

Sheriffdom of Lothian and Borders at Jedburgh

BJ78/14

Determination

By

Sheriff T.A.K.Drummond QC

In an Inquiry under the Fatal Accidents and Sudden Deaths
Inquiry (Scotland) Act 1976

Into the death of

Gavin Donaldson.

Jedburgh 13 January 2015

I begin by expressing to the family and friends of the late Mr. Donaldson the sympathy of the court for their loss and distress arising from his untimely and unfortunate death.

I now make my formal findings as to the circumstances surrounding his death as required by statute.

1. In terms of Section 6(1)(a) of the 1976 Act the said Gavin Donaldson who was born on the 9th of March 1977 and who resided at xxxx, died on 6th May 2014 at xxxx.
2. In terms of Section 6(1)(b) the cause of death was a gunshot wound to the head.
3. In terms of Section 6(1)(c) the death would have been avoided if the rifle had been unloaded before it was placed inside the vehicle. The placing of a loaded firearm within a vehicle is in itself a hazardous action.

4. In terms of Section 6(1)(d) there was no defect in any system of working which contributed to the death.

Note :

At the time of his death the deceased was acting in the course of his employment as a gamekeeper at xxxx. He was alone at the time of his death which occurred between 0608 and 0700hrs approximately, death having been pronounced at 0819.

The fatal shot was fired from BRNO .22 bolt action rifle which belonged to the deceased. That rifle, in common with other rifles, was found on examination to be prone to accidental discharge when dropped butt first from a height of six inches with the safety catch in the “off “ position. The safety catch can only be engaged in the on or off position when the rifle is in a loaded condition.

At the time when it was recovered the rifle was fitted with a magazine containing five live rounds of .22LR hollow point Winchester ammunition suitable for use in the rifle.

The chamber of the rifle contained an empty cartridge case consistent with the rifle having been fired.

The safety catch was in the “off “position.

The rifle was in a position which was consistent with it having fallen from a position within the drivers cab of the vehicle which was then being driven by the deceased.

The deceased was near to a crow trap consistent with him having been at the locus for the purpose of inspecting the trap.

At the time of his death he was found in a position which was consistent with him being about to re-enter his vehicle and with having placed the rifle in a position in the cab which permitted it to jar.

The precise mechanism cannot be specified with certainty but I am satisfied that the rifle accidentally discharged from within the vehicle : the shot struck the deceased causing his death.

T.A.K. Drummond QC