(1) of the Act on 31 January 2020. I pronounced a first order on 6 February 2020, assigning a preliminary hearing for the inquiry. Prior to the first preliminary hearing the restricted court arrangements were commenced as a result of the COVID pandemic. Accordingly the first preliminary hearing scheduled for 1 April 2020 was discharged administratively. A further preliminary hearing took place via telephone conference on 22 July 2020. Amanda Allan, procurator fiscal depute, represented the Procurator Fiscal, Liam Smith, solicitor represented the Scottish Prison Service and Eleanor Paton, solicitor represented the Greater Glasgow Health Board. Mr Edgar's next of kin did not participate in the inquiry itself but did liaise with the procurator fiscal depute throughout the inquiry process.

[3] All parties entered a joint minute agreeing the inquiry's evidence in its entirety.

In addition the following productions were lodged:

- a. Mr Edgar's Prison Medical Records.
- b. Mr Edgar's Prison Records.
- c. Medical Records in relation to Mr Edgar's admission to Glasgow Royal Infirmary on 30 September 2018.
- d. A Post Mortem Report prepared by Dr Julia Bell dated 6 December 2018 in respect of Mr Edgar.
- e. Mr Edgar's Intimation of Death Form.

- f. Medical Records in relation to Mr Edgar's admission and treatment at both Glasgow Royal Infirmary and Queen Elizabeth University Hospital, Glasgow, between 31 October 2018 and 2 December 2018.

[4] In light of the joint minute of agreement and the productions lodged which I reviewed, I agreed with parties that the inquiry could proceed without the requirement for witnesses to attend.

[5] The inquiry took place on 30 July 2020 within Glasgow Sheriff Court. The joint minute of agreement was read to the court by the procurator fiscal depute. Written submissions were provided to the court in advance of the inquiry by all parties. I was asked by all parties to make formal findings only.

The legal framework

[6] The inquiry was held under section 1 of the Act and the procedure was governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017. The inquiry was a mandatory inquiry. It was held in accordance with section 2(4)(a) of the Act because although Mr Edgar died whilst in hospital, he remained a prisoner of HMP Barlinnie throughout that time meaning that at the time of his death he was in legal custody.

[7] Section 1(3) of the Act sets out that the purpose of a fatal accident inquiry is to establish the circumstances of the death and consider what steps, if any, might be taken to prevent other deaths in similar circumstances. The inquiry itself is an inquisitorial process. It is not the purpose of an inquiry to establish civil or criminal liability. The matters which should be considered in a determination are contained within section 26

of the Act and have been set out above. Section 1 also sets out the requirement that the procurator fiscal, who represents the public interest in a fatal accident inquiry, must investigate the circumstances of death and arrange for the inquiry to be held.

Summary

Circumstances of the deceased

[8] Mr. Edgar was born on 6 February 1966. He was 52 years old at the date of his death. On 14 June 2018 he was sentenced to a period of two year's imprisonment at Paisley Sheriff Court backdated to 28 February 2018 when he was first remanded in custody. He was initially imprisoned within HMP Low Moss and on 16 August 2018 was moved to HMP Barlinnie, Lee Avenue, Glasgow to serve the remainder of his sentence. At the date of his death on 2 December 2018 he remained a prisoner of HMP Barlinnie and therefore died whilst in legal custody.

Medical history of the deceased

[9] At the time of his admission to HMP Low Moss on 28 February 2018 Mr Edgar was known to suffer from epilepsy. He was prescribed with Epilim Chrono 500mg which was administered twice daily. It was recorded within his prison medical records that he frequently refused his medication. During a consultation on 10 April 2018 with the mental health team, Mr Edgar discussed his epilepsy diagnosis and it was recorded that he had suffered from two 'fits' since being admitted to prison. He had also advised prison staff on his admission that he had previously tested positive for Hepatitis C but

had declined active treatment for it. As a result he was not receiving any treatment for Hepatitis C prior to his admission to HMP Low Moss. Although not receiving active treatment, his condition was routinely monitored by prison medical staff by way of regular blood tests.

[10] Mr Edgar had a long standing drug and alcohol addiction problem and was referred to addiction services within both prisons. At the time of his admission to HMP Low Moss he was receiving 60mls of methadone daily. This had been prescribed at 110mls prior to his admission to prison and was reduced to 20mls daily whilst he was within HMP Low Moss. Throughout his time within both HMP Low Moss and HMP Barlinnie Mr Edgar frequently refused both his methadone and his prescribed medication, advising staff that he did not wish to receive it and, at times, signing documentation to confirm this.

[11] Mr Edgar appeared generally unwell during his time within both HMP Low Moss and HMP Barlinnie. He was noted to be underweight at a consultation on 2 March 2018 and was prescribed with milkshakes to assist with weight gain which he continued to take throughout his time in prison. On occasions it was suspected by prison staff that he was under the influence of illicit drugs whilst within both prisons, although this was denied by him.

[12] On 30 September 2018 Mr Edgar was found in an unresponsive condition by prison staff in HMP Barlinnie within his prison cell. Nursing staff attended at the cell and he was observed to be pale in colour and difficult to rouse. He was treated with oxygen and an emergency ambulance was contacted. Mr Edgar was conveyed to

Glasgow Royal Infirmary, arriving there at approximately 1720 hours. He was diagnosed as having suffered an unwitnessed epileptic seizure and was discharged back to the prison on the same day at approximately 2010 hours.

