

SHERIFFDOM OF NORTH STRATHCLYDE AT KILMARNOCK

DETERMINATION

By

**SHERIFF ALISTAIR G. WATSON, ESQ., Sheriff of North Strathclyde at
Kilmarnock**

in Inquiry into the circumstances of the death of

ANDREW FINDLAY HARVEY AITKEN

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

Kilmarnock, 23 November 2011

The Sheriff DETERMINES as follows:-

1. In terms of section 6(1)(a) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 that ANDREW FINDLAY HARVEY AITKEN, born on 20th November 1968 and who latterly resided at 30 Burnside Place, Irvine, died at a time not precisely established between 11.19 am and 12 pm on 31st August 2010 either at Purdie's Close, Irvine, at Crosshouse Hospital, Kilmarnock or whilst travelling between those places. He was formally pronounced dead at 12.00 pm on 31 August 2010.
2. In terms of section 6(1)(b) of the Act that the cause of his death was choking on a package of drugs.
3. In terms of section 6(1)(c) of the Act that there were no reasonable precautions which might have been taken whereby the death might have been avoided.
4. In terms of section 6(1)(d) of the Act that there were no defects in any system of working which contributed to the death.
5. In terms of section 6(1)(e) of the Act that there are no other facts relevant to the death in respect of which any finding may be made.

Sheriff

Note:

This fatal accident inquiry was held in terms of section 1(1)(a) of the Act before me at Kilmarnock Sheriff Court between 21st and 23rd November 2011. The Procurator Fiscal was represented by his Depute Mr Calderwood; Ms Clelland appeared for the Chief Constable of Strathclyde Police; Mr Adams appeared on behalf of Constable Gordon Young, and the interests of Mr Aitken's family were represented by Ms Templeton.

On the evidence it is disclosed that on the morning of 31 August 2010, Mr Andrew Aitken was travelling about in the Irvine area and was seen riding his bicycle into High Street, Irvine and from there into a nearby lane known as Purdie's Close.

While standing in that lane he was seen by Police Constable Gordon Young who was suspicious that Mr Aitken might be in possession of controlled drugs. He called to Mr Aitken and identified himself as a police officer. The officer, who was alone at the time, had formed no clear plan as to his next step although I have no doubt that it would have been Mr Aitken's belief at that moment that he would be searched for drugs.

It happens that the officer's suspicion had been correct. Mr Aitken was indeed in possession of controlled drugs in the form of a clingfilm package containing 11 wrapped street deals of diamorphine. Without warning Mr Aitken raised his hand and put the entire package into his mouth. He then immediately attempted to chew and to swallow the package still in its clingfilm wrapper. Tragically, as Mr Aitken attempted to swallow the package it entered deep into his laryngeal passage rather than the oesophagus causing him to choke on it.

Immediately on realising what Mr Aitken had done, Constable Young took such emergency action as he could. This included repeatedly calling for Mr Aitken to spit out anything in his mouth, repeatedly attempting to dislodge the package by a series of blows to Mr Aitken's back and by attempting use of abdominal thrusts. In addition, the constable immediately summoned urgent assistance including that of paramedics using his personal radio.

Constable Young thereafter appropriately attempted resuscitation through breath and chest compression until relieved by colleagues who continued their efforts until

paramedics arrived. He was assisted throughout this by Mr John Gilfillan, a passerby, who happened to be trained in first aid. Both men worked tirelessly on Mr Aitken until the arrival of the paramedics. I find no fault with any steps carried out by them. Indeed the efforts of both men were commendable.

Paramedics arrived on the scene very quickly, indeed within a matter of minutes of receiving the call. They were able to use specialist equipment including a scope and a suction device to locate and remove the package from Mr Aitken's throat. Despite Mr Aitken showing no vital signs they continued resuscitation attempts which continued all the way to, and at, Crosshouse hospital. Despite these many efforts Mr Aitken showed no response and was pronounced dead at 12 noon that day.

The sole cause of Mr Aitken's death was his own ill-fated attempt to swallow a clingfilm package of some size. This was sadly an instant decision by him without proper thought. Had he given thought to the matter he almost certainly would not have taken such a course. The constable at the scene had no cause to know that Mr Aitken was about to do what he did and could do nothing to prevent it. From the moment Mr Aitken swallowed the package there was nothing anyone involved could reasonably have done to alter the outcome of events. Some mention has been made in submissions as to whether communications between the various paramedics could be improved. I do not find any ground for so concluding. In my view their system appears to be an effective one. Any imperfections in communication on this occasion can be attributed to the particular emergency circumstances and were not a factor in any way contributory to the outcome. I find that there are no identifiable steps which can be recommended which are not already in place.

I conclude by offering condolences to the family of Mr Aitken. They have lost a family member at a relatively young age and in sad circumstances. It is my hope however that this inquiry may have served a useful purpose for the family in revealing for them the exact course of events which occurred and which led to their loss.