

SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE

AT DUNDEE

Case No:B1348/11

DETERMINATION

By

THOMAS GEORGE HUGHES, Sheriff

In

**Inquiry into the circumstances of the Death of
GEORGE GOLDEN CARR.**

**In terms of Section 6 of the Fatal Accidents and Sudden Deaths Inquiry
(Scotland) Act 1976**

DUNDEE: March 2012.

The Sheriff having resumed consideration of the Inquiry, Determines as follows:-

1. In terms of Section 6(1) (a) of the Act that George Golden Carr died, whilst self employed, at 4 Sommerville Place Dundee on 16th June 2011. He was pronounced dead at 12.41 hours.
2. In terms of Section 6(1)b) of the Act that the cause of death was: 1(a) Multiple Injuries. (b)Blunt Force Trauma. (c) Fall From Height.
3. In terms of Section 6(1) (c) of the said Act I find that reasonable precautions, whereby the death might have been avoided, would have been for the use of a harness whilst working on scaffolding and for the installation of a guard rail on the scaffolding on which Mr. Carr was working.
4. In terms of Section 6(1) (d) of the said Act I find that the defect in the system of working, which contributed to the death, was the failure to use a

harness and the failure to install a guard rail at the end of the scaffolding on which Mr. Carr had been working.

5. In terms of Section 6(1) (e) of the said Act I make no findings.

I have no further recommendations to make.

Sheriff of Tayside, Central and Fife, At Dundee

NOTE:

- .1 Mr. George Golden Carr resided at 122 Fintry Drive Dundee. He was born on 25th April 1944 and was a scaffolder to trade. He died on 16th June 2011. He was pronounced dead at 12.41 hours.
2. I carried out an Inquiry into the circumstances of his death in terms of Section 6 of the Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976. This took place on the 26th March 2012. During the Inquiry the Crown was represented by Mrs. Ross, Procurator Fiscal Depute. Mr. McIlravey, Solicitor, represented Mr. David Duff and Mr. Kydd Solicitor, represented Mr. Michael Garty. Mr Stewart Clark represented himself. Members of Mr. Wylie's family were present in Court throughout the proceedings.
3. During the Inquiry I had the benefit of receiving two Joint Minutes from the parties. These agreed a considerable amount of useful evidence. I also heard evidence from Mr. Stewart Clark, Mr. Michael Garty, Mr. David Duff, Mr. Raymond Thom and Ms. Isobel Martin.
4. Mr. Clark and his wife are the owners of 4 Summerville Place Dundee. In 2011 they decided to carry out repairs to the roof of their property. The work was to be carried out by Mr. Clark. Their neighbour and friend Mr. Garty, was advised of their intentions and he told them that it was essential that

scaffolding should be erected around the property to ensure that the work could be carried out in a safe manner. Mr. Garty has considerable experience in the building industry. He had worked on the scaffolding business, in a supervisory and management capacity for over thirty years. He owned scaffolding and offered to provide this to Mr. Clark. There was no commercial arrangement for this and the material was provided as a favour to the Clarks who were close friends.

5. Mr. Garty told Mr. Clark that he could put him in touch with an experienced scaffold erector, namely Mr. Duff and they could reach their own arrangement about payment for his services. Mr. Clark spoke to Mr. Duff and they agreed that Mr. Clark would pay seventy pounds per person, per day for work done.
6. Mr. Duff erected the scaffolding to the front of the premises. He was accompanied by two unqualified colleagues. Mr. Clark completed the work to the front of his property and asked Mr. Duff to dismantle the scaffold at the front of the property and rebuild it at the rear of the premises. Mr. Duff agreed to do that on 16th June 2011.
7. Mr. Duff attended on that date before 9a.m. He was accompanied by Mr. Carr and Mr. Thom. Mr. Garty, Mr. Duff and Mr. Carr had all been close friends for over thirty years. They had all worked in the scaffolding industry during that time and Mr. Garty referred to the fact that his two friends were highly experienced, competent scaffolders. If he wanted to employ scaffolders for any of his work, they were the first persons he would call on. They would regularly do him favours and he was sure that the reason they were doing the present job was as a favour to him. Their payment request was nowhere near a commercial rate and would only amount to “beer money”. Mr. Thom was there to assist in a labouring capacity.
8. Mr. Carr had attended to help his friend Mr. Duff. Both had similar experience and no one person had responsibility for the job of dismantling the scaffold. They agreed a course of action between them. There were space constraints and they agreed to dismantle the scaffold in sections from top to bottom rather than working on the full structure, from top to bottom. This allowed them space to store the scaffolding equipment, but crucially left open ends, which should have had guard rails to prevent persons falling to the ground.

