

SHERIFFDOM OF GRAMPIAN HIGHLAND AND ISLANDS AT PETERHEAD

B186/11

DETERMINATION

by

SHERIFF WILLIAM H. SUMMERS ESQ.

**in the Inquiry under the Fatal Accidents &
Sudden Deaths Inquiry (Scotland) Act 1976**

into the Death of

**PAUL BAIRD (known as LYON KYLE
MARX)**

PETERHEAD, 6th January 2012

The Sheriff having resumed consideration of the evidence, affidavits, productions and submissions, Determines:-

1. In terms of Section 6(1)(a) of the Fatal Accidents & Sudden Deaths Inquiry (Scotland) Act 1976 ("the Act") that Paul Baird (known as Lyon Kyle Marx) who was born on 9th April 1972 and was a prisoner at Her Majesty's Prison, Peterhead, died between 9 pm on 2nd July 2009 and 7 am on 3rd July 2009. He died in cell 2/20 of residential wing Alpha in Her Majesty's Prison, Peterhead.
2. In terms of Section 6(1)(b) of the Act, the cause of death was hanging.
3. Makes no further findings in terms of the Act.

Signed Sheriff W H Summers

NOTE

Introduction

1. This is a mandatory Fatal Accident Inquiry held in terms of Section 1(1)(a)(ii) of the Fatal Accidents & Sudden Deaths Inquiry (Scotland) Act 1976. The Inquiry is in relation to the death of Paul Baird on 2nd or 3rd July 2009. The application for the Inquiry was warranted on 8th November 2011. The date allocated for the Inquiry was 20th December 2011. I heard evidence and submissions that day.
2. The Inquiry was presented on behalf of the Crown by Mr Fay, Procurator Fiscal Depute. The Scottish Prison Service was represented by Mr Rolfe, Solicitor. No other party was represented at the Inquiry.
3. Some of the evidence at the Inquiry was presented through an affidavit. That was an affidavit of Doctor James H K Grieve speaking to his post-mortem report dated 10th July 2009.
4. I heard evidence from five witnesses at the Inquiry. Those were
 - 4.1 Detective Constable Kenneth Hutchison. DC Hutchison is a police officer with Grampian Police. He attended the scene and investigated the death of Mr Baird.
 - 4.2 Andrew Cooper. Mr Cooper is a prison officer in HMP, Peterhead. He was the personal officer allocated to Mr Baird.
 - 4.3 Shaun Paxton. Mr Paxton is a prison officer in HMP, Peterhead. He was one of the last people to see Mr Baird alive on 2nd July 2009.
 - 4.4 John McLachlin. Mr McLachlin is a prison officer in HMP, Peterhead. He was one of the two officers who found Mr Baird's body on the morning of 3rd July.

4.5 Thomas Preston. Mr Preston is a psychiatric and addictions nurse in HMP, Peterhead. He worked closely with Mr Baird while he was detained in HMP, Peterhead.

5. The witnesses referred to a large number of documents. Those documents included photographs taken at the scene, Mr Baird's healthcare records, a self harm diary kept by Mr Baird and a number of letters that were found in his cell after his death.

6. The evidence I heard was all largely uncontroversial. All of the witnesses were straightforward, credible and reliable. I accept, without hesitation, the evidence that was presented at the Inquiry. I was greatly assisted by those who gave evidence and by Mr Fay and Mr Rolfe.

Paul Baird

7. The deceased, Paul Baird, was born on 9th April 1972. At the time of his death he was 37 years of age. He was serving a lengthy prison sentence. I heard evidence to the effect that he was subject to an order for lifelong restriction. He had made it known prior to his death that he wished to be known as Lyon Kyle Marx.

8. Mr Baird was transferred from HMP, Barlinnie to HMP, Peterhead in February 2009. He had a history of self harm and mental illness. He went through the process of reception and induction at HMP, Peterhead before being moved to his cell in Alpha Wing.

9. While in HMP, Peterhead Mr Baird continued to self harm. He was given significant assistance in trying to deal with that. He was seen regularly by the consultant psychiatrist attached to the prison, most recently on 1st July 2009.

