

SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT INVERNESS

DETERMINATION

by

W.M.D. MERCER, Advocate

(Sitting as a Part-time Sheriff)

following a Fatal Accident Inquiry under the Sudden Deaths and Inquiries (Scotland) Act

1974 into the death of

SHARON ECCLESON

INVERNESS, 5 May 2015

The Sheriff, having resumed consideration of the Inquiry, DETERMINES in terms of section 6 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 as follows:

- a. that Mrs Sharon Eccleson, born 23 July 1976, died on Wednesday 28 May 2014 on the B9169 Culbokie to Muir of Ord public road at Dunvournie, Duncanston, Black Isle at some point in time between 11.10pm and 11.30pm.
- b. that the cause of Mrs Eccleson's death was (a) Head injury due to (or as a consequence of) (b) Motor vehicle collision with a tree.

NOTE

Introduction

[1] The Crown, which was represented by Mr Alasdair MacDonald, PFD, submitted a bundle of eight productions. The Affidavit of Dr Mark Ashton FRCPath, a Consultant Forensic Pathologist, and his Postmortem Report were read at the outset. The Crown led eleven witnesses. Seven civilian witnesses spoke to events on the night of Mrs Eccleson's death; four police witnesses to the subsequent investigations. Mr George Eccleson, Mrs Eccleson's widower, was represented by Mr Smith, Solicitor. No evidence was led on his behalf.

Civilian witnesses

[2] Witnesses gave a clear account of Mrs Eccleson's routine and of her actions on the night in question. The essential facts were agreed or undisputed and I hold the following as proved.

[3] Mrs Eccleson lived with her husband and children in Muir of Ord. She had two jobs. During the day she worked at a call centre in Dingwall. In the evenings she worked as a delivery driver for Khan Tandoori in Muir of Ord. Generally, if quiet, she went home between deliveries and would be phoned or texted to pick up and deliver food. The owner of Khan Tandoori provided (and insured) a motor vehicle, namely a Toyota Yaris registration number DF03 HHG.

[4] On the night of Wednesday 28 May 2014 Mrs Eccleson was making deliveries, going home between jobs. At 10.22pm an internet order was placed at Khan Tandoori for delivery to an address in Culbokie. At 10.29pm Monirul Islam, a chef, texted Mrs Eccleson to pick up the order, which she did. Witnesses described the food taking "an age" to come and estimated the time gap between order and delivery as thirty to forty five minutes and forty minutes respectively. On this point I prefer the evidence of witness Danielle Harrison. She

was more definite. She gave evidence that she tried to phone Khan Tandoori to see what the delay was. She was clearly focussed on the passage of time. By contrast the other witness, Lewis Knight, described keeping an eye out for the driver, trying to guess what type of car it would be. I think he would have been distracted from accurately observing the time.

[5] I find that Mrs Eccleson delivered the food forty minutes after the order was placed at 10.22pm, i.e. just after 11.00pm. After a brief discussion she left and was not seen alive again.

[6] Some time after 11.00pm Ms Karen Beattie was driving northbound on the B9169. The evening was clear and dry. As she passed woods just outside Dunvournie Farm she noticed lights shining from the trees. She stopped and saw Mrs Eccleson's car on its left hand side having struck a large tree on the verge. The roof had been pushed downwards into the car. She phoned 999. Ms Beattie could not be sure about timings, but paramedics logged a call at 11.38pm.

[7] By chance the individuals to whom the last delivery was made also came upon the scene, returning home. They estimated they had left Culbokie about twenty minutes after the delivery, i.e. 11.20pm. On arrival, they clambered onto the car but could find no sign of life. A third motorist also stopped. Separately, Mr Islam was worried that Mrs Eccleson had not returned. He called her mobile at 11.20pm but it went straight to voicemail.

[8] Police, fire and ambulance attended promptly. The first thing they did was to right the car for better access. By this stage it was clear, however, that Mrs Eccleson had succumbed to her injuries. A doctor pronounced life extinct at 11.58pm.

Factors Which Can Be Ruled Out

[9] A wide range of investigations were made and a number of factors ruled out. First, no pre-accident defect was found with the vehicle. Second, toxicological analysis showed no alcohol in Mrs Eccleson's blood or urine. Third, mobile phone analysis showed that she was not texting or phoning at the time of her death. Indeed, PC Neil MacDonald explained her mobile was recovered wedged between the passenger seat and door. Fourth, Mrs Eccleson was wearing her seat belt.

Collision Investigation Report

[10] The Collision Investigation Report details investigations carried out by the Divisional Road Policing Unit and was spoken to by PC Iain Mathers. It includes a detailed description of the locus noting that the collision occurred on the exit of a right-hand bend at the end of a straight undulating two way carriageway travelling down a slight gradient. The car hit a tree five metres from the edge of the northbound lane.

[11] The vehicle was found to have extensive damage to the roof panel between the "A" and "C" posts. The roof intruded into the passenger compartment. The roof and the area immediately forward of the "B" post had been forced downwards below the height of the front seat backs. The "A" posts had folded rearward.

[12] Four rolling tyre marks were found on the carriageway and four furrow marks on the grass verge of the northbound lane. Skid tests showed good adhesion and the maximum theoretical speed at which a well-trained driver could negotiate the bend was 61mph.

[13] The Report continued that at a point approximately five hundred metres prior to the junction Mrs Eccleson entered the nearside verge on a right hand bend. She then steered out of the verge and lost control as it crossed the carriageway. It began to yaw (i.e. to weave)

clockwise and entered the offside grass verge. The car travelled across the grass verge at an angle of thirty degrees to the carriageway and its wheels dug into soft ground. The car rolled over towards its nearside. Its roof collided with a tree down into the passenger compartment making contact with Mrs Eccleson's head.

[14] The Report concluded:

"Taking into account all available information and from analysis of the collision scene, it is our opinion that the cause of this collision rests entirely with the now deceased ... She has, while negotiating a right hand bend, driven on the grass verge and has reacted by steering sharply to the right. This has resulted in a loss of control whereby the motor car crossed the carriageway and collided with a tree ... The reason for entering the grass verge is not known, but may be due to a lapse of concentration or entering the corner at excessive speed."

Conclusions

[15] I am satisfied that the conclusions of the Collision Investigation Report are well founded. It is not possible to identify the precise time of Mrs Eccleson's death, but it clearly occurred between her leaving Culbokie after 11.00pm and her car being found by Ms Beattie. Allowing for some time to drive from Culbokie to the locus I agree with the submission of both parties that the time of death was between 11.10pm and 11.30pm. I have framed my determination in terms of sections 6(1)(a) and (b) accordingly. I was not invited to make any determination under the remaining paragraphs of subsection 1 and in my view none are appropriate on the basis of the evidence led.

[16] It only remains for me to extend again my sympathies to Mrs Eccleson's family at her premature death.