9. Mr. Carr did have some safety equipment, namely a hard hat, overalls and safety boots. He did not have a harness and none was available on site. Mr. Duff worked on the top section. He was two metres above Mr. Carr, who was on the middle section. Mr. Thom remained at ground level. Mr. Duff dismantled the equipment and passed it down to Mr. Carr. Mr Carr then passed the materials down to Mr. Thom and he stacked them at ground level. Throughout the operation no one wore harnesses and guard rails were not installed. Mr. Duff claimed that although it was essential to wear a harness whilst employed, experienced workers found them a hindrance as they only had a small capacity and had to be locked and unlocked on a regular basis. He also questioned their effectiveness in protecting the user as there was the potential to collide into the scaffold following a fall. He also claimed that the guard rails would have made their task difficult in trying to pass material down.
10. At about 12.00 Mr. Carr was working about 12 feet from the ground. Mr. Duff passed a board down to Mr. Carr and he then turned to collect more material. In the meantime, Mr. Thom was storing items that had been passed to him by Mr. Carr. He turned back in time to see Mr. Carr losing his balance at the end of the scaffold. He tried to grab an upright but fell to the ground, landing on his right side. An ambulance was called immediately and everything was done to try and assist Mr. Carr. Unfortunately he was pronounced dead at 12.41.
11. A full police investigation was carried out and officers of the Health and Safety Executive were asked to prepare a report into the circumstances of the accident. I heard evidence from Ms. Isobel Martin from that organisation. She put a prohibition notice on the use of the scaffolding until it was made secure. She checked the qualifications of both Mr. Carr and Mr. Duff. Both were experienced men who had achieved advanced qualifications as scaffolders. Mr. Carr's qualifications were more up to date. It was clear that neither man was in charge at the time of the accident, with no instructions being given by one to the other. A prosecution was not appropriate. Ms. Martin helpfully advised the Inquiry of previous and current Health and Safety requirements for working on scaffolding. In particular it was essential to use harnesses at all times. There was no excuse for not wearing them. Guard rails should be used at all times. Scaffolding should be dismantled from east to west instead of

from top to bottom. She did however acknowledge that experienced workmen tended to adopt their own practices and cut corners when they were doing “homers”. She classified this incident as a tragic accident.

12. I accept the evidence of Ms.Martin that this was indeed a tragic accident. It is sad that it arose under the particular circumstances of this case. Almost all the parties were close personal friends and were doing favours for each other. Mr. Carr and Mr. Duff had been working on scaffolding for over thirty years, under very challenging circumstances. They were very experienced men. This incident is a tragic demonstration of why Health and Safety Regulations must be complied with. If Mr. Carr had been wearing a harness it is unlikely that he would have sustained his injuries and he would have been protected by the use of a guard rail. Unfortunately persons who do not abide by the Regulations, do so at their peril.
13. I thank the witnesses for their evidence provided to the Inquiry and the solicitors for agreeing evidence and their helpful submissions. It is quite clear from the witnesses that they all held Mr. Carr in very high regard and he is sorely missed by them and his family. I would offer the condolences of the court to them all.