10. Whilst he was in HMP, Peterhead Mr Baird neither said nor did anything that might reasonably have caused the Scottish Prison Service, its officers or others attending to Mr Baird, to think that he was contemplating suicide.

2nd July 2009

11. Mr Baird was last seen alive at around 9 pm on the evening of 2nd July 2009. He was seen by officer Paxton and officer Paxton's colleague as part of a routine nightly check on prisoners before their cells doors were locked for the night.

3rd July 2009

12. Mr Baird's body was found at around 7 am on the morning of 3rd July 2009. He was found by officer McLachlin and officer McLachlin's colleague. They were doing the morning round, opening cell doors and checking prisoners.

13. Mr Baird was found hanging by a ligature from the bars on the left hand window of his cell. Mr Baird was facing outward from the wall of his cell. The soles of his feet were against the wall. No part of his body was touching the floor. He was naked and his body was described as frozen. It was immediately apparent that Mr Baird was dead. Mr McLachlin called for a nurse. He and his colleague took Mr Baird's body down and laid it on the floor. Mr Baird was pronounced dead at 0850 on 3rd July 2009.

Investigation

14. Mr Baird worked in the textile room at the prison. In the course of the subsequent police investigation into his death it became apparent that the ligature with which he hanged himself was some cord that Mr Baird had taken from the textile room. The cord was contraband. If it was found in Mr Baird's possession he would have been placed on report.

15. In the course of the investigation a number of letters were found. Two of these were clearly valedictory and seemed, in the face of it, to be entirely consistent with an intention on the part of Mr Baird to take his own life. He had given his television back in the course of the evening of 2nd July.

16. The post-mortem examination of Mr Baird's body confirmed that his cause of death was hanging. A toxicology analysis disclosed that he had taken a significant overdose of paracetamol. That overdose was taken shortly prior to his death but did not make a material contribution to the circumstances of his death.

Submissions

17. I was invited by Mr Fay to make the findings that I have made. Mr Rolfe invited me to make the same findings.

Decision

18. I have made the findings I was invited to make. They are uncontroversial. I am entirely satisfied, on the basis of the evidence I heard, that it is appropriate to make those findings and no others.

19. I have determined that Mr Baird died between 9pm on 2nd July 2009 and 7am on 3rd July 2009. It is not possible to be more precise about the time of Mr Baird's death. The fact that his body was described as frozen tends to suggest that he died towards the beginning of the period, possibly late in the evening of 2nd July rather than the morning of 3rd July. To specify a time any more clearly than I have done involves an element of speculation in which it would not be productive to engage.

20. There was some discussion in the evidence about whether Mr Baird had, in fact, intended to take his own life or, if his death was accidental. I do not need to come to a concluded view on that aspect of the matter because it is clear that whatever his intention, Mr Baird is the one who tied the ligature around the bars of his cell and placed it around his neck.

21. The investigating officer DC Hutchison was firmly of the view that Mr Baird had genuinely intended to take his own life. The prison staff who gave evidence were all surprised to learn that Mr Baird had seemingly committed suicide. He did not seem to present any present risk of suicide. Mr Cooper thought initially that Mr Baird had intended to take his own life. With the passage of time he had come to consider that the death may have been accidental. Mr Preston thought the death was accidental.

22. I should say for the sake of completeness that having heard all of the evidence, my view on balance is that Mr Baird did intend to take his own life. I say that for a number of reasons. Those include the position in which his body was found and the fact that Mr Baird had taken a significant overdose of paracetamol. I also attached weight to the terms of the letters that were found in his cell. Separately from those factors, it seems to me that going to the length of taking the cord material from the textile room and returning his television are other

adminicles of evidence that point in the same direction. Having said that, I recognise that the matter is not without difficulty.

23. As I have already indicated, I am entirely satisfied that there is no reasonable basis on which the Scottish Prison Service, its officers or others who were attending to Mr Baird could have known of his intention to take his own life. There is no evidence on the basis of which I could suggest any reasonable precautions that might have been taken to have avoided his death. I identified no defect in any system of working that contributed to the death nor any other factors which are relevant to the circumstances of Mr Baird's death.