

**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**

**MARY WOODHOUSE KELLY**

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

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**Kilmarnock, 14 AUGUST 2008**

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 MARY WOODHOUSE KELLY, born on 18 January 1956, and who latterly resided at 5B Brown Street, Stewarton, died at approximately 4.30 pm on 28 March 2008 at the road known as the B778 at a point near to Blairfield Farm, and was formally pronounced dead at 5.49 pm that same day.
2. In terms of section 6(1)(b) of the Act that the cause of her death was 1(a) multiple injuries, 1(b) road traffic accident.
3. In terms of section 6(1)(c) of the Act that there were no reasonable precautions whereby the death might have been avoided.
4. In terms of section 6(1)(d) of the Act there were no defects in any system of working which contributed to the death.

Sheriff

**Note:**

At about 4.30 pm on 28 March 2008 the deceased Mary Woodhouse Kelly was driving a Citroen Berlingo van registration number SG05 SVU westbound along the B778 near to Stewarton in the course of her employment with East Ayrshire Council and accompanied by her work colleague Ann Riddick.

At that time a Mr Kyle was driving along the same roadway eastbound towards the deceased's vehicle.

The road at that area is a two-way undivided carriageway with a broken long white line down the centre. It is a road comprising, at that section, a number of bends and undulations which represent potential hazards to a driver. These potential hazards are well sign-posted both by way of appropriate road markings and by standing signs.

Mr Kyle was driving a high performance BMW sports car registration number S888 HOT on that road and, having negotiated a right hand bend followed by a left hand curve, emerged into a dip from where he allowed his car to travel into the oncoming carriageway.

It is most probable that the reason Mr Kyle's vehicle crossed into the oncoming carriageway was due to his having lost control of the vehicle as a result of him travelling at excessive speed for the particular road concerned. There was no evidence of any mechanical defect having played any part in the accident.

At the moment when Mr Kyle's BMW motor vehicle crossed into the oncoming carriageway, the deceased, Mary Kelly was driving the Citroen Berlingo motor van towards the BMW. She was on the correct carriageway and had just crested a rise in the roadway. Her vehicle was struck head-on by the BMW motor car and extensive damage was caused to both vehicles which came to rest on the grass verges some distance apart. Mrs Kelly would have had no opportunity to take any evasive action and the consequence of the collision was that both she and Mr Kyle died at the scene, the death of both drivers most probably occurring instantaneously.

There was no fault for the accident attributable in any way to Mary Kelly, nor was there any contributing defect in either vehicle, in the state of the road itself or in the warning signs at the locus. I must conclude on the evidence that the death of both drivers in this tragic accident was caused wholly by the manner of driving of Mr Kyle.

I conclude my remarks by expressing my sympathy at this time to the bereaved family members.