

SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE AT DUNDEE

[2024] FAI 8

DUN-B579-23

DETERMINATION

BY

SHERIFF GREGOR MURRAY

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

into the death of

ALEXANDER WILSON

DUNDEE, 14 February 2024

Determination

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

1. In terms of section 26(2)(a), Alexander Wilson, born 11 September 1968, care of His Majesty's Prison Perth, died at Ninewells Hospital, Dundee on 13 December 2021 at 12.47pm.
2. No finding falls to be made in terms of section 26(2)(b).
3. In terms of section 26(2)(c), the causes of Mr Wilson's death were: 1a) End-stage Liver Failure, 1b) Liver Cirrhosis and 1c) Previous Hepatitis C infection.
4. No finding falls to be made in terms of section 26(2)(d).

5. In terms of section 26(2)(e), no precautions could reasonably have been taken which might realistically have avoided Mr Wilson's death.
6. In terms of section 26(2)(f), no defects in any system of working contributed to Mr Wilson's death.
7. In terms of section 26(2)(g), no other facts are relevant to the circumstances of Mr Wilson's death.

Recommendations

8. No recommendations in terms of section 26(1)(b) need made.

NOTE

Introduction

[1] Section 2(4) of the Act provides that a Fatal Accident Inquiry must be held into the death of a person who was in legal custody at that time. As Mr Wilson was a prisoner in His Majesty's Prison, Perth at the date of his death, an Inquiry required to be held.

[2] On 6 October 2023, the Procurator Fiscal for the District of Tayside Central and Fife lodged notice with this court that an Inquiry was to be held. A Preliminary Hearing was assigned to be held on 24 November 2023. In advance, the Crown lodged an Inventory of Productions containing all relevant documents relating to Mr Wilson's death.

[3] Following intimation and advertisement, Notices of Intention to Participate were lodged by The Scottish Ministers for the Scottish Prison Service and by Tayside Health Board. Notes were then lodged in terms of Rule 3.7 of the Act of Sederunt (Fatal Accident Inquiry Rules) 2017, each of which intimated that no matter at the Inquiry was likely to be in dispute. Joint Minutes were subsequently prepared and lodged, by which all the evidence at the Inquiry was agreed.

[4] Before and at the Inquiry, the Crown was represented by Mr Gregor, Procurator Fiscal Depute, the Scottish Ministers by Mr Bell, solicitor and Tayside Health Board by Ms Sargent, solicitor. Tracey Morton, Mr Wilson's next of kin, also attended each hearing.

The legal framework

[5] The Inquiry was held on 23 January 2024 under section 1 of the Act and was governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017.

[6] Section 1(3) of the Act provides, in the context of Mr Wilson's death, that the purpose of the Inquiry was to establish the circumstances of his death and to consider what steps, if any, might be taken to prevent other deaths in similar circumstances. Section 26 of the Act provides, again in context, that this determination must contain findings setting out when and where Mr Wilson died, the causes of his death, any precautions which might realistically have avoided it or other deaths in similar circumstances and any other relevant facts. As the Inquiry was inquisitorial in nature

and as its purpose was not to establish civil or criminal liability, the procurator fiscal appeared only to represent the public interest.

Summary

[7] Between around 1997 and 2000, Mr Wilson was diagnosed as suffering from chronic viral Hepatitis C.

[8] In 2007, he was convicted of murder and sentenced to life imprisonment.

[9] In 2010, he received further treatment for Hepatitis C. In the following year, he was diagnosed as suffering from likely cirrhosis of the liver. Those conditions unfortunately deteriorated over the following six years. Despite his incarceration, he was regularly and appropriately treated by a Consultant Hepatologist and Gastroenterologist.

[10] In May 2021, blood tests disclosed Mr Wilson's liver function had worsened. On three occasions in October that year, he was admitted to hospital as an inpatient. While his admissions were predominantly necessary to drain fluid from his abdomen, it was also ascertained that month that his liver function had deteriorated to the extent that a transplant was required. Sadly, his past medical history, which included drug misuse, precluded such treatment.

[11] Mr Wilson was again admitted to hospital as an inpatient on three more occasions in November 2021. During the second of those admissions, he was advised that his condition was terminal. On 9 December 2021, he was discharged back to HMP Perth.

[12] Unfortunately, Mr Wilson's condition further worsened on 12 December 2021 around 8am when he fell out of bed then, soon after, reported that he could not feel his legs. While he appeared to initially recover after nursing staff assessed him in his cell, he relapsed around 11am, which led prison staff to activate a Code Blue alarm to provide him with prompt, effective assistance. A blue light ambulance immediately took him to Ninewells Hospital, Dundee, where he complained of dizziness, nausea, confusion, weakness and soreness over his body. On that and the following day, he was advised by a Renal Registrar and Consultant Gastroenterologist that dialysis would be likely to have fatal consequences. In consequence, Mr Wilson indicated that his preference was for end of life care to be provided. Hospital staff then devised and implemented a plan for his condition to be palliatively managed.

[13] Around midday on 13 December, Mr Wilson's breathing became short and slow. Nursing staff were summoned, who observed and assisted him until he died soon after. His life was formally pronounced as extinct at 12.47pm.

[14] A post mortem was conducted on 31 December 2021, as a result of which the causes of Mr Wilson's death were attributed to 1a) End-stage Liver failure; 1b) Liver Cirrhosis and 1c) Previous Hepatitis C Infection.

[15] The submissions made to me by Mr Gregor, Mr Bell and Ms Sargent all reflected the agreed evidence as summarised above.

Discussion and conclusions

[16] As the evidence discloses, Mr Wilson had already suffered serious medical difficulties by the time he was imprisoned. Unfortunately, particularly after his diagnoses in 2010, those difficulties both gradually worsened despite consistent and appropriate treatment in and out of prison and precluded a liver transplant, perhaps the only further treatment which might have prolonged his life. He continued to be appropriately treated after his condition further worsened in the months before he died. In those circumstances, no recommendations fall to be made as a result of the Inquiry.

[17] I take this opportunity to offer my condolences to his family. I also record my thanks to his next of kin, Mrs Morton, both for attending each hearing and for the polite, dignified fashion in which she conducted herself in what must have been a stressful environment.