

**INQUIRY HELD UNDER FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY ACT
INTO THE DEATH OF GARY FRASER**

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

**INQUIRY HELD UNDER FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY
(SCOTLAND) ACT 1976**

SECTION 1(1)(a)

SECTION 1(1)(b)

DETERMINATION by

JAMES KENNETH MITCHELL, Esquire, Advocate, Sheriff of the Sheriffdom of Glasgow and Strathkelvin following an Inquiry held at Glasgow on the Seventeenth day of October Two Thousand and Five into the death of GARY FRASER, aged 24 years, who normally resided at 10 Redwood Drive, Springburn, Glasgow.

GLASGOW, October 2005.

The Sheriff, having considered all the evidence adduced, DETERMINES:

(1) in terms of Section 6(1)(a) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 that GARY FRASER, born 3 June 1981, who normally resided at 10 Redwood Drive, Springburn, Glasgow died at a time not precisely established between approximately 1900 hours and 1945 hours on Friday, 17 June 2005 whilst alone in Cell 18 C Hall, HM Prison, Barlinnie, Glasgow where he was detained in legal custody. He was formally pronounced dead at 2057 hours on that date.

(2) in terms of Section 6(1)(b) of the Act that the cause of death was that Mr Fraser hanged himself by means of a bed sheet suspended from the hinge of the toilet door within that cell whilst he was alone there.

Sheriff

NOTE:-

This Fatal Accident Inquiry was held in terms of Section 1(1)(a)(ii) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 into the circumstances of the death of Gary Fraser who was pronounced dead on Friday, 17 June 2005 in Cell 18, C Hall, HM Prison, Barlinnie, Glasgow where he was detained in legal custody.

The procurator fiscal was represented by Mr McGeechan, principal procurator fiscal depute. Miss Darcy appeared on behalf of the Scottish Prison Service. Mr Stephen J Hay, solicitor, Glasgow appeared for certain witnesses who were members of the Prison Officers' Association Scotland. There was no other representation at this Inquiry.

At the outset, the procurator fiscal depute stated that the deceased's mother wished to give evidence but did not wish to be represented at the Inquiry. I was informed that the deceased's father was present in court. I ascertained from him that he did not wish to be represented or to participate in the Inquiry beyond watching the proceedings. It was confirmed that neither Miss Darcy nor Mr Hay had any objection to the deceased's mother giving evidence although this had not previously been intimated to either of them.

The procurator fiscal depute also intimated that certain witnesses listed on the procurator fiscal's list of witnesses were not present. In particular the deceased's former cellmate John Hardie had not attended in answer to his citation. I was informed that a prison officer Douglas Davidson was ill and that a soul and conscience certificate would be produced. I was informed that Dr Satwant Singh Multani was in India as a result of a family emergency. The procurator fiscal depute also informed me that Dr Andrew McCall was on leave out of the country. Both Miss D'Arcy and Mr Hay intimated that they were content to proceed without these witnesses. So far as I could tell from the information provided by the procurator fiscal depute, it was not necessary to adjourn the Inquiry for the attendance of these witnesses.

The procurator fiscal depute then led evidence from 11 witnesses. No evidence on behalf of any other party.

The deceased's mother, Miss Janette Todd, explained in evidence that her son was on petition for serious assault and was remanded in custody at Barlinnie Prison awaiting trial. This was the only evidence adduced to establish the basis upon which the deceased was detained. I am content to accept the deceased's mother's evidence on this matter.

When Mr Fraser was admitted to HM Prison, Barlinnie on 6 June 2005 he went through the normal admission procedures. He was not assessed as being at risk of self-harm or suicide. Mr Fraser was seen by experienced officers and nurses, all of whom were trained in the appropriate procedures for dealing with prisoners who were suspected of being at risk of self-harm or suicide.

On 17 June 2005, some 11 days after Mr Fraser's admission to HM Prison, Barlinnie, he had a visit from his mother and two others. The procurator fiscal led evidence from Miss Todd concerning this visit. No other evidence was led by the procurator fiscal as to the circumstances in which Mr Fraser's last meeting with his mother came to be a closed visit within HM Prison, Barlinnie.

Miss Todd spoke of very considerable upset both on her part and on behalf of her son that the visit had been closed. She spoke to an officer requesting to have a look in her mouth and then alleging that she had swallowed something. She said that she was then allowed only a closed visit. She made it clear that this was unusual because in circumstances where allegation of illicit drugs being brought into prison was made usually no visit was permitted. She explained that two officers were watching every move during the visit which only lasted 15 minutes; that being the time allocated to closed visits. She made it clear that the restricted length of the visit and the circumstances under which it took place through a partition were such that she could not handle another visit under such conditions. She said that at the end of the visit Gary was "not there" and that he "had dead eyes". However, she also accepted that she had not been expecting her son to take his own life. She clearly now thinks that her son had made up his mind to kill himself but she accepts that she did not realise this at the time. She was worried about the situation and all the more so because she did not receive a 'phone call from him after the visit as she usually did. As far as Miss Todd was concerned, "it was the visit that put the final nail in my son's coffin".

