

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2016] FAI 20

B1980/16

DETERMINATION

BY

SHERIFF LINDSAY WOOD

**UNDER THE FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRIES (SCOTLAND)
ACT 1976**

into the death of

WILLIAM DOCHERTY

GLASGOW, 26 October 2016

PART I

Introduction and legal framework

[1] This is an Inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 into the circumstances of the death of William Docherty who died at Glasgow Royal Infirmary on 24 October 2015. Ms Lauren McRobert, Procurator Fiscal Depute, represented the public interest and Mr Michael Higgins, Solicitor, represented the Scottish Prison Service. The family of Mr Docherty were not represented.

[2] A Joint Minute of Agreement was entered into by parties and received by the Inquiry. No other evidence was led.

Legal framework

[3] Section 6 of the said 1976 Act requires the presiding sheriff to make determinations in the following matters (a) where and when the death took place; (b) the cause of such death; (c) the reasonable precautions, if any, whereby the death might have been avoided; (d) the defects, if any, in any system of working which contributed to the death; and (e) any other facts which are relevant to the circumstances of the death.

PART II

Determination as to the circumstances of the death

[4] The Sheriff, having considered all the evidence, FINDS and DETERMINES that in terms of section 6(1) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976:

- (i) in terms of section 6(1)(a) that William Docherty, born 1 July 1938, died of widespread cancer and chronic pulmonary disease at Glasgow Royal Infirmary on 24 October 2015. Life was pronounced extinct at 0353 hours;
- (ii) in terms of section 6(1)(b) that the cause of his death was:
 - 1(a) Metastases to brain and vertebral column
 - 1(b) Primary lung cancer right upper lobe: and
 - 2 Chronic obstructive pulmonary disease;
- (iii) in terms of section 6(1)(c), there were no reasonable precautions whereby the death might have been avoided;

- (iv) in terms of section 6(1)(d) there were no defects in any system of working which contributed to the death;
- (v) in terms of section 6(1)(e) there were no other facts which were relevant to the circumstances of the death;

PART III

[5] After considering the Joint Minute of Agreement and hearing submissions, I made the following findings:

- (1) On 14 May 2015 at the High Court of Justiciary at Glasgow, Mr Docherty received a custodial sentence of six years.
- (2) Following upon the imposition of said sentence, the deceased was incarcerated in terms of same and as at the date of his death on 24 October 2015, he was incarcerated in HMP Barlinnie. He was accordingly in legal custody as at the date of his death.
- (3) On 16 April 2015, the deceased was transported to Barlinnie and upon his admission, he was examined by Nurse Karen Reilly. It was noted that he suffered from Type 2 Diabetics, arthritis of the hips, asthma, COPD and he mobilised using a walking stick.
- (4) On 13 September 2015, the deceased was found sitting on the floor and was unable to explain why. He was reviewed by the Prison GP, Dr Vandermeersschuat, and it was noted that his oxygen levels were low and he appeared to have slurred speech. He had a weakness in the right side of his body, his mouth was drooping and he required the assistance of two members of staff to stand. An ambulance was contacted

and the deceased was admitted to Ward 50 of the Queen Elizabeth University Hospital in Glasgow. A CT scan demonstrated a lesion in the deceased's brain which looked to be cancer. On 14 September, a CT scan was taken of the deceased's chest, abdomen and pelvis. This showed a 4½ cm mass in his right lung which was highly suspicious of lung cancer.

(5) On 16 September 2015 a biopsy of the lesion confirmed "newly diagnosed lung cancer on CT chest with likely brain metastases".

(6) On 25 September 2015 the deceased was discharged to Barlinnie and arrangements were made for a follow up appointment at the Oncology Clinic under the care of Doctor Dunlop. It was noted that he was responding well to steroids and his speech had improved.

(7) On 29 September 2015 an appointment at the Oncology Clinic in the Beatson was cancelled due to transport unsuitability. That appointment was rescheduled for 6 October 2015.

(8) On 6 October 2015 the deceased was seen by Doctor Dunlop within the Beatson Clinic. Doctor Dunlop noted that he was frail but was willing to attempt palliative chemotherapy. Doctor Dunlop noted that a CT scan showed extensive small cell lung cancer with mediastinal disease and spread to the supraclavicular lymph nodes and confirmed brain metastases. The deceased consented to treatment and chemotherapy treatment was scheduled to commence on 19 October 2015.

(9) On 8 October 2015 a nurse, Sarah Cooper, found the deceased within his cell and unable to return to his bed independently. He was complaining of weakness in both

legs and lower back pain. She assisted him to his bed and noted that he was unable to swallow water. She then requested that a Prison GP attend to examine him.

(10) On 8 October 2015 the deceased was seen by the Prison GP, Doctor Katy Aird, as he reported weakness in his legs. Doctor Aird was concerned that the tumour may have spread to his spine. It was noted that the deceased was extremely frail. An ambulance was called and the deceased was transferred to Ward 50 of the Glasgow Royal Infirmary.

(11) On 8 October 2015, an x-ray of the deceased's chest was taken at the Glasgow Royal Infirmary. The x-ray showed a right upper zone consolidation in keeping with pulmonary infection but malignancy could not be ruled out. There were widespread respiratory changes within the right lung.

(12) Whilst within Glasgow Royal Infirmary, the deceased developed chest sepsis. An MRI scan of the deceased's spine showed multiple metastases throughout his vertebral column and a chest x-ray showed right upper zone shadowing which was noted to be due to progression of his tumour or a superadded infection.

(13) On 13 October 2015 the deceased agreed to a DNA CPR form being completed following discussion with the medical staff.

(14) On 14 October 2015 the deceased further deteriorated and was no longer eating or drinking. He was unfit to undertake chemotherapy. Palliative care was provided to the deceased until his life was pronounced extinct on 24 October 2015 at 3.53 am.

Submissions

[6] Both the procurator fiscal depute and Mr Higgins asked that I make formal findings on the basis that Mr Docherty had died of natural causes and that nothing could have been done to save his life. He had been treated appropriately from falling ill on 13 September 2015 until his death just over a month later.

Conclusions

[7] The reason for this Inquiry is simply because Mr Docherty died in legal custody albeit in hospital due to his deteriorating health condition. The Joint Minute lodged by parties is largely incorporated into my findings and there is nothing untoward whatsoever with regard to the circumstances of Mr Docherty's death. Mr Docherty was given a six year custodial sentence in April 2015 and was admitted to HMP Barlinnie. He took unwell on 13 September 2015 and died just 41 days later. The cancer he had spread quickly and was aggressive. Despite best efforts by those caring for him at Glasgow Royal Infirmary, nothing could be done to save his life and he died on 24 October 2015.

[8] I wish to commend Ms McRobert, the procurator fiscal depute, and Mr Higgins, Solicitor for the Scottish Prison Service, for their helpful and professional contributions to this Inquiry.