[13] On the morning of 30 October 2018 Mr Edgar again became unwell within his prison cell. Prison staff alerted nursing staff who requested the attendance of the prison doctor. Dr Dominique Van Der Meersschaut attended at Mr Edgar's cell and found him lying on the bed. Dr Van Der Meersschaut observed him to be lethargic, confused, and incontinent of urine. He was examined and found to be dehydrated and had a high temperature. As he was also presenting with a fever on this occasion a urine infection was suspected and antibiotics were prescribed. Dr Van Der Meersschaut placed Mr Edgar on observations with a review of his condition scheduled for the following day.

[14] On the morning of 31 October 2018 prison staff again found Mr Edgar to be unwell within his cell and alerted medical staff. Nursing staff attended and he was again found to have a high temperature and to be shaking. He had continued to be incontinent with urine and had not been eating or drinking. Nursing staff administered paracetamol in an attempt to lower his temperature and alerted the prison doctor. Dr Suchitra Senthil attended and observed that Mr Edgar had significantly deteriorated from the previous day. An ambulance was requested and Mr Edgar was urgently transported to Glasgow Royal Infirmary, arriving at approximately 1029 hours.

Admission to Glasgow Royal Infirmary and QEUH, Glasgow

[15] Mr Edgar was admitted to Ward 51 at Glasgow Royal Infirmary at approximately 1508 hours on 31 October 2018. He was treated for suspected encephalitis and prescribed with antibiotics. On 3 November 2018 he was moved to Ward 52, the High Dependency Unit, before being moved again to Ward 50, a medical ward, on 9 November 2018. He was returned to the High Dependency Unit for treatment on 11 November 2018, returning to Ward 50 in the morning of 12 November 2018. During his admission at Glasgow Royal Infirmary Mr Edgar was described as restless, agitated, confused and disorientated. On occasion he refused to take oral medication.

[16] On 14 November 2018 Mr Edgar was diagnosed with viral encephalitis, namely meningoencephalitis which is caused by herpes simplex virus 1. As a result of this diagnosis he was transferred from Glasgow Royal Infirmary to the Queen Elizabeth University Hospital, Glasgow, arriving there later that evening. Upon arrival he was admitted to Ward 5C, which specialises in infectious diseases.

[17] Mr Edgar was treated for viral encephalitis, however his condition did not improve and medical staff noted that it was unlikely that he would be fit to return to prison. He remained confused and lethargic, and his oral intake remained poor. He was noted to be bedbound throughout his hospital admission and cognitively impaired.

[18] Whilst within Glasgow Royal Infirmary and Queen Elizabeth University Hospital, Glasgow, Mr Edgar was accompanied at all times by two prisoner custody officers. These officers were rotated each shift and were present either within or just

outside of his room during his stay. The prisoner custody officers kept a detailed log of events in relation to Mr Edgar's admission.

[19] On 2 December 2018, at approximately 1110 hours, prisoner custody officers noted that Mr Edgar appeared to have stopped breathing and alerted nursing staff who commenced cardiopulmonary resuscitation (CPR). The 'crash team' also attended at his room. The medical staff managed to restart his breathing for a short period, however at approximately 1140 hours Mr Edgar stopped breathing again and CPR was re-started. Upon review by a consultant from the critical care team it was agreed that further medical treatment was unlikely to be effective and a decision was made that medical treatment should not be continued.

[20] Over the following hours Mr Edgar's breathing became laboured and short, gradually slowing down, and nursing staff attended at his room to make him comfortable. The prisoner custody officers remained within his room throughout. During this time efforts were made to establish and contact his next of kin. The prisoner custody officers noted Mr Edgar to have stopped breathing at approximately 1455 hours.

[21] Dr Elise Bridgeman attended at his room on Ward 5C and pronounced life extinct at approximately 1620 hours on Sunday 2 December 2018.

Post Mortem

[22] A post mortem examination was conducted on 6 December 2018 at the Queen Elizabeth University Hospital, Glasgow, by Consultant Forensic Pathologist, Dr Julia Bell and the cause of death was recorded as:-

- 1a. Necrotising meningoencephalitis (herpes simplex virus type 1)
- 2: Epilepsy, Hepatitis C infection with liver cirrhosis

Submissions

[23] Written submissions were lodged on behalf of all parties. All parties agreed that only formal findings should be made in this inquiry.

Discussion and conclusions

[24] In light of the evidence before the inquiry and the submissions made I am satisfied that the medical care provided to Mr Edgar within both hospitals and both prisons as is relevant to the remit of this inquiry was appropriate. There was no evidence to suggest that any alternative form of medical treatment, supervision or intervention would have prevented his illness or changed the outcome of it. I agree therefore with the submissions made by all the participants that only formal findings should be made.

[25] I am grateful to parties for their preparation for this inquiry, as a result of which all evidence was agreed and no witnesses were required to attend.

[26] I wish to conclude this determination by expressing my sympathies to Mr Edgar's next of kin.