After the visit Mr Fraser was returned to his hall by Prison Officer Andrew Baxter. Mr Baxter was an experienced officer. He made it clear that whilst he had been present during the closed visit on Mr Fraser's side of the partition he had not heard any of the conversation. He was unable to recollect the demeanour of those present. He recalled taking Mr Fraser back to his hall and described him as "normal". Mr Baxter did not have the impression that Mr Fraser was particularly upset and I accept his evidence that had he had any concerns about him he would have mentioned these to the desk officer in "C" Hall.

The last prison officer to see Mr Fraser alive was Prison Officer Manvir Singh. He spoke to Mr Fraser who was within his cell at about 7.00 pm and asked him if he wanted to go to the concert which was on that evening. At that time Mr Fraser was alone in his cell and said "No I'm just going to sit here and write a letter". Mr Singh left his cell and closed the door which locked. At that time Mr Singh had absolutely no concerns about Mr Fraser's physical or mental welfare. At that time Mr Fraser's cellmate was at a visit and was absent from the cell.

Later on, about 1945 hours, Mr Singh returned to the cell with Mr Hardie. He opened the door for Mr Hardie to enter but the door would only open partially. Mr Hardie came out screaming and Mr Singh went in and found Mr Fraser hanging from the toilet door within the cell. He had used part of the bed sheet as a ligature around his neck, suspending it from the hinge of the toilet door.

Mr Singh responded immediately and called out "Code Blue". Two other officers, Mr Neal and Mr Johnstone came to assist. Nursing staff attended and resuscitation attempts continued until Dr McCall (non-witness) attended and pronounced life extinct at 2057 hours.

I am entirely satisfied that once Mr Fraser was found hanging within his cell every effort was made to resuscitate him. It is clear from the evidence led before me that none of those engaged upon this task ever saw any sign of life at any time from Mr Fraser.

PC Jacqueline McColl gave evidence about attending at the cell and recovering Crown Production 5 which was a letter written by Mr Fraser and contained within an envelope. The letter is addressed to his mum, dad and brother. In the course of the letter he asked that his girlfriend Cheryl sees it and he tendered his apologies which he asked to be conveyed to his grandparents. Mr Fraser stated that he was unable to cope anymore and asked for understanding as to why he could not go on in life. I consider that the only reasonable inference to be drawn from this letter is that it is a letter explaining to his loved ones his decision to take his own life.

I accepted all of the evidence which was led before me as being credible and reliable. I found no conflict between Miss Todd and Mr Baxter because Mr Baxter did not hear the conversation. In so far as there was any discrepancy between the deceased's mother and Mr Baxter about the condition of Mr Fraser after the visit, I conclude that Mr Fraser was not showing any overt signs of distress such as might have alerted a reasonable prison officer to any danger of self-harm. I am confirmed in this conclusion by the evidence of Mr Manvir Singh who spoke to Mr Fraser about 7.00 pm.

I accepted the evidence of Dr Julie McAdam who carried out the post-mortem. Her evidence was not challenged.

The procurator fiscal depute sought only formal findings and maintained that no other findings were either necessary or appropriate. In his submission the procurator fiscal depute suggested that it was clear from the evidence of Miss Todd and the letter left by Mr Fraser that he was experiencing stress which resulted in him taking his own life. He submitted that the pressures and stress which Mr Fraser had experienced were not obvious or known to the prison staff. He made it clear that the procurator fiscal was not seeking a finding of suicide.

I canvassed the matter of the terms of the finding with Mr Fraser's parents who were present in court. Neither of them expressed any particular views.

Mr Hay submitted that formal findings were appropriate and that having regard to the evidence of Mr Singh the time of death could be specified within a particular period. Mr Hay submitted that there was no evidence to justify any findings under paragraphs (c), (d) or (e). He submitted that it was not possible to say when the letter was written as it was undated. He did not seek a finding of suicide and suggested that it was equally possible that this was some form of cry for help.

Miss Darcy agreed that only formal findings were appropriate. She submitted that the evidence did not justify any finding under paragraphs (c), (d) or (e) of sub-section (1). She submitted that this was a tragic event which could not have been avoided. Miss Todd had said that if her son was "normal" he would have gone to the concert. She said that the procurator fiscal had told her that one of the officers thought there was something funny

about it and she made it clear that her understanding of the situation was that her son would not show any sign of weakness to any prison officer.

I am satisfied that the findings which I have made in terms of Section 6(1)(a) and (b) are appropriate. The deceased died as a result of hanging himself whilst alone in his cell. The evidence did not disclose any defect in the system operated by the Scottish Prison Service. Indeed, the evidence demonstrated compliance with that system. The death of Mr Fraser was not foreseeable and the evidence discloses no reasonable precaution which might have avoided his death occurring. There are no other facts which are relevant to the circumstances of Mr Fraser's death.

I should like to express my condolences and sympathy to Mr Fraser's parents and family. Miss Todd, the deceased's mother impressed and I am sure she would have taken some action had she felt it necessary to do so on 17 June 2005. The fact that she did not do so underlines the fact that she did not foresee her son taking the action which he did. She cannot be blamed for that and should not blame herself.

SHJKM.JH.21.10